

**ADDITIONAL INFORMATION FROM NORTHERN IRELAND
IN RESPONSE TO THE LIST OF ISSUES RELATING TO
IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF
THE CHILD IN THE UK**

**SUMMARY OF ADDITIONAL INFORMATION
SUGGESTED QUESTIONS
EXECUTIVE SUMMARY AND ACTIONS REQUIRED**

**SAVE THE CHILDREN NI
and
CHILDREN'S LAW CENTRE**

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¹ With thanks to Natalie Whelehan (Policy Officer, Children's Law Centre) for the time and effort spent gathering additional information, Tara Caul (Head of Legal Unit, Children's Law Centre) for information about legislation and cases where the UNCRC has been invoked or referred to in domestic courts, and to colleagues from: Save the Children in Northern Ireland, the Children's Law Centre, NGOs, government departments and agencies for providing data about specific issues or groups of children/ young people.

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SUMMARY OF ADDITIONAL INFORMATION

The additional information has been compiled in response to the Committee's 'List of Issues' and relates to the situation of children and young people in Northern Ireland. The information is provided under headings relating directly to the 'List of Issues'. Reference is made to the relevant pages of the *Northern Ireland NGO Alternative Report* where information about an issue has already been provided to the Committee. The additional information has been sourced from Northern Ireland government departments or agencies and NGOs.

PART 1: ADDITIONAL AND UPDATED INFORMATION

1. Please indicate whether the Convention on the Rights of the Child has been invoked or referred to directly in domestic courts, and if so, please provide examples of such cases.

Key references to the UNCRC have been made in judgments delivered in Northern Ireland Courts.

a) Family Law

The UNCRC has frequently been referred to in judgments in the Family Division of the High Court in Northern Ireland (most often as an interpretative aid to arguments advanced under the European Convention on Human Rights as incorporated by the Human Rights Act 1998), in the context of contact, residence and care proceedings.² In particular, the High Court in Northern Ireland has considered the wishes and views of children in the context of non Hague Convention abduction and ultimately refused to order return of the children in this case to Bahrain.³ The Judge stated that one important yardstick against which the family justice system in Northern Ireland must be evaluated is Article 12 of the UNCRC. He commented:

"It must be remembered that a child is a person with human dignity and not merely the object of a parental dispute. A child's fundamental rights, including the right to be heard, must be respected in all forums including the confounds of the Hague Convention and non-Convention cases. A child therefore possesses the right to self-expression.

Equally a court must be wary not to give undue weight to the views of children particularly when they are very young. Only in those cases where there is some evidence before the court that the child is capable of giving his or her own view is such an investigation warranted in the particular circumstances of each case."⁴

² See *Re C (No Contact Order: Representation of Children)*, (17 May 2002), GILB 319002/098, in which Article 3 UNCRC is considered; *Re C (A Minor) (Custody: Jurisdiction)*, (unreported), 12 November 2001, Fam Div (NI), in which Art 12 of the UNCRC is considered; *In the Matter of N & L (Care Order; Investigations by GAL Outside NI)* [2003] NI FAM 1; *In the Matter of T (Declaration Not to Inform the Birth Father of Child's Existence)* [2004] NI FAM 2; *Re C: Article 8 Order; Article 10 (2); (Grandparents Application for Leave)* [2003] NI FAM 13.

³ *Re S, N & C*, (Non-Hague Convention Abduction: Habitual Residence: Child's Views) [2005] NI FAM 1.

⁴ As above, paragraph 12.

Further consideration was given to the importance of the voice of the child in *E (Voice of the Child) [2005]*.⁵ In the context of the wishes and feelings of a 12 year old child in wardship and residence proceedings, the Judge referred to the “gathering momentum of the importance of listening to children” and taking into account their perspectives when decisions are being made about them.

b) Judicial Review Challenge to Introduction of Anti Social Behaviour Orders

An application for Judicial Review was made by the Commissioner for Children and Young People (NICCY) in June 2004 of a decision announced by the Minister of State with responsibility for criminal justice, Mr. John Spellar (the Minister), on 10 May 2004 to put before Parliament proposed legislation to introduce Anti-Social Behaviour Orders (ASBOs). He announced his decision at the same time to shorten the consultation period in respect of draft legislation.⁶ This case was supported by many of the children’s NGOs in Northern Ireland, which opposed the introduction of ASBOs on the grounds, *inter alia*, that they were incompatible with international children’s rights standards.⁷ NICCY argued in this case that children and young people should have had the opportunity to be involved and engaged in the consultation process initiated by the Minister in January 2004, and argued that the basis for such a duty was Article 12 of the UNCRC.⁸ NICCY also argued that the proposed legislation introducing ASBOs in Northern Ireland infringed Articles 2, 3, 12, 16, 19, 37 and 40 of the UNCRC.

In respect of the legal effect of Article 12 of the UNCRC, the High Court Judge stated: “Even if the Children’s Convention imposed an obligation to consult children on draft legislation (and I am very far from convinced that Article 12 of the Convention requires that as opposed to taking into account children’s views in respect of decisions immediately impacting on them) the Convention is not part of the domestic law.”⁹

In respect of the arguments advanced on the grounds that the actions were “Wednesbury unreasonable” the High Court Judge stated:

“The Commissioner challenges the alleged Wednesbury unreasonableness of the decision to introduce the legislation and to shorten the consultation period. Counsel argued that these steps are Wednesbury unreasonable in that the

⁵ [2005] NI FAM 12.

⁶ *In the Matter of An Application for Judicial Review by the Northern Ireland Commissioner for Children and Young People of the Decisions Announced by the Minister of State for Criminal Justice, John Spellar on 10 May 2004* [2004] NIQB 40.

⁷ See, for example, Submission by the Children’s Law Centre to “Measures to Tackle Anti -Social Behaviour Orders in Northern Ireland” (Children’s Law Centre, May 2004). Ten non-governmental organisations lodged a formal complaint with the Equality Commission pursuant to Sch 9 to the Northern Ireland Act 1998 in May 2004 in relation to the introduction of anti-social behaviour orders in Northern Ireland.

⁸ Art 12.1. State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. Art 12.2. For this purpose the child in particular shall be provided the opportunity to be heard in any judicial or administrative proceedings affecting the child, either directly or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

⁹ *In the Matter of An Application for Judicial Review by the Northern Ireland Commissioner for Children and Young People of the Decisions Announced by the Minister of State for Criminal Justice, John Spellar on 10 May 2004* [2004] NIQB 40, paragraph 12.

actions of the Minister would infringe the Convention and the steps are alleged to be in breach of international provisions. The Executive is under no obligation to have regard to enforce international provisions, which have not been introduced into domestic legislation.”¹⁰

c) Youth Justice

The rights of a young person detained in the Juvenile Justice Centre for Northern Ireland at Rathgael were considered in the case of *In the Matter of an Application by TP A Minor*.¹¹ Detailed consideration was given to the meaning and extent of the protections offered to young people in custody by Article 8 of the ECHR and the High Court confirmed that international obligations, including the UNCRC, should be considered when interpreting these Article 8 rights:

“[29] In interpreting Article 8 rights the Court will take into account relevant international obligations. *R (on the application of P and O) v Secretary of State for the Home Department* (2001) EWHC Admin 357 was a decision of the Divisional Court and concerned Judicial Review of a Prison Service Order only to allow babies to remain with their mothers who are in prison until they reach the age of 18 months. At paragraph 33 Lord Woolf CJ accepted that while the United Nations Convention on the Rights of the Child (UNCRC) was not part of domestic law, the obligations under the UNCRC were relevant because a) they could inform the Court’s decision and b) they are taken into account by the European Court of Human Rights when applying Article 8 and therefore in accordance with Section 2 (1) of the Human Rights Act 1998 have a place in the interpretation of Convention rights.”

d) Physical Punishment of Children in the Home

In the recent challenge to the introduction of Article 2 of the Law Reform (Miscellaneous Provisions) (NI) Order 2006¹², the Judge stated:

“I observe also that whilst international instruments such as the UNCRC may well be taken into account in interpretation of the Convention, I find no warrant for Ms H’s submission or that of the interveners that the EurCtHR is bound to or even likely to act in strict compliance with the terms of the UNCRC or the other international instruments to which I have made reference. That assertion confuses obligation with aspiration. The UNCRC is relevant and may inform the Court’s decision on any interpretation of Article 3 with reference to children but it need not be determinative. I consider that the Secretary of State in this instance is still entitled to follow the principles set out in *R v Secretary of State for the Home Department, ex parte Brind* (1991) 1AC 696 where at p.762C Lord Ackner adopted views expressed by Lord Oliver in *Rayner (Mincing Lane) Ltd v Department of Trade and Industry* (1990) 2 AC 418 at 500 as follows:

“Treaties, as it is sometimes expressed, are not self executing. Quite simply, a treaty is not part of English law unless and until it has been incorporated into the law by legislation.....”

¹⁰ *Re Adams* [2001] NI 1 is referred to at this stage in the judgment.

¹¹ *In the Matter of an Application by TP A Minor* [2005] NIQB 64.

¹² *In the Matter of an Application for Judicial Review by the Northern Ireland Commissioner for Children and Young People of decisions made by Peter Hain, the Secretary of State and David Hanson, the Minister of State* [2007] NIQB 115

The Judge went on to state:

“It is the Committee on the Rights of the Child which has arguably taken the matter a stage further in recent times by recommending the abolition of all corporal punishment for children. Even had the government committed itself fully to implementing the UNCRC, which I do not believe it has done, it has not committed itself to accepting the interpretation of article 19(1) placed on it by the Committee.”¹³

e) Discrimination

In the context of a recent case about a school dress and appearance code, the Judge stated:

“I refer to the United Nations Convention on the Rights of the Child. Article 3 provides that in all actions concerning children, public authorities, including schools, will ensure that the child’s best interests shall be a primary consideration. Article 12 provides the right of a child to have their views heard on all decisions affecting them and for those views to be given due weight. Articles 28 and 29 provide the right to education that develops each child’s personality and talents to the full. It encourages them to respect their parents, the rights of others and their own and other cultures. School discipline should be administered in a manner consistent with human dignity and conformity with European Convention rights. The effect of these provisions, as Ms H contends, is that the courts, where possible, will interpret domestic and Convention law consistently with the provisions of the United Nations Convention and will act in accordance with Treaty obligations unless domestic legislation requires otherwise. I adopt the words of Baroness Hale in *Smith v The Secretary of State for Work and Pensions* [2006] UKHL 35 at [78] -

“Even if an international treaty has not been incorporated into domestic law, our domestic legislation has to be construed so far as possible so as to comply with the international obligations which we have undertaken. When two interpretations of these regulations are possible, the interpretation chosen should be that which better complies with the commitment to the welfare of children which this country has made by ratifying the United Nations Convention on the Rights of the Child.”

The provisions of the Convention are relevant to the interpretation of the European Convention and, as Lord Bingham stated in *Dyer v Watson* [2004] 1 UKPC at [23], ‘colour the courts approach’.¹⁴

f) RE E case

In the case of *Re E*, an application was made by the mother of a child affected by the ‘Holy Cross dispute’.¹⁵ It was argued for the applicant that the police operation failed to adequately protect the rights of the children under Articles 2, 3 and Protocol One, Article

¹³ Ibid, paragraph 113

¹⁴ [2008] NIQB, 21

¹⁵ *In the Matter of an Application by E for Judicial Review* [2004] NIQB 35, [2006] NICA, 37. This was the much publicised case of primary school children from North Belfast being obstructed over a period of months going to and returning from school.

2 of the ECHR and should have been informed by the UNCRC. The Lord Chief Justice, in his judgment, stated:

“The respondents object that the applicant may not have recourse to this Convention under domestic law - they further object that the applicant may not invoke the Convention because it applies only to children. These are no doubt effective answers to the applicant’s reliance on the Convention but I prefer to base my rejection of her argument on the ground that it has not been shown that the respondents have failed to accord the best interests of the child the primary importance that the provision demands.”

This case is now being heard in the House of Lords. The hearing took place from 17th-19th June 2008. The Children’s Law Centre and the Northern Ireland Commissioner for Children and Young People made a joint written intervention in the proceedings focusing on the positive duties on the State to protect children under Article 3 of the European Convention on Human Rights from torture, inhuman and degrading treatment, which in their view should be read in conjunction with Article 19 of the UNCRC. The House of Lords’ decision is awaited.

Summary

Whilst the UNCRC is now frequently cited in judgments in the High Court in Northern Ireland, there has not been a consistent approach with regard to its standing or applicability. It would be preferable for the Court to interpret children’s rights under domestic law and the European Convention on Human Rights consistently with the provisions of the UNCRC, and to seek to act in accordance with the provisions of the UNCRC unless domestic legislation explicitly requires otherwise. The UNCRC should be the framework which informs the Court’s interpretation of all children’s rights.

2. Please provide brief information on the ten-year Children Plan which was adopted in 2007 after the submission of the State party’s report.

See: *Northern Ireland NGO Alternative Report*, p9

3. Please indicate the processes and mechanisms that exist to ensure an efficient coordination of policy and strategy development with regard to programmes, services and laws for the implementation of the Convention in each devolved Administration as well as in the Overseas Territories.

See: *Northern Ireland NGO Alternative Report*, p8-9

Given the d’Hont nature of multi-party government in Northern Ireland, and the failure to date to devolve criminal justice and policing to the Northern Ireland Executive, there is little or no co-ordination of legislation for the implementation of the CRC - different Departments adopt different approaches vis a vis the status of Convention rights in domestic legislation.

4. Please indicate whether there is any development with respect to the State party’s reservations and declarations to the Convention, in particular regarding articles 22 and 37 (c). Furthermore, please inform the Committee on whether article 32 is now fully applicable in all the State party’s dependent territories.

a) Reservation to Article 22

See: *Northern Ireland NGO Alternative Report*, p6

b) Reservation to Article 37c

See: *Northern Ireland NGO Alternative Report*, p6-7

Research by the Northern Ireland Human Rights Commission found that there were no age-appropriate regimes or policies for young women imprisoned with adult women at Hydebank Wood.¹⁶ The Report of the Working Group on the UK's recent Universal Periodic Review notes: "The Northern Ireland Government is currently legislating to end the practice of accommodating 17-year-old girls with adult females."¹⁷

However, there are no plans for similar legislation in relation to boys, who may be detained with young men in Hydebank Wood Young Offenders Centre, operated by the Prison Service, up to the age of 24.

The Government states that it is reviewing whether its Reservation to Article 37(c) should be retained, but cannot accept the Human Rights Council recommendation to withdraw its Reservation for the following reasons: "As there are separate legal systems in England and Wales, Scotland, and Northern Ireland, any decision to depart from the current position would require agreement from all three jurisdictions. Acceptance of this recommendation would pre-empt the outcome of the on-going reviews of the reservations."¹⁸

6. Please inform the Committee on the measures taken to prevent and combat violence, including domestic violence, throughout the country and notably in the Overseas Territories?

a) Violence in Northern Ireland

In Northern Ireland it is vital that debate about, and policy or practice responses to, violence acknowledge the impacts of the conflict and its legacy. Of those killed during the conflict, 40% were 24 or under.¹⁹ Between 1969 and 2003, 274 children aged 17 and under, and 629 young people aged 18-21, lost their lives. Almost three quarters of children under the age of 18 killed were Catholic, and a fifth were Protestant.²⁰ The majority lived in areas experiencing the highest levels of deprivation and poverty. Particularly in Nationalist and Republican communities, children experienced house searches by the British army, forced entry into homes and arrests in the early hours of the morning by armed police, imprisonment of parents or parents going 'on the run', violent confrontations and deaths on the streets. As noted by a community bereavement counsellor: "House raids are over to a point and the physical harm is over; but the emotional harm is there and it's not recognised".²¹ While these severe forms of violence

¹⁶ Scraton, P. and Moore L. (2004) *The Hurt Inside: the imprisonment of women and girls in Northern Ireland*, NI Human Rights Commission; Scraton, P. and Moore, L. (2007) *The Prison Within: the imprisonment of women at Hydebank Wood 2004-06*, NI Human Rights Commission

¹⁷ Human Rights Council (2008) *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*, A/HRC/8/25, 23 May 2008, p5

¹⁸ Human Rights Council (2008) *Report of the Working Group on the Universal Periodic Review. United Kingdom of Great Britain and Northern Ireland. Addendum. Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/8/25/Add.2, 18 June 2008, p11

¹⁹ Smyth, M. et al, (2004) *The Impact of Political Conflict on Children in Northern Ireland*, Institute for Conflict Research, p9

²⁰ Ibid, p18-20

²¹ Kilkelly, U. et al (2004) *Children's Rights in Northern Ireland*, NICCY, p243

have diminished, the children whose past trauma went unrecognised and untreated now have families of their own. Trans-generational trauma manifests itself in a variety of ways: “it’s affecting children’s education, their mental health and their ability to participate in society.”²² Children and young people today “are more likely to experience small-scale, sporadic acts of political violence rather than large-scale, widespread violent confrontation”²³ – while many will have no direct experience of violence, some do. Those living in ‘interface’ areas, in particular, are likely to witness or engage in sporadic, opportunist acts of violence targeted at members of the ‘other’ community.²⁴ It has been argued that the exceptional levels of violence experienced by children during the conflict have led to a high tolerance and ‘normalisation’ of violence as a primary means of settling disputes, demonstrating opposition or drawing attention to perceived injustices.²⁵ Reflecting the historical, political and social contexts in Northern Ireland, activities involving violence are generally connected to segregated living and sectarianism.²⁶

Given a civil policing deficit, young people’s experience of violence has extended to informal ‘policing’ by paramilitaries, who administered severe punishments to those involved in alleged ‘unacceptable’ behaviour in their communities. Between 1988 and 2002, 496 young people under the age of 20 received paramilitary punishment beatings. 388 were shot, usually through the knees or thighs. Of those recorded by the police, 24% of Loyalist punishment beatings and 32% of Republican punishment beatings were on young people under the age of 20.²⁷ Despite the Peace Process, threats and intimidation directed towards the ‘antisocial behaviour’ of children and young people persist, particularly in the deprived urban areas most associated with high levels of conflict-related violence.²⁸ In the submission by the Children’s Commissioners to the UN Committee on the Rights of the Child, the Northern Ireland Commissioner noted that punishment beatings have “not been traditionally dealt with as child abuse by the relevant authorities”, and called for further action to “be taken by the police, social

²² Ibid, 244

²³ Leonard, M. (2007) ‘Trapped in Space? Children’s Accounts of Risky Environments’ *Children and Society*, Vol. 21, pp432-445, p433

²⁴ Hansson, U. (2005) *Troubled Youth? Young People, Violence and Disorder in Northern Ireland*, Institute for Conflict Research, p18-30

²⁵ Horgan, G. (2005) ‘Why the Bill of Rights should protect and promote the rights of children and young people in Northern Ireland. The particular circumstances of children in Northern Ireland’ in Horgan, G. and Kilkelly, U. (eds) *Protecting children and young people’s rights in the Bill of Rights for Northern Ireland. Why? How?*, Save the Children and Children’s Law Centre, p13

²⁶ Roche, R. (2008) *Sectarianisms and Segregation in Urban Northern Ireland: Northern Irish Youth Post-Agreement. A Report on the Facts, Fears and Feelings Project*, Queens University Belfast, p136-147

²⁷ Smyth, M. et al, (2004) *The Impact of Political Conflict on Children in Northern Ireland*, Institute for Conflict Research, p88-89

²⁸ Kilkelly, U. et al, (2004) *Children’s Rights in Northern Ireland*, NICCY, p241-242; Smyth, M. et al, (2004) *The Impact of Political Conflict on Children in Northern Ireland*, Institute for Conflict Research, p 57-61; Hansson, U. (2005) *Troubled Youth? Young People, Violence and Disorder in Northern Ireland*, Institute for Conflict Research, p85-93; Haydon, D. (2007) *United Nations Convention on the Rights of the Child. Consultation with Children and Young People*, OFMDFM, p44, 53; Roche, R. (2008) *Sectarianism and Segregation in Urban Northern Ireland: Northern Irish Youth Post-Agreement. A Report on the Facts, Fears and Feelings Project*, Queens University Belfast, p176-193; Haydon, D. and Scraton, P. (2008) ‘Conflict, Regulation and Marginalisation in the North of Ireland: The Experiences of Children and Young People’ *Current Issues in Criminal Justice*, Special Issue: The Criminalisation and Punishment of Children and Young People, July 2008, Vol. 20, No. 1, pp59-78, p70-71

services and other relevant agencies to protect children and young people from abuse by adults within their own community”.²⁹

b) Domestic violence

A strategy for addressing domestic violence - *Tackling Violence at Home* - was introduced in Northern Ireland in 2005, and two associated action plans have been developed (October 2005 – March 2007; March 2007 – March 2008). These included development of guidance for those in contact with victims of domestic violence, a multi-agency domestic violence training strategy, and media campaigns highlighting the issue of domestic violence. A third action plan is currently being developed. However, the number of people reporting domestic violence incidents to the police has continued to rise – from under 21,000 in 2004-05 to just over 23,000 in 2005-06³⁰. The figures were 23,456 in 2006-07 and 23,076 in 2007-08.³¹ In May 2007, the Minister for Health commented during a debate about domestic violence: “Statistics relating to domestic violence make for shocking reading. At least 11,000 children live with domestic violence every day, five people are killed each year and over 700 families are rehoused as a result of violence in the home.”³² He proposed the formation of an Inter-Ministerial Group on Domestic and Sexual Violence, which was established and met for the first time in May 2008. A 24-hour Domestic Violence Helpline has been set up (funded by Northern Ireland Housing Executive; Department for Health, Social Services and Public Safety; and the Northern Ireland Office), and funding has been provided to support sixteen refuges (largely funded by the Department for Social Development).

While welcome developments, the *Tackling Violence At Home* strategy has been criticised by the End Violence Against Women Coalition, whose detailed analysis of the Northern Ireland Executive’s activity in relation to addressing violence against women suggested that: “there is no underlying strategic approach... work is on a narrow range of violence issues, has limited coverage and is not part of a systemic or planned approach, and thus represents significant lost opportunities.”³³ The Coalition also challenged the ‘gender-neutral’ approach within the strategy.³⁴ In this, Section 75(1) of the *Northern Ireland Act 1998* (which places a positive duty on public bodies to have “due regard to the need to promote equality of opportunity”) has been interpreted as requiring that everyone is treated alike, regardless of different levels of inequality, disadvantage and need. The Coalition argued that this: “fails to take account of the fact that women comprise the overwhelming majority of victims and men the overwhelming majority of perpetrators. An analysis of violence against women must be informed by an understanding of the power and privilege held by men over women; the vast majority of gender-based violence sustained by women is committed by men, especially men that they know” – it is therefore impossible to challenge violence against women successfully

²⁹ UK Children’s Commissioners (2008) *UK Children’s Commissioners’ Report to the UN Committee on the Rights of the Child*, June, NICCY, p16

³⁰ McGimpsey, M. (2007) ‘Domestic violence victims must be protected’ News Release, 29 May 2007, DHSSPS

³¹ PSNI (2008) *Domestic Incidents and Crimes. 1st April 2007 – 31st March 2008*. Statistical Report No. 2, Central Statistics Branch, Operational Support Department, PSNI, p2

³² McGimpsey, M. (2007) ‘Domestic violence victims must be protected’ News Release, 29 May 2007, DHSSPS

³³ End Violence Against Women (2007) *Making the Grade? 2007 Northern Ireland. An independent analysis of Northern Ireland Government initiatives on violence against women*, End Violence Against Women Coalition, p8

³⁴ *Ibid*, p6

within a gender-neutral framework.³⁵ In fact, the *Guidance for Implementing Section 75 of the Northern Ireland Act 1998* states: “The promotion of equality of opportunity entails more than the elimination of discrimination. It requires proactive measures to be taken to secure equality of opportunity between the groups identified in Section 75(1). The equality duty should not inhibit action to counter disadvantage among particular sections of society – indeed such action may be an appropriate response to redressing inequalities of opportunity. There should therefore be no conflict with affirmative action or positive action to counteract disadvantage or accommodate difference.”³⁶ In contrast with Northern Ireland, the approach in Scotland recognises the need for a gender-specific policy with associated, ring-fenced funding.

c) Safeguarding and child protection

A child death review protocol (developed by an inter-agency group with representation from the PSNI, Northern Ireland Office Criminal Justice Services Division, Northern Ireland Court service, Social Services Inspectorate, DHSSPS) has been drafted since 2006³⁷ and is due to be implemented in 2008. There are relatively few sudden and unexpected child deaths in Northern Ireland (approximately 52/ year).³⁸ Legislation to establish a new Health and Social Care Board is due at the end of 2008/ beginning of 2009. This Health and Social Care Board will house a regional Safeguarding Board for Northern Ireland, which is likely to be set up on a shadow basis in the Autumn. Each of the recently constructed 5 Health and Social Services Trusts will establish an independently chaired statutory Safeguarding Panel, linked to the Safeguarding Board with a line of accountability to the Northern Ireland Executive.

The North/South Ministerial Council has indicated its intention to progress a public awareness campaign around child protection and safeguarding. A range of awareness-raising strategies aimed at reducing child abuse and child deaths have been developed in Northern Ireland, including production of the *Safe Parenting Handbook* and two leaflets for parents. Further proposals, not yet finalised, are expected in an effort to ensure successful implementation of the *Family Matters* strategy and coordinate links between agencies (particularly health and education). However, safeguarding has yet to be mainstreamed as a concept across all government departments and ‘next step’ agencies. The First and Deputy First Minister have indicated that a cross-government *Staying Safe Strategy* is being developed. This is due to be completed in September 2008.

While recent safeguarding initiatives, such as the Byron Review into the effects of on-line content and videogame violence on children and young people³⁹ and the Bichard Inquiry into child protection procedures,⁴⁰ are welcome they are focused on English structural arrangements yet contain recommendations with UK-wide applicability. A challenge for the UK Government is that there is no structure to facilitate debate across

³⁵ Ibid, p13

³⁶ Equality Commission for Northern Ireland (2005) *Guidance for Implementation of Section 75 of the Northern Ireland Act 1998*, Revised February 2005, p47, para 2.1

³⁷ DHSSPS (2006) *Regional Child Death Review Protocol – a multi-agency procedure to be followed in cases of sudden or unexpected child deaths from birth to 18 years*, DHSSPS

³⁸ Ibid, p2

³⁹ Byron, T. (2008) *Safer Children in a Digital World: The Report of the Byron Review*, Department for Children, Schools and Families

⁴⁰ Bichard, M. (2004) *The Bichard Inquiry Report*, HMSO

the jurisdictions or share understanding about jurisdictionally-specific contexts and initiatives.

8. Please inform the Committee on whether there has been any assessment on the specialist guidance on prejudice-driven bullying: “Bullying around Race, Religion and Culture” produced in 2006. Please also indicate briefly any other new program or activity to prevent bullying in schools. Is there a systematic approach towards teaching in schools issues such as a culture of tolerance, acceptance of those who are different and civic education?

See: *Northern Ireland NGO Alternative Report*, p37

Consultation workshops with parents (facilitated by the Northern Ireland Anti-Bullying Forum) confirmed that, although a few parents had been given a copy of the school's anti-bullying policy when their child joined the school, the majority had not been involved in reviewing the policy and were unaware of all the stages related to reporting of concerns about bullying.⁴¹

The Northern Ireland Anti-Bullying Forum consists of 20 regional statutory and voluntary agencies. It is funded by the Department of Education, hosted and Chaired by Save the Children.

The content included in Northern Ireland's revised curriculum should enable schools to feel more confident about addressing diversity, inclusion and citizenship. At the request of schools, Anti-Bullying Week in 2007 focused on 'Bullying due to Race, Faith and Culture, and Cyber Bullying'. The Northern Ireland Anti-Bullying Forum school resource pack for Anti-Bullying week included class-based activities, a DVD and posters. This was free to all schools which registered, and 69% of schools registered to participate. The Forum established a Racist Bullying Task Group, which produced a leaflet for parents and generated material about race, faith and culture for inclusion on the Anti-Bullying Forum website (aimed at professionals working with children and young people). A Disablist Bullying Task Group has recently been established.

Key issues continue to be need for: policy review which pays attention to protection for victims of bullying as well as prevention of bullying; review of school policies, including the involvement of children in their development, content, dissemination throughout the school and to parents, and implementation; appropriate training amongst all school staff (teaching and non-teaching) in identifying, responding to and monitoring bullying in classrooms and hallways/stairwells, on playgrounds and school transport; promotion of respect for diversity and equality within the school curriculum and ethos; acknowledgement of the vulnerabilities of specific groups (eg poor children, children with disabilities, LGBT young people, Travellers, ethnic minorities); innovative strategies for dealing with bullying, which recognise gender differences in types of bullying; training for pupils in ways of identifying bullying, supporting victims and reporting to adults; co-

⁴¹ Northern Ireland Anti-Bullying Forum (2007) *‘What measures are required for effective anti-bullying intervention?’ A report of 12 parent consultation workshops between January – March 2007*, June 2007, Northern Ireland Anti-Bullying Forum, p4 www.savethechildren.org.uk/niabf

ordination of support services for all involved; adequate funding to develop and implement a Northern Ireland strategy.⁴²

9. Please explain how the right of the child to rest, leisure and engage in play and age appropriate recreational activities is enshrined in legislation and ensured in practice.

See: *Northern Ireland NGO Alternative Report*, p40-41

The legacy of conflict in Northern Ireland means that children's play and leisure continues to be restricted - where, how and with whom children or young people socialise is shaped by sectarian attitudes and fear of 'others' (compounded by segregated housing, schooling and leisure facilities). Inadequate and poorly resourced play/leisure facilities are consistently raised as a priority in consultations with children and young people.⁴³ However, one in five children (21%) do not have access to adequate fixed play facilities.⁴⁴

To date, the importance of play and leisure in children's lives has been under-estimated, under-valued and consequently neglected at a strategic level. Of the current 26 local councils, less than 5% strategically plan for play,⁴⁵ and play falls within the remit of various departments which leads to inconsistent implementation of policies or directives. The draft play policy was launched for consultation on 24th October 2006. However, despite completion of the consultation process on 31st January 2007, consultation responses were only made public in March 2008 and Ministerial approval has not yet been given to the policy. The draft policy focused on provision for under-12s and is not explicitly rights-based. Although the age range has now been increased to include all children under 18 years, there has been no further consultation to determine whether the existing draft is applicable to all age groups up to the age of 18. OFMDFM state that they recognise the importance of play in children's lives and note that investment in play will have a significant impact on positive outcomes for children and young people. However, this recognition is not carried through into concrete actions, either in the ten year strategy for children and young people or the draft play policy.⁴⁶

11. Please indicate the issues affecting children that the State party considers to be priorities, requiring the most urgent attention with regard to the implementation of the Convention.

As indicated at the pre-sessional meeting with the UN Committee on 11th June 2008, for NGOs in Northern Ireland priority issues include:

- The impact of the conflict on all aspects of children's lives, including under-resourcing of children's services during direct rule.
- Ten year strategy for children and young people is not the incorporation mechanism or delivery tool for the UNCRC.

⁴² Kilkelly, U. et al, (2004) *Children's Rights in Northern Ireland*, NICCY, p183-4; Livesey G. E., et al, (2007) *The Nature and Extent of Bullying in Schools in the North of Ireland*, Research Report, DENI

⁴³ Kilkelly, U. et al (2004) *Children's Rights in Northern Ireland*, NICCY, p198-208; Haydon (2007) *United Nations Convention on the Rights of the Child. Consultation with Children and Young People*, OFMDFM, p43-46

⁴⁴ McLaughlin, E. and Monteith, M. (2004) *The Bottom Line*, Save the Children

⁴⁵ Playboard (2008), Written communication, via email (3.7.08)

⁴⁶ Ibid.

- UNCRC is not incorporated into domestic legislation.
- Non-CRC compliant legislation emanating from both Westminster and the Northern Ireland Assembly continues to be drafted and commenced.
- Government continues to fail to ensure that legislation relating to children has the best interests of the child as its primary consideration.
- The Children's Commissioner enabling legislation is not Paris Principle compliant.
- Data collection is ad hoc and not cross-departmentally or jurisdictionally comparable.
- Children are still not afforded the same protection from assault as adults, and in 2006 legislation was introduced which failed to completely remove the defence of reasonable punishment.
- Poverty.
- Mental health.
- Disability.
- Segregation by religion of housing and education.
- Inequalities in educational achievement (particularly among children living in poverty, looked after children, Travellers, young people in the youth justice system, children with special educational needs).
- Low age of criminal responsibility.
- Continued deployment of plastic bullets and introduction of Tasers.
- Introduction and implementation of Anti-Social Behaviour Orders.
- Discrimination experienced by Travellers in all aspects of their lives.

See *Issues of Serious Common Concern Across the UK* for a summary of common issues of concern in the four jurisdictions.

PART 3: DATA AND STATISTICS

1. In the light of article 4 of the Convention, please provide updated data for 2006, 2007 and 2008, on budget allocations (including trends analysis) regarding the implementation of the Convention throughout the country in the areas of education and health.

See: *Northern Ireland NGO Alternative Report*, p8; 51

a) Education

In Northern Ireland, the entire Department of Education budget is spent on children and young people. (Adult education is funded by the Department for Employment and Learning.) Information provided by the Department of Education (DENI) about spend on education between 2005 and 2008 stated:

Department of Education spend on children, 2005-2008⁴⁷

Department of Education budget spent on children and young people	2005-06 £million (final)	2006-07 £million (final)	2007-08 £million (provisional)
Resource	£1,563,875	£1,589,804	£1,712,555
Capital	£126,032	£132,512	£157,731
Total	1,689,907	£1,722,316	£1,870,286

b) Health and Social Services

Analysis of information from the Department for Health, Social Services and Public Safety (DHSSPS) suggests that, in Northern Ireland, spend on children and young people over the last 3 years has been approximately 6% of the overall health and social services funding allocation:

Department of Health, Social Services and Public Safety spend on children, 2005-2008⁴⁸

Strategic Resource Framework Planned Expenditure	2005-06 £million	2006-07 £million	2007-08 £million
Children's Homes	29	34	33
Community Fieldwork	35	38	42
Adoptions	23	24	29
Social Work – family placements	9	10	11
Other Community	6	3	7
Other Personal and Social Services	22	24	25
Funds to be attributed	14	14	14
Total children and young people funding per Strategic Resource Framework (A)	138	147	161
Additional funding for children and young people (B)	11	21	20
Total funding for children and young people (C: A+B)	149	168	181
Total overall funding from final resource allocation letter (D)	2,608	2,812	2,813

⁴⁷ DENI, Financial Monitoring and European Branch, via email (4.8.08)

⁴⁸ DHSSPS, Strategic Financial Analysis Unit, via email (3.7.08)

Funding spent on children and young people as a percentage of overall funding on social services	5.71%	5.97%	6.43%
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2. Please provide information on the number of Anti-Social Behaviour Orders (ASBOs) imposed on children since the entry into force of this legislation, disaggregated by year, age, sex and nature of the anti-social behaviour. Please also indicate the percentage of these children who were subsequently treated under the criminal justice system.

Analysis of data concerning Anti-Social Behaviour Orders imposed on under-18s in Northern Ireland ⁴⁹

Details about young people receiving ASBOs	April 2005 - March 2006	April 2006 – March 2007	April 2007 – January 2008*	Total
No. of ASBOs to under-18s	3	16	10	29
Age:				
12	0	0	1	1
13	0	0	0	0
14	1	4	0	5
15	0	4	1	5
16	2	2	4	8
17	0	6	4	10
Gender:				
Female	0	2	0	2
Male	3	14	10	27
Religion:				
Catholic		9	6	15
Protestant		6	4	10
Not known	3	1	1	4
Ethnic Background:				
White	3	16	10	29
Marital Status:				
Single	3	16	10	29
Type of ASBO:				
Interim	2	4	1	7
Full	0	7	7	14
On conviction	1	5	2	8
Breaches	0	4	1	5

Of the 29 ASBOs issued to under-18s between their introduction to Northern Ireland in April 2005 and the end of January 2008, the lead agency was the PSNI in 28 cases and the NI Housing Executive in just one case. The nature of behaviour leading to an ASBO was not recorded.

A breakdown of the Council Areas in which ASBOs were issued illustrates their concentration in the Antrim area (25/29). 3 were issued in Derry and 1 in North Down.

None had been issued in Armagh, Fermanagh, or Tyrone:

Bangor	2
Antrim	1

⁴⁹ PSNI, Community Safety Unit, via email (4.7.08)

Larne	1
Belfast	9
Greater Belfast	4
Ballymena	6
Coleraine	2
Derry	3
North Down	1

The majority of ASBOs were issued to single, white, males aged 16-17.

7 of the ASBOs issued to under-18s were 'Interim', 14 were 'Full' and 8 were 'On conviction'. This final category imposes a 'double jeopardy' – a child who has received a determination in respect of a criminal offence can then receive an ASBO (which is based on civil standards of proof, hearsay evidence and the views of 'professional witnesses'), thus protracting proceedings after completion of the criminal proceedings for which the child was before court.

ASBOs had been breached in 5/29 cases. None of these breaches led to a custodial sentence. In 3 cases, the breach led to a Youth Conferencing Order (1 with the terms of the ASBO being changed), and 2 led to 'additional prohibitions'.

3. Please provide data covering the last three years on the number of persons below 18 who have been tried as adults. Please also inform the Committee on the number of reported cases of abuse or ill-treatment of children occurred during their arrest and/or detention as well as on the follow-up given to these cases.

a) Number of under-18s tried as adults

Figures showing the number of children tried on indictment in the Crown Court (which could be considered an 'adult' court) have decreased over the last 3 years, from 4.3% of the total number of children prosecuted in all courts to 2.0%:

Number of child defendants tried in the Crown Court in Northern Ireland⁵⁰

Year	All child defendants disposed of	Child defendants disposed of in Crown Court	% of child defendants disposed of in Crown Court
2005	2,207	95	4.3%
2006	2,884	76	2.6%
2007	3,358	69	2.0%

According to the Northern Ireland Office, in the Northern Ireland court system children are never tried as adults - when a case is heard in an adult court, the defendants are treated as children (eg reporting restrictions are in place, wigs and gowns are removed).⁵¹

⁵⁰ Northern Ireland Office, Youth Justice Policy Unit, via email (11.8.08)

⁵¹ Ibid.

b) Number of reported cases of abuse or ill-treatment of children during their arrest and/or detention

See: *Northern Ireland NGO Alternative Report*, p49

Statistics relating to reported cases of abuse or ill-treatment of children during their arrest and/or detention are not readily available.

Policing is a contested issue in Northern Ireland. In research and consultations, young people frequently comment on negative responses to them by the police when they are 'hanging out' on the streets in their communities.⁵²

Research into the detention and questioning of young people in 2002 found that the majority of young people detained (55%) were released within 3 hours of arriving at the police station, with a further 25% spending 3-6 hours at the station, 13% 6-12 hours and 7% 12-24 hours.⁵³ While at the station, 42% were held in a cell, 37% in a juvenile detention room and 15% were kept in an interview room – several young people and appropriate adults complained about the conditions in the juvenile detention room and about the experience of being kept in a cell. Some young people and appropriate adults "complained that the police were 'cheeky', that they were not fed or that the environment was intimidating."⁵⁴ While at the police station, 78% of the young people were searched, 52% had their photographs taken, 70% were fingerprinted, 36% had a sample taken for DNA testing - some appropriate adults and solicitors "complained that the taking of samples, fingerprints and photographs criminalised young persons. Solicitors also reported that the legal position in relation to the taking of such samples was unclear and that sometimes the police and solicitors took advantage of this ambiguity."⁵⁵ At the end of the detention period, only 15% were charged.⁵⁶

In a 2006 review of the handling of complaints in the criminal justice system, most of the young people in the Juvenile Justice Centre "said they would have liked to complain about how they had been treated by the police (in terms of the degree of restraint used and/or discriminatory attitudes and actions) but did not because they felt they wouldn't be believed".⁵⁷ Inspection of the Juvenile Justice Centre in 2007 included examination of 12 child protection allegations covering the period October 2006 – October 2007, which

⁵² Haydon, D. and Scraton, P. (2008) 'Conflict, Regulation and Marginalisation in the North of Ireland: The Experiences of Children and Young People' *Current Issues in Criminal Justice*, Special Issue: The Criminalisation and Punishment of Children and Young People, July 2008, Vol. 20, No. 1, pp59-78, p67-70; Haydon, D. (2007) *United Nations Convention on the Rights of the Child. Consultation with Children and Young People*, OFMDFM, p54-55; Hansson, U. (2005) *Troubled Youth? Young People, Violence and Disorder in Northern Ireland*, Institute for Conflict Research, p70-75; Kilkelly U. et al (2004) *Children's Rights in Northern Ireland*, NICCY, p219-224; Hamilton, J. et al (2004) *Policing, Accountability and Young People*, Institute for Conflict Research, p39-43; Smyth, M. et al (2004) *The Impact of Political Conflict on Children in Northern Ireland*, Institute for Conflict Research, p73-80

⁵³ Quinn, K. and Jackson, J. (2003) *The Detention and Questioning of Young Persons by the Police in Northern Ireland*, Northern Ireland Office, pv

⁵⁴ Ibid.

⁵⁵ Ibid, pvi

⁵⁶ Ibid, pv

⁵⁷ Criminal Justice Inspection Northern Ireland and NICCY (2007) *The Handling of Complaints in the Criminal Justice System. A review of how the main Criminal Justice Organisations deal with complaints*, CJINI/NICCY, p12

“included claims of assault by PSNI officers, prison staff, escort staff, care staff, family members and paramilitaries.”⁵⁸ Attempts by the Juvenile Justice Centre to track these referrals “suggested delays in response and lack of information about progress” – at the time of the inspection, seven referrals were outstanding (5 from Social Services and 2 from the Office of the Police Ombudsman of Northern Ireland).⁵⁹

4. Please provide data covering the last three years on the number of children involved in sexual exploitation, including prostitution, pornography and trafficking, and the number of those children who were provided access to recovery and social reintegration services.

a) Sexual exploitation

See: *Northern Ireland NGO Alternative Report*, p45

Despite claims in the UK Government Report (UK Government, 2007, p137) that the Northern Ireland Office has provided funding to a specialised project in Northern Ireland (operated by a voluntary organisation), this funding was time-limited and ended in March 2008. Funded by the Department for Health, Social Services and Public Safety, and Barnardo’s voluntary funds, the project has now re-focused to become a service for missing young people - particularly those vulnerable to sexual exploitation. Between January 2005 and July 2008, this project had approximately 40 referred cases, 35 helpline calls, 15 consultations relating to specific young people, and 15 enquiries about young people either vulnerable to, or with experience of, sexual exploitation. The majority of cases involved young people from one geographical location (Belfast and surrounding area).⁶⁰ These figures clearly do not reflect the extent of the problem, but are an indication of the existence of sexual exploitation of children and young people in Northern Ireland.

b) Trafficking

See: *Northern Ireland NGO Alternative Report*, p45

As part of the UK-wide ‘Operation Pentameter 2’, the PSNI recently rescued 5 trafficked women from brothels and made six arrests – an indication that sex trafficking is taking place in Northern Ireland. However, according to Amnesty International, at the moment “these women have no guaranteed protection in Northern Ireland. The law treats them as illegal immigrants and... many of them are just deported. They are then at serious risk of re-trafficking.”⁶¹

⁵⁸ Criminal Justice Inspection Northern Ireland (2008) *Inspection of Woodlands Juvenile Justice Centre*, May 2008, CJINI, p18

⁵⁹ Ibid.

⁶⁰ Barnardo’s ‘Safe Choices’ project, via email (1.8.08).

⁶¹ Amnesty International (2008) ‘Amnesty welcomes rescue of five trafficked women by the PSNI’, posted 7 July 2008 www.amnesty.org.uk/news_details.asp?NewsID=17813 (sourced 4.8.08)

PART 4: PRELIMINARY LIST OF ISSUES THAT THE COMMITTEE MAY TAKE UP DURING DIALOGUE WITH THE STATE PARTY

1. The status of the Convention in the State party's legal system.

See: *Northern Ireland NGO Alternative Report*, p7-8

2. Protection from discrimination, in particular with respect to children belonging to ethnic minorities, asylum-seeking children, children living in poverty, children with disabilities, children in alternative care, children in conflict with the law.

The White Paper, *Framework for a Fairer Future - The Equality Bill*,⁶² proposes that legislation will be introduced to prohibit discrimination in the provision of goods and services on the grounds of age. However, under-18s will be excluded from this protection. This most recent proposal reflects the original position in the UK Government's Discrimination Law Review (DLR),⁶³ which was met with widespread opposition. The proposal to exclude those under 18 from protection against age discrimination in provision of goods and services cannot be reconciled with the Government's obligations under Article 2 of the UNCRC.

a) Children belonging to ethnic minorities

See: *Northern Ireland NGO Alternative Report*, p13-14

b) Asylum-seeking children

See: *Northern Ireland NGO Alternative Report*, p6; 16-17; 42

The Human Rights Committee recently raised concern about the UK's continued practice of detaining large numbers of asylum-seekers, including children, and reiterated the unacceptability of their detention in prisons. In particular, the Committee was "concerned by the failure to keep statistics on persons subject to deportation who are removed from Northern Ireland to Great Britain, as well as their temporary detention in police cells."⁶⁴

c) Children living in poverty

See: *Northern Ireland NGO Alternative Report*, p55; 57-58; 59

d) Children with disabilities

See: *Northern Ireland NGO Alternative Report*, p14; 38

e) Children living in alternative care

See: *Northern Ireland NGO Alternative Report*, p26; 53-54

⁶² Government Equalities Office (2008) *Framework for a Fairer Future - The Equality Bill*, White Paper, 26th June 2008, Government Equalities Office

⁶³ Department for Communities and Local Government (2007) *A Framework for Fairness: Proposals for a Single Equality Bill for Great Britain – a consultation paper*, 12 June 2007, Department for Communities and Local Government

⁶⁴ Human Rights Committee (2008) *Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant. Concluding Observations of the Human Rights Committee. United Kingdom of Great Britain and Northern Ireland.*, CCPR/C/GBR/CO/6, 21 July 2008, para 21

f) Children in conflict with the law

Looked after children are over-represented in the youth justice system. During 2006-07, 30% of all admissions to the Juvenile Justice Centre (199 admissions of 97 children) came from looked after care backgrounds – the percentage of looked after children in the Centre fluctuated between 22% and 58% of all residents on any given day, and looked after children had on average twice as many admissions (4.4) as non-looked after children (2.7).⁶⁵

Many children in the youth justice system have poor mental health and other negative indicators. For example, of the 30 children in the Juvenile Justice Centre on 30th November 2007: 20 had a diagnosed mental health disorder; 17 had a history of self harm; 8 had at least one suicide attempt on record; 8 were on the child protection register; and 14 had a statement of educational needs.⁶⁶

Statistics relating to 135 young people involved between 2006-2007 in a scheme aimed at improving the employability of young people who find it difficult to enter mainstream training or employment (many of whom have been, or are at risk of being, in conflict with the law), illustrate the disadvantages they face: all were unemployed and had no qualifications; all were from areas of social disadvantage where there are high levels of poverty, unemployment and social deprivation; 89% had literacy and numeracy difficulties; 83% had mental and emotional health problems; 76% had experience of care; 38% had survived physical or sexual abuse; 30% had been involved in alcohol and substance misuse; 18% had been stated as having a severe to moderate learning disability; 12% were young parents.⁶⁷

g) Lesbian, Gay, Bisexual or Transgendered (LGBT) young people

See: *Northern Ireland NGO Alternative Report*, p13

h) Economic exploitation

See: *Northern Ireland NGO Alternative Report*, p43-44

A survey about age-related issues and attitudes was conducted with a representative sample of 1,000 adults aged 16+ throughout Northern Ireland in May 2007, on behalf of the Equality Commission for Northern Ireland. This found that there was strong disapproval of the exclusion of goods, facilities and services from the *Regulations* (45% moderately or strongly disagreed with this limitation).⁶⁸ 70% of respondents were of the view that different National Minimum Wage rates payable to young people aged 16-22 were unfair.⁶⁹

i) Inequalities in educational attainment

See: *Northern Ireland NGO Alternative Report*, p33-37; 58

⁶⁵ Criminal Justice Inspection Northern Ireland (2008) *Inspection of Woodlands Juvenile Justice Centre*, May 2008, CJINI, p5

⁶⁶ *Ibid*, p32

⁶⁷ Green, R. (2007) *Evaluation of Young Voices Project July 2004-March 2007*, Include Youth, p9

⁶⁸ Equality Commission for Northern Ireland (2008) *Attitudes of the General Public in Northern Ireland towards Age-related Issues*. Research Update, March 2008, ECNI, p2

⁶⁹ *Ibid*, p3-4

It was intended that 2008 would be the last year of the 11+ transfer test. However, resistance to change amongst some of the political parties has resulted in a failure to achieve the necessary cross-party support required in Northern Ireland to implement legislative change and led to delay in implementation of this plan. This has caused much uncertainty and confusion for children due to transfer to post-primary education in the coming years.

In the 2006-07 academic year, 55% of Travellers attending school (in both primary and post-primary education) were identified as having special educational needs compared with 22% of the primary school population and 16% of the post-primary school population.⁷⁰ Concern has been raised about over-representation of Traveller children at each stage of the Special Educational Need *Code of Practice*, particularly at stages 2 and 3. Assessment and support for children identified with special educational needs at stages 1-3 is school-based. Comparison between the proportion of Travellers at stage 3 and all other pupils is marked – of the children attending primary school in 2006-07, 16% of Travellers were at stage 3, compared with 3% of all other children. In the same year, 38% of Travellers attending post-primary school were at stage 3, compared with 2% of all other pupils. Although they continue to be over-represented, Traveller children do not appear to be referred to stages 4 and 5, which require statutory assessments and where responsibility for provision of support is shared by the school and relevant Education and Library Board. In 2006-07, 8% of Travellers attending primary school were at stages 4 or 5, compared with 3% of all other pupils; 10% of Travellers attending post-primary school were at stages 4 or 5 compared with 3% of all other pupils.⁷¹

Key issues concerning Traveller education in Northern Ireland include: lack of initial and in-service teacher training about Traveller culture and anti-racism, institutional racism in the education system;⁷² limited culturally appropriate pre-school provision in communities or nursery provision in schools – existing Traveller-specific provision (Toybox) is provided by the voluntary sector and, through outreach play workers engaging with each child in their home, has successfully increased enrolment of Traveller children in pre-school settings;⁷³ ‘segregated’ primary provision in Belfast – although St Mary’s primary school is technically open-enrolment, it is described by the Council for Catholic Maintained Schools as “primarily a school for Traveller children”;⁷⁴ limited understanding about the educational/ training/ employment needs and experiences of Traveller children and their parents; ineffective use of transfer records for Travellers and tracking systems; limited knowledge about the needs of, and effective educational strategies for, children of nomadic families; limited forms of alternative education provision for children aged 14+; difficulties with transport to/ from school and school uniform policies; limited interaction with parents about relevant aspects of the education system; racist bullying and intimidation of Traveller children; unsystematic collection of data relating to the education of Traveller children – in particular, monitoring of progress towards achievement of equality of participation and outcomes; non ring-

⁷⁰ DENI (2007) *Northern Ireland School Census 2006/07*, DENI

⁷¹ An Múna Tober (2008) *Traveller Education Policy Project. Forum E-Briefing*, 14 August 2008

⁷² DENI (2005) *Traveller Children’s Experiences in Post Primary Schools in Northern Ireland: a qualitative study*, DENI

⁷³ McVeigh, R. (2007) *Toybox Early Years development through play for Traveller children. An evaluation*, NIPPA/ Save the Children NI

⁷⁴ ECNI (Equality Commission for Northern Ireland) (2006) *Mainstreaming Equality of Opportunity for Travellers in Education: towards a strategy*, April 2006, ECNI

fenced resources for schools or to support existing Traveller-specific provision.⁷⁵ Recent research commissioned by the Northern Ireland Commissioner for Children and Young People and the Equality Commission for Northern Ireland substantiated these issues.⁷⁶

Education is provided for all detained children. However, challenges include a wide range of abilities, diverse age groups, and the constantly changing population.⁷⁷ In 2005, an investigation by the Northern Ireland Human Rights Commission in the (previous) Juvenile Justice Centre found that, despite successes in education programmes and an emphasis on opportunities for young people to gain accreditation, there was no integration into school or college in their community and provision for over-16s was limited in terms of vocational training.⁷⁸ The recent inspection of Woodlands Juvenile Justice Centre identified similar issues relating to: the destabilising effects of high population turnover on continuity of education;⁷⁹ the histories of disrupted schooling and complex needs amongst detained children; an undue focus on accreditation, which led to low expectations about what children could achieve; and need for strategic collaborative working agreements across the JJC, community services, health and education authorities to support children leaving the centre.⁸⁰

3. The State party's strategy to significantly strengthen the Convention's overall implementation, with particular attention to the general principles of the Convention (non-discrimination (art. 2), the best interests of the child (art. 3), survival and development (art. 6), and the right of the child to express his/her views and be heard (art. 12).

a) Non-discrimination

See Part 4, 2. above (p23-25)

b) Best interests

See: *Northern Ireland NGO Alternative Report*, p16

c) Right to life

See: *Northern Ireland NGO Alternative Report*, p16-19

d) Participation

See *Northern Ireland NGO Alternative Report*, p19-20

4. Children in alternative care

See *Northern Ireland NGO Alternative Report*, p26; 53-54

⁷⁵ PSI Working Group on Travellers (2000) *PSI Working Group on Travellers. Final Report*, OFMDFM; ECNI (Equality Commission for Northern Ireland) (2006) *Travellers and Education Roundtable*, 29 June 2006 www.equalityni.org.archive/word/RomaEDEMEducRtable06.doc

⁷⁶ Hamilton, J. et al (2007) *The Adequacy and Effectiveness of Educational Provision for Traveller Children and Young People in Northern Ireland*, NICCY/ECNI

⁷⁷ Convery, U. and Moore, L. (2006) *Still In Our Care. Protecting children's rights in custody in Northern Ireland*, Northern Ireland Human Rights Commission, p119-120

⁷⁸ *Ibid*, p123-125

⁷⁹ Criminal Justice Inspection Northern Ireland (2008) *Inspection of Woodlands Juvenile Justice Centre*, May 2008, CJINI, p5

⁸⁰ *Ibid*, p, 27-29

5. Domestic violence, including corporal punishment, and sexual abuse

a) Domestic violence

Information on the Police Service of Northern Ireland (PSNI) website uses the term 'domestic abuse' and provides the definition: "Domestic abuse is essentially a pattern of behaviour which is characterised by the exercise of control and the misuse of power by one person over another within an intimate relationship or a family. It occurs regardless of the victim's age, class, sexual orientation, culture, disability or religion." The information states that the PSNI "recognise the adverse effects for children living with domestic violence as a child protection issue" and notes that such effects include poor educational achievement, social exclusion and youth offending, substance abuse, mental health problems, homelessness and suicide.⁸¹

The PSNI defines 'domestic incidents' as: "any incident of threatening behaviour, violence, or abuse (psychological, physical, sexual, financial or emotional) by one family member against another or adults who are or have been intimate partners, regardless of gender, and whether a crime has occurred or not".⁸² Recorded crimes are those deemed to be indictable or triable-either-way, and will be recorded as domestic where they meet this definition (not all domestic incidents will result in the recording of a crime). In 2006-07, the PSNI responded to a domestic incident every 22 minutes of every day of the year, and 20% of all attempted murders had a domestic motivation.⁸³

In 2007-08, there were 23,076 recorded domestic incidents and 9,283 crimes with a domestic motivation.⁸⁴ More than two thirds (6,389: 69%) of all crimes with domestic motivation fell within the category of violent crime - offences against the person, sexual offences and robbery (of the remaining offences, 15% were criminal damage and 13% were breach of orders).⁸⁵ 562 children under 17 were the victims of recorded crimes with a domestic motivation during 2007-08 (similar to the figure of 572 during 2006-07).

Article 56 of the *Family and Homes Domestic Violence (Northern Ireland) Order 1998* enabled the Lord Chancellor to make provision for the separate representation of children in relation to proceedings arising from any matter under the Order. However, this provision has not been commenced.

b) Corporal punishment

See: *Northern Ireland NGO Alternative Report*, p22-23

Following its recent Universal Periodic Review, the UK Government stated that it "**accepts** the recommendation to consider going beyond current legislation if the need arises to protect children from violence, but **does not accept** the implication that it is

⁸¹ www.psni.police.uk/index/advice_centre/domestic_violence.htm

⁸² PSNI (2008) *Domestic Incidents and Crimes. 1st April 2007 – 31st March 2008*. Statistical Report No. 2, Central Statistics Branch, Operational Support Department, PSNI, p2

⁸³ End Violence Against Women (2007) *Making the Grade? 2007 Northern Ireland. An independent analysis of Northern Ireland Government initiatives on violence against women*, End Violence Against Women Coalition, p5

⁸⁴ PSNI (2008) *Domestic Incidents and Crimes. 1st April 2007 – 31st March 2008*. Statistical Report No. 2, Central Statistics Branch, Operational Support Department, PSNI, p2

⁸⁵ *Ibid.*

failing in this regard through the application of its policy on corporal punishment.”⁸⁶ The Government claimed that it “is absolutely clear that no child should be subjected to violence or abuse”, and has banned corporal punishment in state and independent schools, nursery, childminding and foster care settings. However, the private domain of the family remains a site of potential harm, despite reform of legislation. The Report of the Working Group on the UK’s Universal Periodic Review record: “the United Kingdom keeps a careful eye on this issue, noting that it sees no evidence that the law is not working to protect children, that there should be reasonable scope for parents to discipline, and that as surveys show that smacking has already declined it sees no current need to amend the law.”⁸⁷

c) Sexual abuse

The Northern Ireland Crime Survey 2006-07 revealed that, while most victims of recorded violence against the person (61%) were male, most victims of recorded sexual offences (85%) were female.⁸⁸

In response to a recent question in the House of Commons about the number of people in Northern Ireland prosecuted and convicted on charges relating to having sexual intercourse with an underage person, information showed the very low number of both prosecutions and convictions:

Number of people in Northern Ireland prosecuted and convicted on charges relating to having sexual intercourse with an underage person, 2005-2006⁸⁹

Prosecutions and convictions	2005	2006
Prosecutions	8	9
Convictions	7	8
Percentage of those convicted who received a custodial sentence	43	75
Average length of sentence (in months)	17	23

*The latest available years for which data is available are 2005 and 2006. NI court prosecution and conviction datasets do not contain victim information in relation to offences committed, which means that figures for rape are not included within this analysis. Data include only those offences which, by their definition, identify a child as the victim: ‘unlawful carnal knowledge of a girl under 14 years’ and ‘unlawful carnal knowledge of a girl under 17 years’).

These figures obviously do not reflect the extent of sexual exploitation involving children and young people – they are more indicative of the limitations of the criminal justice system in identifying and responding to such offences. (A similar situation exists in relation to rape – while the number of recorded rapes increased from 292 in 2001-02 to

⁸⁶ Human Rights Council (2008) *Report of the Working Group on the Universal Periodic Review. United Kingdom of Great Britain and Northern Ireland. Addendum. Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/8/25/Add.2, 18 June 2008, p5

⁸⁷ Human Rights Council (2008) *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland*, A/HRC/8/25, 23 May 2008, p8-9

⁸⁸ Northern Ireland Office (2008) *Digest of information on the Northern Ireland Criminal Justice System 2006-2008*, NIO, Chapter 4

⁸⁹ Simpson, D. (2008) ‘Sexual Offences (Northern Ireland)’ House of Commons – Written Answer, 22 July 2008, DeHavilland Information Services, www.dehavilland.co.uk

457 in 2006-07, the rate of conviction for rape after trial decreased from 28.2% in 1994 to 19% in 2005.⁹⁰⁾

Gateway teams have been established in each Health and Social Services Trust, to provide a referral point for all agencies and develop expertise in assessment of abuse. Principal Practitioners are currently being appointed, and these teams will clarify procedures for monitoring and investigating instances of abuse. *Co-operating to Safeguard Children* provides a strategic overview of regional principles and procedures. Policies and procedures which consolidate and extend the regional guidance have been developed by the four Area Child Protection Committees. However, much work remains to be done in development of a range of regional guidance relating to particular children or child protection in particular circumstances.

Progress is being made in development of care, recovery and reintegration of survivors of abuse. However, access to treatment services and programmes is not available across Northern Ireland. NSPCC NI is currently mapping provision as part of a UK-wide study. A particular concern is the failure to appropriately assess, respond to and provide therapeutic services for children who display sexually harmful behaviour.⁹¹ Key issues are lack of clarity over whether these young people fall within the remit of the criminal justice system or social services, and coordination of responses between agencies.

The Northern Ireland Office is committed to producing *Achieving Best Evidence* (developed by a sub-group of the Criminal Justice Board on Victims, Vulnerable and Intimidated Witnesses). This will include development of guidance on pre-trial therapy for children, which enables them to access or continue treatment to help them deal with the impacts of abuse without contaminating the legal process. NSPCC is funded to provide a regional Young Witness Programme for the Northern Ireland Office.

A sexual violence strategy has been produced for consultation by the Northern Ireland Office,⁹² and a *Strategy for Victims of, and Witnesses to, Crime* was published in 2007. It will be important to ensure that these strategies are cross-referenced with the forthcoming *Safeguarding Strategy*. In March 2008, the Minister for Health announced that the DHSSPS and Northern Ireland Office would soon be launching the sexual violence strategy, and that a new £2 million Sexual Assault Referral Centre is to be set up: "This investment is a key element in the effort to raise the standards of care for victims of sexual violence in Northern Ireland."⁹³

The *Draft Criminal Justice (Northern Ireland) Order 2008* includes provision of new public protection arrangements in Northern Ireland, with the establishment of Multi-Agency Sex Offender Risk Assessment and Management (MASRAM) on a statutory basis involving the PSNI, Northern Ireland Probation Service, Northern Ireland Prison

⁹⁰ End Violence Against Women (2007) *Making the Grade? 2007 Northern Ireland. An independent analysis of Northern Ireland Government initiatives on violence against women*, End Violence Against Women Coalition, p5

⁹¹ Yiasouma, K., Gossrau, D. and Leonard, M. (2006) *An Investigation into the Application of Child Protection and Related Procedures with Children and Young People who Display Sexually Harmful Behaviour*, December 2006, Include Youth

⁹² Northern Ireland Office, (2007) *Hidden Crimes, Secret Pain: a consultation paper on a proposed regional strategy for addressing sexual violence in Northern Ireland*, NIO

⁹³ McGimpsey, M. (2008) 'McGimpsey committed to tackling domestic and sexual violence' News Release, 3 March 2008, DHSSPS

Service, Youth Justice Agency, NSPCC, relevant government departments and agencies. This will lead to multi-agency management of both potentially dangerous persons (who have not received a sentence) and offenders who pose public protection risks. It will include sex offenders and those who are violent. The Northern Ireland Office is currently consulting on its *Draft Guidance on Public Protection Arrangements*,⁹⁴ which will govern the operation of MASRAM. One amendment to the operation of the current system is that children charged with a serious violent or sexual offence can fall within the scope of MASRAM from the age of 10 where any of the partner bodies are convinced that this is necessary. Despite requests that adequate consideration and attention be given to the needs of young people within the MASRAM system, only one paragraph in the *Draft Guidance* refers to under-18s. This does not address any child-specific issues, nor does it introduce any additional measures concerning children. The adult-based system would need to be substantially amended to ensure that it is suitable for children in relation to operation of the risk assessment tool, categories and extent of risk. It should also be adequately child-specific so that it does not have an adverse impact on children who come within the scope of its operation.

The Department for Education has established a child protection support system, with 2 designated officers in each Board to oversee child protection procedures within education. An Independent Schools Counselling Service is provided by a range of providers and elements of child protection are being developed in the personal development curriculum through the Promoting Emotional Health and Wellbeing (PEHAW) initiative. The Department for Education has also provided additional funding to increase the capacity of ChildlineNI, which has facilitated the opening of an office in Foyle.

Regional training about child protection is provided for professionals working with children and young people by the DHSSPS, Northern Ireland Social Care Council and Early Childcare Partnerships. Open-access training about the *Children (Northern Ireland) Order 1995* is provided by the voluntary organisation 'Children in Northern Ireland'.

6. Children with disabilities, in particular their access to education and social and health services as well as cultural and recreational activities.

See *Northern Ireland NGO Alternative Report*, p14; 38

7. Children at risk of experiencing poverty, including the progress to achieve the State party's long term target to eradicate child poverty by 2020.

See: *Northern Ireland NGO Alternative Report*, p31-32

An effective, coordinated, comprehensive poverty eradication strategy across all jurisdictions of the State party has not been developed. This is vital for two reasons: to ensure that all governments across the UK contribute to eradicating child poverty, and to ensure that actions are designed to reflect the different contexts across the jurisdictions. For example, while child poverty rates in Northern Ireland are around average for the UK, persistent poverty rates (where a child is in poverty for at least three years in a four year period) are almost three times higher in Northern Ireland than Great Britain. Also,

⁹⁴ NIO (2008) *Draft Guidance on Public Protection Arrangements Northern Ireland. Consultation Document*, May 2008, NIO. (Deadline for comments: 15 August 2008)

decades of conflict have impacted on child poverty rates and the dynamics of poverty in Northern Ireland.

In response to the recommendations arising from the Universal Periodic Review, the UK Government states that its strategy to halve child poverty by 2010 and eradicate it by 2020 will be achieved by: increasing employment and raising incomes; improving financial and material support for families; tackling deprivation in communities; and improving poor children's life chances.⁹⁵ Given its responsibility for taxation and benefits, the UK Government retains significant responsibility for the eradication of poverty across the UK. To date, it has not dedicated sufficient resources to meet its targets to end child poverty. Its first target – to reduce child poverty by 25% by 2005 – was not met, and it is not currently on track to meet its second target – to halve child poverty by 2010.

The devolved institutions also hold responsibility for the eradication of child poverty, as they have responsibility for many issues that will be critical in meeting both the 2010 and the 2020 goals, including tackling: educational underachievement, health inequalities, low paid employment, shortage of childcare places and high levels of fuel poverty. An *Anti-Poverty and Social Exclusion Strategy* was drafted in Northern Ireland before devolution, and the 2007 St Andrews Agreement required the Northern Ireland Executive to produce an anti-poverty strategy. However, this has not yet happened. The Executive has stated that eradicating child poverty is a key priority, mirroring the UK Government's targets for halving child poverty by 2010 and eradicating child poverty by 2020 in their 'Programme for Government'. In addition, the Executive committed to eradicating severe child poverty by 2012. But there is not yet an action plan or budget to deliver on these targets.

As Save the Children stated in its submission to the Committee for the Office of the First Minister and Deputy First Minister's Inquiry into Child Poverty: "according to most child poverty indicators, things appear to be moving in the wrong direction in Northern Ireland – higher levels of child poverty, wider gaps in educational and health outcomes, higher costs of living including fuel and housing costs. 'More of the same' is not an option".⁹⁶ A range of policies and approaches are required to address child poverty in Northern Ireland. For example:

Income

- Maximising benefit uptake – this should lift almost all children out of severe child poverty.
- Ensuring quality, affordable childcare will make employment more feasible for many families.
- Seasonal grants – making additional payments to families with children in poverty at times in the year where costs are particularly high – around July and November. This is similar to the winter fuel payment to elderly.
- Extending free school meals – either to all children in primary 1-3, or to all children in families in receipt of tax credits.

⁹⁵ Human Rights Council (2008) *Report of the Working Group on the Universal Periodic Review. United Kingdom of Great Britain and Northern Ireland. Addendum. Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/8/25/Add.2, 18 June 2008, p6

⁹⁶ A. Tennant (2007) *Submission to Committee for the Office of First Minister and Deputy First Minister's Inquiry into Child Poverty*, 3 December 2007, p17

- Tackle unscrupulous lenders, some of whom charge interest rates of more than 170% APR .
- Reduce the proportion of the workforce receiving low pay. Government must take a lead and ensure that government employees receive a decent wage of no less than £6.50 ph. This should also be a condition of all government procurement.
- Increasing child benefit payments for second and subsequent children to equalise with payments for first child (UK Treasury action).
- Increasing benefit levels to at least the level as poverty threshold (UK Treasury action).

Education

- Educational policy must focus on narrowing the gap in attainment between poor and non-poor children.
- Make education free – remove the costs associated with education, including school trips, fees, books, activities etc.
- Provide assistance to parents where appropriate to ensure that they feel confident and capable of supporting their children's education.
- Focus on early years and on ensuring that children are prepared to start formal education, and increase investment in Sure Start.
- Ensure early access to key vital services such as Speech Therapy for early years children to ensure best start in life.
- Examine best practice where differences in attainment gaps between poor and non-poor children have been reduced.

Health

- Narrowing the gap in health outcomes between poor and non-poor children must be a key focus of health policies and programmes.
- Policies must be developed to ensure improvements in maternal health in disadvantaged areas, as this is a key determinant for children in later life.
- Increase spending on personal and social services for children – NICCY/ DFP/OFMDFM research showed that 14.1% of the personal and social services budget was spent on children in NI, compared to 24% in England and 26.1% in Wales.
- Policies to tackle fuel poverty must include a focus on families in poverty.
- Address the lack of provision of mental health services for children and young people.

Home and neighbourhood

- Affordable, quality housing must be made available to all families with children.
- A key focus of anti-poverty strategies must include parental and family support within disadvantaged areas.
- Community planning must include a focus on developing neighbourhood action plans to tackle poverty.
- The focus of neighbourhood renewal on small areas should be widened from wards to larger areas, such as District Council Areas.
- There should be focus on ensuring essential services reach those that are most disadvantaged and often find it difficult to access the support they require.

Play and Social Development

- Safe play places must be provided for children in disadvantaged communities, as well as safe spaces for teenagers in disadvantaged communities.
- Provision of affordable quality leisure and organised social activities for children and young people. Investigate the impact of making leisure provision free for under 18s.⁹⁷

⁹⁷ Ibid, p17-18

8. Basic health and welfare, access to health services, adolescent health (e.g. suicide, teenage pregnancies), mental health.

a) Access to health services

See: *Northern Ireland NGO Alternative Report*, p27-28

b) Suicide

See: *Northern Ireland NGO Alternative Report*, p30

c) Teenage pregnancies

See: *Northern Ireland NGO Alternative Report*, p30

In 2002, a survey of young people in Northern Ireland found that 37% of respondents who had experienced sexual intercourse had sex before they were 17 (the legal age of consent in Northern Ireland), with approximately 27% having had sex before the age of 16 – the average age of first sex being 15.⁹⁸ Approximately one quarter of respondents failed to use contraception when they first had intercourse, and consumption of alcohol or drugs significantly decreased the likelihood of contraception being used.⁹⁹

In June 1999, the Minister for Health and Social Services identified teenage parenthood as one of the four priorities to be addressed within Northern Ireland's 'Promoting Social Inclusion' initiative. A multi-sectoral working group was established to develop a co-ordinated strategy aimed at reducing teenage births. Additional funding was released, and the *Teenage Pregnancy and Parenthood Strategy and Action Plan* was launched in 2002. However, "there has not been a notable increase or decrease in the population of births to teenagers during the period 1993-2005".¹⁰⁰ As a percentage of total live births to women under 20 in Northern Ireland, there was a slight variation between 2002 and 2005 (7.1% to 6.2%), and as a percentage of the female population aged 15-19 years there was also a small variation during the same period (2.3% to 2.2%).¹⁰¹

In 2005 there were 1,395 births to teenagers aged 19 and under.¹⁰² Identifying the population most at risk of an unplanned pregnancy is vital both to prevention and to improving accessibility/uptake of ante- and post-natal medical care. In 2005 there was a small variation between the four Health and Social Services Board areas in the number of teenage births - Eastern: 653 (8.1% of all births), Northern: 349 (6.1% of all births), Southern: 215 (4.5 % of total births), Western: 233 (6% of total births).¹⁰³ However, there was marked variation between residence areas within each Health and Social Services Board. For example, figures for 2005 show that in the Eastern Area the percentage of live births to under-20s varied from 14.4% in West Belfast and 12.5% in North Belfast to between 6% and 8% in all other residence areas. North and West Belfast are urban areas of high social and economic deprivation, and the Eastern area includes the city of

⁹⁸ Schubotz, D., Simpson, A. and Rolston, B. (2002) *Towards better sexual health: a survey of sexual attitudes and lifestyles of young people in Northern Ireland*, Belfast: fpa, p35

⁹⁹ Ibid, p55-58

¹⁰⁰ fpa (2007) *Teenage Pregnancy Factsheet*, Sexual Health Information – fpa in NI and Health Promotion Agency for NI, p1

¹⁰¹ Ibid, p2

¹⁰² Chief Medical Officer (2007) *Your Health Matters. The Annual Report of the Chief Medical Officer for Northern Ireland 2006*, DHSSPS, June 2007, p 9

¹⁰³ fpa (2007) *Teenage Pregnancy Factsheet*, Sexual Health Information – fpa in NI and Health Promotion Agency for NI, p4

Belfast. In the Western area, the percentage of live births to under-20s varied from 8.4% in the city of Derry to 3% - 5% in all other residence areas, which are predominantly rural.¹⁰⁴

Factors contributing to a high rate of teenage pregnancy include: lack of openness about sex in society; poverty; a high degree of religiosity; restrictions on teenagers' access to contraception; teenagers who have low levels of educational achievement, low aspirations for the future and limited job prospects. In contrast, the characteristics shared by countries with the lowest teenage pregnancy rates include: liberal attitudes towards sex; easily accessible, confidential contraceptive services for teenagers; effective formal and in formal programmes of sex and relationships education; teenagers who have high educational aspirations, positive educational achievements, and good job prospects.¹⁰⁵

d) Mental health

See: *Northern Ireland NGO Alternative Report*, p28-30

Over the last three years, the total number of admissions to Northern Ireland hospitals of under-18s with eating disorders has been: 27 in 2004-05, 23 in 2005-06 and 23 in 2006-07 (Deaths and discharges are used as an approximation of admissions - these figures do not necessarily denote individuals as a person may be admitted and subsequently discharged from hospital more than once in any given year).¹⁰⁶

9. Children and education, including measures to address bullying in schools, special needs of children, the possibilities to be heard available to children, and human rights education.

a) Measures to address bullying in schools

See Part 1, 8. above (p15)

b) Special needs of children

See: *Northern Ireland NGO Alternative Report*, p36-37

c) Possibilities to be heard available to children

See: *Northern Ireland NGO Alternative Report*, p34

d) Human rights education

See: *Northern Ireland NGO Alternative Report*, p38

Led by Amnesty International, a cross-border initiative - 'Lift Off' - has created resources to promote an understanding of human rights among primary-aged children. This has been linked to the revised curriculum in both the north of Ireland and the Republic.

10. Leisure and play

See Part 1, 9. above (p16)

¹⁰⁴ Ibid, p5-6

¹⁰⁵ Ibid, p9-10

¹⁰⁶ DHSSPS, Hospital Information Branch, via email (11.8.08)

11. Alcohol and substance abuse

Between 2005 and 2007, the number of individuals aged under 18 in treatment for drug and/or alcohol misuse more than trebled from 271 to 847.¹⁰⁷ On 1st March 2007, of the 5,583 individuals in treatment, 15% (847) were aged under 18 – 59% (502) of these young people were males and 41% (345) were females.¹⁰⁸ 16% (176) of the 1,118 individuals in treatment for drug misuse were under 18, 11% (377) of the 3,476 in treatment for alcohol misuse were under 18, and 30% (294) of the 989 people in treatment for both drug and alcohol misuse were under 18.¹⁰⁹ 5 under-18s received treatment from statutory services (such as Community Addiction Teams) – 2 males and 3 females. 2% (6) of the 257 people receiving treatment in prison-based services were under 18 – all males, and 48% (836) of the 1,741 receiving non-statutory treatment were under 18 – 494 males and 342 females.¹¹⁰

12. Trafficking and sexual exploitation of children

See Part 3, 4. above (p22)

13. Administration of juvenile justice, in particular with regard to the age of criminal responsibility, conditions of places of detention for children, trials in adult courts and placement with adults.

a) Age of criminal responsibility

In Northern Ireland, the age of criminal responsibility continues to be 10 years. This is significantly lower than other social responsibilities. For example, the age of sexual consent in Northern Ireland is 17, the voting age is 18.

In its summary of the Government's responses, the Report of the Working Group on the UK Government's Universal Periodic Review states: "Commencing the age of criminal responsibility at 10 years helps children because at that age they can generally tell the difference between bad behaviour and serious wrongdoing. In all cases, interventions are designed to be rehabilitative, not punitive."¹¹¹ In contrast, the UN Committee on the Rights of the Child has concluded that: "a minimum age of criminal responsibility below the age of 12 years is considered by the Committee not to be internationally acceptable", recommending "the age of 12 years as the absolute minimum age" and that State parties continue to increase it to a higher age level.¹¹² The Committee clarifies that a higher age of criminal responsibility "for instance 14 or 16 years of age, contributes to a juvenile justice system which, in accordance with article 40(3)(b) CRC, deals with children in conflict with the law without resorting to judicial proceedings, providing that the child's human rights and legal safeguards are fully respected."¹¹³

As part of the process of developing a Bill of Rights for Northern Ireland, the Bill of Rights Forum 'Working Group on Children and Young People' discussed the age of

¹⁰⁷ DHSSPS (2007) *Census of Drug and Alcohol Treatment Services in Northern Ireland: 1st March 2007*, August 2007, NISRA/DHSSPS, p1

¹⁰⁸ *Ibid*, p10

¹⁰⁹ *Ibid*, p11

¹¹⁰ *Ibid*, p4, 14, 15

¹¹¹ Human Rights Council (2008) *Report of the Working Group on the Universal Periodic Review United Kingdom of Great Britain and Northern Ireland, A/HRC/8/25*, 23 May 200, p16

¹¹² Committee on the Rights of the Child (2007) *General Comment No. 10 (2007) Children's Rights in Juvenile Justice*, CRC/C/GC/10, 2 February 2007, p8-9

¹¹³ *Ibid*, p9

criminal responsibility and recommended: “No child under the age of 16 will be held criminally responsible. The Public Authority shall progressively increase the age of criminal responsibility to 18”.¹¹⁴ Following further debate, the final recommendations of the Bill of Rights Forum to the Northern Ireland Human Rights Commission in relation to the rights of children in the justice system included: “The age of criminal responsibility shall be raised in line with international human rights standards and best practice”.¹¹⁵ However, this recommendation did not enjoy the support of the majority of political representatives on the Forum.¹¹⁶ This difference of position has significant implications for future debate about raising the age of criminal responsibility.

b) Use of custody

See: *Northern Ireland NGO Alternative Report*, p47-48

The UK Government claims that in Northern Ireland: “provisions already exist to provide courts with wider sentencing options. In particular, the Youth Conference Order, which is rooted in restorative principles, provides a menu of interventions to meet the needs of offender and victim alike.”¹¹⁷ While there are a range of sentencing options, custody continues to be used.

(i) the Juvenile Justice Centre (for 10-17s)

Having failed to raise the minimum age of criminal responsibility as part of the Criminal Justice Review (established as an element of the Peace Process), Article 56 of the *Justice (Northern Ireland) Act 2002* made provision for the introduction of ‘Custody Care Orders’ for 10-13 year olds (inclusive). Under this provision, a child subject to a Custody Care Order would be placed in a secure accommodation setting, rather than a youth justice setting. Due to failure to raise the age of criminal responsibility, and failure to implement this clause, 10-13 year olds who are remanded in custody or receive a custodial sentence are currently sent to the Juvenile Justice Centre where they are detained with older children aged up to 17.

On 30 November 2007, the Juvenile Justice Centre population comprised 30 children – 21 remanded (70%) and 9 sentenced (30%).¹¹⁸

Woodlands Juvenile Justice Centre (JJC) was opened in January 2007 – “This marked the culmination of a 10-year process to reduce numbers of juveniles in custody from an average 250, located on four different sites, to a single, purpose-built facility for a maximum of 48 children.”¹¹⁹ A full, announced inspection of the Centre undertaken in November 2007 raised concerns about the profile of the children detained there:

¹¹⁴ McKenna, S. (2008) *Bill of Rights Children’s Working Group. Final Report*, 15 January 2008, p30

¹¹⁵ Bill of Rights Forum (2008) *Bill of Rights Forum. Final Report. Recommendations to the Northern Ireland Human Rights Commission on a Bill of Rights for Northern Ireland*, 31 March 2008, p128

¹¹⁶ *Ibid*, p131

¹¹⁷ Human Rights Council (2008) *Report of the Working Group on the Universal Periodic Review. United Kingdom of Great Britain and Northern Ireland. Addendum. Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/8/25/Add.2, 18 June 2008, p8

¹¹⁸ Criminal Justice Inspection Northern Ireland (2008) *Inspection of Woodlands Juvenile Justice Centre*, May 2008, CJINI, p4

¹¹⁹ *Ibid*, p3

“As in previous JJC inspections, Inspectors’ main concern arises from the high turnover rate of children, and the fact that a disproportionate number of children come directly from residential care placements. These are longstanding features of juvenile custody in Northern Ireland.”¹²⁰

The inspection report stated:

“...many of the children whom Inspectors met were neither serious nor persistent offenders. They were troubled children whose JJC placements often resulted from benign intent on the part of courts or police. When unsure how to deal with them, they were placed in custody as much for their own safety as in response to their offending behaviour. Such placements breach international safeguards, and inappropriate use of custody for children remains a more pronounced problem in Northern Ireland than elsewhere in the UK.”¹²¹

In the report it was noted that many looked after children were “already damaged and criminalised, with an estimated 75% of those who entered secure care having accrued criminal convictions.”¹²² Furthermore, custody was used as a form of ‘quasi-care’:

“Research suggested that the gatekeeping process for secure care could actually lead to children being placed in the JJC if they did not meet the strict care criteria; and trivial offences provided the opportunity to use custody as quasi-care. However, that was not the JJC’s purpose and it could be of no benefit for marginalised children to experience custody for insufficient reason.”

The main recommendation of the Inspectorate had implications for the wider youth justice system:

“The interface between residential care and the JJC should be continuously addressed in order to secure compliance with international conventions. This process should include dialogue with courts on the appropriate use of custody for children; and it should aim to improve the quality of information provided to the centre by external agencies.”¹²³

(ii) Prison

The prison population consists mainly of offenders sentenced by the courts to immediate custody for criminal offences. It also includes fine defaulters, remand prisoners and a small number of non-criminal prisoners (imprisoned for non-payment of maintenance or a debt, contempt of court, or held under the terms of an Immigration Act). Due to changes brought about by the *Criminal Justice Order 1998*, fine defaulters aged under 17 are no longer held in custody, and under-17s on remand will normally be detained in the Juvenile Justice Centre. Young males sentenced to prison are held in Hydebank Wood Young Offenders Centre and Prison. Female prisoners, including young women, are held in a separate unit within Hydebank Wood Prison.

In 2007, 12% (109) of the *annual average prison population under sentence of immediate custody* were less than 21 years old - the proportion of under-21s within the immediate custody population fluctuated over the decade 1997-2007, from a high of

¹²⁰ Ibid, pvii

¹²¹ Ibid, pvii

¹²² Ibid, p5

¹²³ Ibid, pix

16% in 1999 to a low of 12% in a number of years, including 2007.¹²⁴ (Most prisoners sentenced to immediate custody are received into prison with sentences of one year or less and, because they remain in prison for a relatively short period, the average daily prison population consists primarily of longer-sentence prisoners.) In 2007, 19% of all *immediate custody prisoners at reception* were aged less than 21 years – the proportion of immediate custody prisoners aged less than 21 has remained at approximately a quarter until the last three years.¹²⁵

According to NIO figures for the *average prison population under sentence of immediate custody* by sex and age at reception from 1998-2007, the numbers of 14-16 and 17-20 year olds were as follows:

Average prison population under sentence of immediate custody by sex and age at reception from 1998-2007 (figures relating to 14-20 year olds)¹²⁶

Sex	Age	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Male	14-16	6	3	4	1	1	2	4	5	2	2
Female	14-16	0	0	0	0	1	1	1	0	0	0
Total	14-16	6	3	4	1	2	3	5	5	2	2
Male	17-20	152	128	96	73	92	100	112	108	105	106
Female	17-20	1	1	1	1	2	1	1	1	2	2
Total	17-20	153	128	96	74	94	101	113	109	107	107

Figures relating to *prison receptions under sentence of immediate custody* by sex and age at reception from 1998-2007 demonstrate the higher numbers of 14-16 and 17-20 year olds actually received into prison:

Prison receptions under sentence of immediate custody by sex and age at reception from 1998-2007 (figures relating to 14-20 year olds)¹²⁷

Sex	Age	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Male	14-16	20	11	14	8	6	12	12	9	4	5
Female	14-16	1	2	0	1	1	1	2	0	0	0
Total	14-16	21	13	14	9	7	13	14	9	4	5
Male	17-20	328	336	263	241	311	254	279	214	229	245
Female	17-20	7	3	7	6	4	10	9	5	9	7
Total	17-20	335	339	270	247	315	264	288	219	238	252

According to the UK Government, in Northern Ireland “the number of children sentenced to custody has been in steady decline”.¹²⁸ The number of 14-16 year old male prison receptions under sentence of immediate custody has reduced from 20 in 1998 to 9 in

¹²⁴ NIO (2008) *The Northern Ireland Prison Population 2007*. Research and Statistical Bulletin 9/2008, Statistics and Research Branch, NIO, p3

¹²⁵ *Ibid*, p6

¹²⁶ *Ibid*, p13

¹²⁷ *Ibid*, p19

¹²⁸ Human Rights Council (2008) *Report of the Working Group on the Universal Periodic Review. United Kingdom of Great Britain and Northern Ireland. Addendum. Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, A/HRC/8/25/Add.2, 18 June 2008, p8

2005, 4 in 2006 and 5 in 2007. The number of 14-16 year old females was 0 each year between 2005-2007, and just 1 or 2 each year before then.¹²⁹ However, statistics from Youth Justice Agency Annual Reports confirm that total admissions to the Juvenile Justice Centre (for 10-17 year olds) have remained above 400 for the last four years: 405 in 2003-04; 464 in 2004-05; 413 in 2005-06¹³⁰ and 436 in 2006-07.¹³¹ Despite attempts to minimise inappropriate placements, the volume and nature of PACE admissions remains a problem in the Juvenile Justice Centre. Of the 655 admissions between January 2006 and October 2007, 313 (48%) were PACE placements. The fact that 132 (42%) of these children were subsequently released at court “calls into questions the value of placing them in custody in the first instance, in terms of individual impact as well as the disruption to other children living in the JJC.”¹³² 292 (45%) of the 655 admissions were remand placements, yet only 8% of remanded children went on to receive a custodial sentence. 50 children (7%) were actually sent to the Juvenile Justice Centre on sentence.¹³³

c) Conditions of places of detention for children

A Northern Ireland Human Rights Commission investigation of the (previous) Juvenile Justice Centre in 2005 found that the Centre provided sound educational and health provision, with many young people making significant progress in these areas (raising issues about the suitability of mainstream provision for meeting their complex needs).¹³⁴ In contrast, concerns were raised in relation to: achieving a balance between care and control,¹³⁵ addressing gender issues, particularly concerning responses to vulnerable girls;¹³⁶ ensuring optimum contact with family and friends;¹³⁷ and use of physical restraint and separations.¹³⁸

A more recent inspection of the Woodlands Juvenile Justice Centre, which has been operational since January 2007, noted that “Children were very well cared for in the JJC” – use of Therapeutic Crisis Intervention (TCI) was proving beneficial, daily delivery of personal development programmes was an important innovation, provision of primary and secondary level healthcare was to a high standard, and a strong educational ethos led to more engagement in schooling and positive outcomes in relation to children’s backgrounds.¹³⁹ Highlighting the inappropriate intended actions of the Immigration Service, it was noted that: “Admissions were not normally allowed after 10pm, nor

¹²⁹ NIO (2008) *The Northern Ireland Prison Population 2007*. Research and Statistical Bulletin 9/2008, Statistics and Research Branch, NIO, p19

¹³⁰ Youth Justice Agency (2006) *Annual Report and Accounts 2005-2006*, The Stationery Office, p29

¹³¹ Youth Justice Agency (2007) *Annual Report and Accounts 2006-2007*, The Stationery Office, p48

¹³² Criminal Justice Inspection Northern Ireland (2008) *Inspection of Woodlands Juvenile Justice Centre*, May 2008, CJINI, p4

¹³³ Ibid.

¹³⁴ Convery, U. and Moore, L. (2006) *Still In Our Care. Protecting children’s rights in custody in Northern Ireland*, Northern Ireland Human Rights Commission, p120-122

¹³⁵ Convery, U. and Moore, L. (2006) *Still In Our Care. Protecting children’s rights in custody in Northern Ireland*, Northern Ireland Human Rights Commission, p56-61

¹³⁶ Ibid, p64-66

¹³⁷ Ibid, p71-76

¹³⁸ Ibid, p87-93

¹³⁹ Criminal Justice Inspection Northern Ireland (2008) *Inspection of Woodlands Juvenile Justice Centre*, May 2008, CJINI, pviii

discharges before 8am. When the Immigration and Naturalisation Service (INS) recently wanted to remove a child at 4am, their request was denied, reflecting the fact that the child's welfare was paramount."¹⁴⁰ Inspection recommendations focused on: the interface between residential care and custody; staff training about new policies, procedures and rules; effective record keeping and reporting; management of child protection information and compliance with regulations; regular access to Independent Representatives; evaluation of programmes aimed at addressing offending behaviour; achievement of a more balanced focus on developing children's learning and their levels of accreditation; development of more robust links between the Centre and community services; regular health and safety assessments.¹⁴¹

Following an announced inspection of Hydebank Wood Young Offender Centre in November 2007, the Chief Inspector of Prisons and Chief Inspector of Criminal Justice in Northern Ireland listed a catalogue of concerns:

"The plight of juveniles was of particular concern... There was insufficient separation of juveniles and young adults in escort vans and an overuse of handcuffs while traveling. Reception was grim and procedures were ill-suited to juveniles, particularly the use of routine strip-searching...many young people still reported feeling unsafe. There was also a need for the centre and its partners to formalise children's safeguarding issues. Use of force was relatively low, but adjudication punishments were excessive...While it was positive that there was relatively little self-harming, particularly given the level of suicides in the community from which many young people came, a more caring and therapeutic approach was required for those at risk and those withdrawing from substance use...The quality of food was poor and young people had little confidence in the request and complaints systems. Healthcare remained inadequate... There was too little purposeful activity and opportunities were poorly utilized. Those allocated an activity spent a reasonable amount of time out of their cell, but many others spent most of the day in their cells. Matters were made worse by unpredictable cancellations of association, often blamed on staff shortages, which we found hard to reconcile with the number of staff on duty. Young people rarely had exercise in the fresh air. Opportunities for work, learning and skills were limited. The quality of education was mixed...Resettlement arrangements... had not progressed sufficiently and had suffered disproportionately from recent cut-backs...While it was commendable that most young people, including those on remand, had sentence plans, these were of limited quality and too little was then done to deliver against them."¹⁴²

d) Trials in adult courts

See Part 3, 3a. above (p20)

e) Placement with adults

The figures in Part 4, 13b (p38) clearly illustrate that young people are currently held with adults in the prison system in Northern Ireland.

¹⁴⁰ Ibid, p15

¹⁴¹ Ibid, pix-xii

¹⁴² Owers, A. and Chivers, K. (2008) *Report of an announced inspection of Hydebank Wood Young Offender Centre by HM Chief Inspector of Prisons and the Chief Inspector of Criminal Justice in Northern Ireland, 5-9 November 2007*, March 2008, Criminal Justice Inspection Northern Ireland, p5-6

14. The rationale behind, and the application of, Anti-Social Behaviour Orders (ASBOs); the use of physical restraint, plastic bullets, Taser guns and “mosquito” devices

a) ASBOs

See Part 3, 2. above (p19-20)

The Human Rights Committee recently noted a number of concerns about ASBOs, including: the fact that “despite... being civil orders, their breach constitutes a criminal offence” which is punishable by imprisonment, the fact that “ASBOs can be imposed on children as young as 10... and... some of these children can subsequently be detained for up to two years for breaching them”, and finally “the manner in which the names and photographs of persons subject to ASBOs (including children) are frequently widely disseminated in the public domain”.¹⁴³ The Committee recommended:

“The State party should review its legislation on anti-social behaviour orders (ASBOs), including the definition of anti-social behaviour, in order to ensure that it complies with the provisions of the Covenant [on civil and political rights]. In particular, the State party should ensure that young children are not detained as a result of breaching the conditions of their ASBOs and that the privacy rights of children and adults subjected to ASBOs are respected.”¹⁴⁴

b) Physical restraint

See: *Northern Ireland NGO Alternative Report*, p22

A follow-up investigation in 2005 into the rights of children in detention in the (previous) Juvenile Justice Centre found that incidence of restraint and separation had significantly reduced, although force was still used through ‘physical control in care’ (PCC) – a method of restraint which involves staff ‘holding’ the young person but not bringing them to the ground or centring on pain compliance. Staff expressed concerns about safety for themselves and young men when used on larger boys. Young people stated that use of restraint was ‘unfair’, describing the physical harm caused in some cases and the emotional stress caused by large numbers of adults restraining a young person.¹⁴⁵

More recent data available from the logbooks of Woodlands Juvenile Justice Centre, which opened in January 2007, showed that during the first eleven months of its operation there was an average of 17 restraints per month.¹⁴⁶ Logbook entries were countersigned by the team leader and unit manager. These identified reasons for restraint, names of staff involved, effectiveness and consequences, duration and any injuries caused. The main outcome was removal of the child to their bedroom.¹⁴⁷ There were no records of serious injuries to children during restraints at the JJC, although “staff

¹⁴³ Human Rights Committee (2008) *Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant. Concluding Observations of the Human Rights Committee. United Kingdom of Great Britain and Northern Ireland.*, CCPR/C/GBR/CO/6, 21 July 2008, para 20

¹⁴⁴ Ibid.

¹⁴⁵ Convery, U. and Moore, L. (2006) *Still In Our Care*, Northern Ireland Human Rights Commission, p88-91

¹⁴⁶ Criminal Justice Inspection Northern Ireland (2008) *Inspection of Woodlands Juvenile Justice Centre*, May 2008, CJINI, p19

¹⁴⁷ Ibid.

were alert to the risks involved in restraining children".¹⁴⁸ A log showed 157 instances of single separations between January-November 2007 (mainly for threats, aggression and refusal to comply with instruction), and records distinguished whether the separation was at the instigation of staff or at the child's request.¹⁴⁹

c) Plastic bullets

See: *Northern Ireland NGO Alternative Report*, p17-18

Following its recent examination of the UK Government's sixth periodic report in relation to the International Covenant on Civil and Political Rights, the Human Rights Committee concluding observations stated: "The Committee is concerned with the use of Attenuating Energy Projectiles (AEPs) by police and army forces since 21 June 2005 and emerging medical evidence that they may cause serious injuries."¹⁵⁰ The Committee recommended that: "The State party should closely monitor the use of Attenuating Energy Projectiles (AEPs) by police and army forces and consider banning such use if it is established that AEPs can cause serious injuries."¹⁵¹

d) Tasers

See: *Northern Ireland NGO Alternative Report*, p18

A Taser is an electrical weapon which resembles a pistol but works by firing metal barbs into the skin and then administering a 50,000 volt electrical current that incapacitates or disables an individual. Tasers achieve compliance through pain; rather than pain being a side effect of their use, it is the means of incapacitating an individual. The health and safety risks posed by such electro-shock weapons are potentially severe. Research by Amnesty International has shown that, since June 2001, more than 150 people have died in the US after being struck by Taser Guns (61 in 2005 alone).¹⁵²

In its recent examination of Portugal, the UN Committee Against Torture raised concern about purchase by the State party of Taser weapons, stating: "The Committee is concerned that the use of these weapons causes severe pain constituting a form of torture, and that in some cases it may even cause death, as recent developments have shown".¹⁵³ The Committee recommended that: "The State party should consider relinquishing the use of electric 'Taser X26' weapons, the impact of which on the physical and mental state of targeted persons would appear to violate articles 1 and 16 of the Convention."¹⁵⁴

¹⁴⁸ Ibid.

¹⁴⁹ Ibid, p19-20

¹⁵⁰ Human Rights Committee (2008) *Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant. Concluding Observations of the Human Rights Committee. United Kingdom of Great Britain and Northern Ireland.*, CCPR/C/GBR/CO/6, 21 July 2008, para 11

¹⁵¹ Ibid.

¹⁵² Amnesty International (2004) *USA: Excessive and Lethal Force? Amnesty International's concerns about death and ill-treatment involving tasers*, Amnesty International

¹⁵³ UN Committee Against Torture (2008) *Consideration of Reports Submitted by States Parties Under Article 19 of the Convention. Conclusions and recommendations of the Committee Against Torture.* Portugal, CAT/C/PRT/CO/4, 19 February 2008, para 14

¹⁵⁴ Ibid.

15. Children belonging to a minority or an indigenous group, in particular children of the Traveller community and the Roma

See: *Northern Ireland NGO Alternative Report*, p43

Traveller groups report that there has been limited consultation between statutory bodies and the Traveller community to develop a plan to tackle obstacles to fulfillment of Traveller children's rights: "The gap between policy and service delivery is as wide as ever, with little change taking place in the everyday lives of Irish Traveller children".¹⁵⁵

¹⁵⁵ Written response from An Múna Tober to NGO Consultation Workshop *BME children, including Travellers*, 1 August 2007, Save the Children and Children's Law Centre

SUGGESTED QUESTIONS

The suggested questions below are based on questions asked by the UN Committee during the pre-sessional meeting on 11 June 2008 and information provided in both the *Northern Ireland NGO Alternative Report* and *Summary of Additional Information*. They are questions which we believe the UK Government needs to address in relation to key issues currently inhibiting realisation of rights for children and young people in Northern Ireland.

PART 1: ADDITIONAL AND UPDATED INFORMATION

1. Please indicate whether the Convention on the Rights of the Child has been invoked or referred to directly in domestic courts, and if so, please provide examples of such cases.

Suggested questions for the UK Government:

The rights, principles and provisions of the UNCRC have not been incorporated into domestic law. What are the impediments to incorporation of the UNCRC?

Will the UK government commit to incorporation of the UNCRC as part of the proposed Bill of Rights for Northern Ireland?

2. Please provide brief information on the ten-year Children Plan which was adopted in 2007 after the submission of the State party's report.

Suggested questions for the UK Government:

Northern Ireland's ten year Strategy for Children and Young People has failed to be the implementation plan for the UNCRC. Why is this the case, and how does the Government plan to address this issue?

Civic society (including NGOs, children/ young people, parents and community members) has not been involved in development of Action Plans associated with the ten year Strategy for Children and Young People in Northern Ireland. When will the 'Strategy Planning and Review Group' be established and how will a consultative and participatory process of implementation be ensured?

A system of disaggregated data collection has not been put in place in Northern Ireland and independent monitoring structures have not been implemented, despite the Committee's previous concluding observations. Why is this the case?

3. Please indicate the processes and mechanisms that exist to ensure an efficient coordination of policy and strategy development with regard to programmes, services and laws for the implementation of the Convention in each devolved Administration as well as in the Overseas Territories.

Suggested question for the UK Government:

How will the Government ensure that effective co-ordination measures for implementation of the Convention are established in Northern Ireland at policy, strategy and legislative levels?

4. Please indicate whether there is any development with respect to the State party's reservations and declarations to the Convention, in particular regarding articles 22 and 37 (c). Furthermore, please inform the Committee on whether article 32 is now fully applicable in all the State party's dependent territories.

a) Reservation to Article 22

Suggested question for the UK Government:

Asylum seeking children and young people continue to be detained in police cells in Northern Ireland and removed to Britain, often without access to advocacy services. What is the Government doing to stop this occurring, ensure appropriate protections and provide adequate services for these children in Northern Ireland?

b) Reservation to Article 37c

Suggested questions for the UK Government:

Children continue to be detained with adults in custody in Northern Ireland. While we are aware that the Government is giving an undertaking that all girls in custody will be held separately from adult females, when will this be given effect?.

Will the Government give an undertaking that all children in custody in Northern Ireland, including all young men under 18, will be held separately from adults?

6. Please inform the Committee on the measures taken to prevent and combat violence, including domestic violence, throughout the country and notably in the Overseas Territories?

Suggested questions for the UK Government:

The legacy of the conflict in Northern Ireland obviously has significant implications in terms of children's direct experiences of violence and the 'normalisation' of inter-personal and intra-community violence. What is being done by the Government to ensure that the effects of trans-generational trauma, particularly in relation to challenging behaviour displayed by children in school and in their communities, are appropriately identified, resourced and addressed?

A range of initiatives have been established to consider the impacts of violence on children and develop child protection policy/procedures. How will the Government ensure development of mechanisms to enable cross-jurisdictional protection (including with the Republic of Ireland), as well as increased understanding about, and co-ordination of, jurisdictionally-specific responses?

8. Please inform the Committee on whether there has been any assessment on the specialist guidance on prejudice-driven bullying: "Bullying around Race, Religion and Culture" produced in 2006. Please also indicate briefly any other new program or activity to prevent bullying in schools. Is there a systematic approach towards teaching in schools issues such as a culture of tolerance, acceptance of those who are different and civic education?

Suggested question for the UK Government:

Bullying, including prejudice-driven bullying, remains a key issue for children and young people. How will the Government ensure implementation of measures (including resourcing) to raise awareness about, and appropriately respond to, bullying in schools and communities?

9. Please explain how the right of the child to rest, leisure and engage in play and age appropriate recreational activities is enshrined in legislation and ensured in practice.

Suggested question for the UK Government:

Limited access to quality, safe, age-appropriate, inclusive play and leisure facilities for all children and young people is an issue consistently raised in consultations. Will the Government make a commitment to implementation of an adequately resourced Play Policy and associated action plan in Northern Ireland?

PART 3: DATA AND STATISTICS

1. In the light of article 4 of the Convention, please provide updated data for 2006, 2007 and 2008, on budget allocations (including trends analysis) regarding the implementation of the Convention throughout the country in the areas of education and health.

Suggested question for UK Government:

Despite emphasis on allocation of resources to the maximum possible extent, per capita expenditure on children in Northern Ireland is lower than that in England, Scotland and Wales. What is the Government doing to (a) ensure compliance with the CRC in respect of expenditure on children; (b) ensure equality of resource allocation on children and young people throughout the State party; and (c) ensure the availability of reliable, comparable, disaggregated data in respect of fiscal expenditure on children?

2. Please provide information on the number of Anti-Social Behaviour Orders (ASBOs) imposed on children since the entry into force of this legislation, disaggregated by year, age, sex and nature of the anti-social behaviour. Please also indicate the percentage of these children who were subsequently treated under the criminal justice system.

Suggested question for the UK Government:

Anti-social Behaviour Orders (ASBOs) breach natural justice and undermine the due process of the law. They are in contravention of the CRC. They criminalise children for breach of civil offences, deny access to the protections of the criminal justice system, and breach the child's right to a fair trial. Will the Government give an undertaking that ASBOs will not be used against children in any circumstances?

3. Please provide data covering the last three years on the number of persons below 18 who have been tried as adults. Please also inform the Committee on the number of reported cases of abuse or ill-treatment of children occurred during their arrest and/or detention as well as on the follow-up given to these cases.

Suggested questions for the UK Government:

It is vital that children's rights are not violated during the administration of juvenile justice. Will the Government guarantee that all serving and new police officers, and other personnel involved in the administration of youth justice, undertake effective training on the CRC?

How will the Government ensure an effective, independent advocacy system for young people who experience breaches of their rights during arrest or in detention?

4. Please provide data covering the last three years on the number of children involved in sexual exploitation, including prostitution, pornography and trafficking, and the number of those children who were provided access to recovery and social reintegration services.

Suggested question for the UK Government:

Figures about the number of children involved in sexual exploitation and trafficking in Northern Ireland, and their access to recovery and social reintegration services, are not readily available. What is the Government doing to assess the extent of children's involvement in sexual exploitation and trafficking, and to ensure appropriate provision of services to promote and protect their rights?

PART 4: PRELIMINARY LIST OF ISSUES THAT THE COMMITTEE MAY TAKE UP DURING DIALOGUE WITH THE STATE PARTY

1. The status of the Convention in the State party's legal system.

Suggested questions for the UK Government:

Child rights proofing of policy and legislation to ensure compliance with the UNCRC is not occurring within Government. Will the Government undertake to carry out comprehensive child rights proofing of all existing and new legislation/policies?

Legislation which is not compliant with the UNCRC continues to be passed in Northern Ireland (e.g. Law Reform (Miscellaneous Provisions) (NI) Order 2006 and the Criminal Justice (NI) Order 2008). Why?

Will the Government ensure that maximum protections for the rights of children and young people are contained within the forthcoming Bill of Rights for Northern Ireland?

What is the Government doing to ensure that Section 75 of the Northern Ireland Act 1998 is effectively implemented and enforced in relation to children and young people?

2. Protection from discrimination, in particular with respect to children belonging to ethnic minorities, asylum-seeking children, children living in poverty, children with disabilities, children in alternative care, children in conflict with the law.

Suggested question for the UK Government:

Under-18s are not currently protected in legislation from age discrimination in the provision of goods and services. Will the Government ensure that all existing and new

equality and anti-discrimination legislation is CRC compliant; including full protection on the grounds of age?

a) Children belonging to ethnic minorities

Suggested question for the UK Government:

Traveller children continue to experience widespread inequalities in health, housing, educational attainment, employment, recreational and cultural activities. What steps is the Government taking to address the high levels of discrimination faced by Irish Traveller children in almost every aspect of their lives?

b) Asylum-seeking children

Suggested questions for the UK Government:

There is a failure to keep statistics about people subject to deportation who are removed from Northern Ireland to Britain, and about the numbers temporarily detained in police cells. What is the Government doing to record and monitor statistics about asylum seekers, in particular under-18s, and to provide appropriate CRC complaint detention facilities in Northern Ireland for young people facing deportation?

Refugee and asylum seeking children are outside the scope of Northern Ireland's ten year Strategy for Children and Young People, despite the fact that these children access services for which the Northern Ireland Government is responsible. How will the Government ensure that the needs of these children are met, and their rights realised?

c) Children living in poverty

Suggested question for the UK Government:

The inequalities in educational achievement, health, employment opportunities, access to play and leisure facilities amongst children living in poverty are stark. What is the Government doing to address structural inequalities and the impacts of poverty on every aspect of children's lives?

d) Children with disabilities

Suggested question for the UK Government:

Disabled children and young people suffer discrimination, are bullied, experience difficulties accessing public transport and other facilities within their communities. What is the Government doing to ensure it meets its obligations to secure the inclusion of children and young people with disabilities and to guarantee their rights (including to goods, facilities and services) in all aspects of their lives?

e) Children living in alternative care

Suggested question for the UK Government:

Looked after children continue to be one of the most disadvantaged groups in society - they are more likely than their peers to become teenage parents, have a statement of SEN, underachieve in education, be unemployed, come into contact with the criminal justice system, be homeless, experience mental health problems. What actions is the Government taking to address the discrimination and disadvantage faced by looked after children in Northern Ireland?

f) Children in conflict with the law

Suggested question for the UK Government:

Children with mental health problems and looked after children/young people are over-represented in the criminal justice system. What actions are being taken by the Government to address this issue?

g) Lesbian, Gay, Bisexual or Transgendered (LGBT) young people

Suggested question for the UK Government:

LGBT young people experience discrimination and homophobic bullying at school, work and on the streets. What is the Government doing to ensure realisation of the rights of these young people?

h) Economic exploitation

Suggested questions for the UK Government:

National Minimum Wage differentials based on age bands continue to exist. Why, despite the Committee's previous concluding observations, has this discriminatory legislation not been addressed?

Employment of children is a poorly regulated area, and legislation concerning children's employment in Northern Ireland does not reflect the reality of contemporary society. What steps are being taken by the Government to review the employment of children in Northern Ireland (including associated legislation) and ensure compliance with the CRC?

i) Inequalities in educational attainment

Suggested questions for the UK Government:

Inequalities in educational attainment continue to persist, particularly in relation to children living in poverty, Travellers, children from ethnic minorities, children with special educational needs, looked after children and children in the youth justice system. What is the Government doing to address these inequalities, especially given the child's right, and the Government's obligation, to provide an effective education for all without discrimination?

Despite the Committee's previous concluding observations, academic selection at the age of 11 continues in Northern Ireland causing the "grammar school" effect to perpetuate. Why has this breach of the CRC been allowed to remain by the Northern Ireland Government, and when will the process of academic selection cease?

In Northern Ireland, children in custody and children with mental health problems who are detained have no right to be educated within the Northern Ireland curriculum. What is the Government doing to address this issue?

The Northern Ireland Office has responsibility for the education of children in custody. When will the Department of Education assume responsibility for realising the right of these children to an effective education?

3. The State party's strategy to significantly strengthen the Convention's overall implementation, with particular attention to the general principles of the Convention (non-discrimination (art. 2), the best interests of the child (art. 3), survival and development (art. 6), and the right of the child to express his/her views and be heard (art. 12).

a) Non-discrimination

See Part 4, 2. above (p47-49)

b) Best interests

Suggested question for the UK Government:

Legislation which does not have the best interests of the child as its primary consideration continues to be enacted and commenced in respect of Northern Ireland. Why?

c) Right to life, survival and development

See Part 4, 8b below (p52); 14b, c, and d below (p55)

d) Participation

Suggested question for UK Government:

Article 12 is central to compliance with the UNCRC. Yet the participation of children and young people has not been facilitated to an adequate degree of frequency and consistency. What is the Government doing to ensure that children's rights under Article 12 are effectively realised in terms of their meaningful participation in programmes and policies which affect them?

4. Children in alternative care

See Part 4, 2e above (p48)

5. Domestic violence, including corporal punishment, and sexual abuse

a) Domestic violence

Suggested questions for the UK Government:

Domestic violence affects thousands of children and families in Northern Ireland. What is the Government doing to raise awareness about domestic abuse and provide support services for children affected by this issue?

The provision contained in Article 56 of the Families and Homes Domestic Violence (Northern Ireland) Order 1998 - for separate representation of children in relation to proceedings arising from any matter under the Order - has not been commenced. When will the Government commence this provision?

b) Corporal punishment

Suggested questions for the UK Government:

The Law Reform (Miscellaneous Provisions) (NI) Order 2006 has been introduced in Northern Ireland since the last examination. This allows the defence of reasonable punishment to be used in relation to charges of common assault tried summarily, despite

the Committee's recommendation that physical punishment of children be prohibited. Why has the Government legislated in this way, ignoring the best interests of the child and the Committee's previous Concluding Observations?

When will the Government remove the defence of reasonable chastisement from the statute books?

c) Sexual abuse

Suggested questions for the UK Government:

A number of strategies are being developed in Northern Ireland in relation to safeguarding children. How will the Government ensure that responsibility for safeguarding is shared across all government departments, non-departmental public bodies etc, with clear policies and procedures in relation to children with particular vulnerabilities at regional and local levels?

Will the Government fully resource and implement the safeguarding elements of the 10-year Strategy for Children and Young People in Northern Ireland 2006-2016, including specific initiatives to assess, respond to, and provide therapeutic services for children and young people who display sexually harmful behaviour?

6. Children with disabilities, in particular their access to education and social and health services as well as cultural and recreational activities.

See Part 4, 2d above (p48)

7. Children at risk of experiencing poverty, including the progress to achieve the State party's long term target to eradicate child poverty by 2020.

Suggested questions for the UK Government:

The Government has adopted targets to reduce child poverty with a view to combating poverty altogether. What is the Government doing to ensure that these targets are met in each jurisdiction?

According to child poverty indicators, levels of child poverty in Northern Ireland are currently increasing rather than decreasing, with wider gaps in educational and health outcomes and higher costs of living. Have resources been committed and ring-fenced to ensure the meeting of targets aimed at reducing child poverty, in particular severe poverty?

8. Basic health and welfare, access to health services, adolescent health (e.g. suicide, teenage pregnancies), mental health.

a) Access to health services

Suggested question for the UK Government:

Inequalities in access to health services persist, particularly amongst Travellers, ethnic minorities and those living in poverty. What is the Government doing to ensure equal access to provision and to address the factors which inhibit take-up of available services (such as discrimination and prejudice amongst health professionals and service providers)?

b) Suicide

Suggested question for the UK Government:

Concerns have been expressed about suicide rates amongst young people in Northern Ireland. What is the Government doing to identify potential causes, implement strategies to address these causes, and respond to the needs of those most at risk?

c) Teenage pregnancies

Suggested question for the UK Government:

Young people in Northern Ireland do not find it easy to access confidential sexual health services, advice, information or support (at school, at home or in their communities). How does the Government intend to improve access to sexual health and contraceptive services for young people, and to ensure effective provision of age-appropriate sex and relationships education to all children and young people?

d) Mental health

Suggested questions for UK Government:

One in 5 children in Northern Ireland suffer significant mental health problems, yet only 5% of the mental health budget is spent on Child and Adolescent Mental Health Services. What is the Government doing to increase the level of funding allocated to the provision of CAMHS in Northern Ireland?

Children in Northern Ireland who require inpatient mental health provision continue to be held with adults, raising worrying questions concerning child protection. Will the Government give a commitment to ensuring adequate child-only provision for all children and young people requiring inpatient mental health services?

Due to lack of appropriate facilities, children and young people requiring forensic, inpatient provision for eating disorders and treatment for other complex mental health difficulties are often sent out of Northern Ireland to facilities in England. What measures are being taken by the Government to ensure adequate mental health provision for children and young people in Northern Ireland?

9. Children and education, including measures to address bullying in schools, special needs of children, the possibilities to be heard available to children, and human rights education.

a) Measures to address bullying in schools

See Part 1, 8. above (p45-46)

b) Special needs of children

Suggested question for the UK Government:

Given the long delays in Special Educational Needs (SEN) assessments, what is the Government doing to ensure the child's right to an effective education, prompt assessments, adequate and appropriate provision for children with SEN?

c) Possibilities to be heard available to children

Suggested question for the UK Government:

Despite some examples of good practice, involvement of children in school policy-making in Northern Ireland is generally limited and there is no formal policy on the establishment of school councils. What is the Government doing to promote and resource increased participation of children and young people in schools?

d) Human rights education

Suggested question for the UK Government:

The Committee has stated its belief that widespread awareness raising about the UNCRC, and training on children's and human rights, are vital to children accessing their rights. What is the Government doing to ensure that this happens?

10. Leisure and play

See Part 1, 9. above (p46)

11. Alcohol and substance abuse

Suggested question for the UK Government:

There has been a significant increase in the number of under-18s in treatment for drug and/or alcohol misuse in Northern Ireland. What is the Government doing to identify the factors leading to such an increase and ensure that young people are able to access age-appropriate services?

12. Trafficking and sexual exploitation of children

See Part 3, 4. above (p47)

13. Administration of juvenile justice, in particular with regard to the age of criminal responsibility, conditions of places of detention for children, trials in adult courts and placement with adults.

a) Age of criminal responsibility

Suggested questions for the UK Government:

The age of criminal responsibility in Northern Ireland is 10. Why, despite the Committee's previous concluding observations, does this remain so low – out of line with other social responsibilities and international expectations relating to an advanced democratic society?

When will the Government raise the minimum age of criminal responsibility in Northern Ireland to an appropriate age for an industrialised nation?

b) Use of custody

Suggested questions for the UK Government:

The Justice (Northern Ireland) Act 2002 provided for Custody Care Orders in respect of the detention of children aged 10-13, but this provision has never been commenced. When will the Government commence this provision?

In contravention of the provision that custody should be used as a matter of last resort, a recent Criminal Justice Inspection highlighted the fact that the majority of children detained in custody in Northern Ireland's Juvenile Justice Centre are neither serious nor persistent offenders. How does the Government plan to address the inappropriate use of custody, including over-representation of children from care in custody and inappropriate use of PACE admissions?

A high proportion of young people in both the Juvenile Justice Centre and Hydebank Wood Young Offender Centre are on remand, many of whom do not subsequently receive a custodial sentence. What is the Government doing to end this practice and reinforce the principle of use of custody as a last resort?

c) Conditions of places of detention for children

Suggested questions for the UK Government:

The most recent inspection of the Juvenile Justice Centre in Northern Ireland (published in May 2008) found significant progress since the Criminal Justice Inspection's 2004 inspection, and that children were well cared for in the JJC. However, issues were raised concerning: child protection information, regular access to Independent Representatives, timetabling and evaluation of programmes aimed at addressing offending behaviour, matching of educational tasks to individual needs. What is the Government doing to implement the recommendations arising from this inspection?

The most recent inspection of Hydebank Wood Young Offender Centre (published in March 2008) was overwhelmingly negative, noting that the Centre was not performing effectively against any of the four tests of a 'healthy establishment' (safety, respect, purposeful activity and resettlement). How does the Government plan to respond to these criticisms and fulfill the recommendation of the Chief Inspector of Prisons and Chief Inspector of Criminal Justice in Northern Ireland that: "it should remain the goal of NIPS (NI Prison Service) to house juveniles and women in separate, dedicated establishments that can address their particular needs"?

d) Trials in adult courts

See Part 3, 3a. above (p47)

e) Placement with adults

Suggested question for the UK Government:

Children continue to be detained with adults in custody in Northern Ireland. While we are aware that the Government is giving an undertaking that all girls in custody will be held separately from adult females, will the Government give an undertaking that all children in custody in Northern Ireland, including all young men under 18, will be held separately from adults?

14. The rationale behind, and the application of, Anti-Social Behaviour Orders (ASBOs); the use of physical restraint, plastic bullets, Taser guns and "mosquito" devices

a) ASBOs

See Part 3, 2. above (p46)

b) Physical restraint

Suggested questions for Government:

Both staff and young people have raised concerns about use of restraint on children in custody. What is the Government doing to ensure that 'behaviour management techniques' are compliant with human rights standards?

Is the Government going to introduce a review of the use of restraint and solitary confinement in all settings for children in Northern Ireland (including custody, secure care, health facilities, schools) and introduce child-specific guidance?

c) Plastic bullets

Suggested question for the UK Government:

Use of plastic bullets has still not been abolished in Northern Ireland. Why, despite the Committee's previous concluding observations, are plastic bullets still deployed (including, for use against children)?

d) Tasers

Suggested question for the UK Government:

Tasers have been introduced in Northern Ireland without access to independent medical evidence to say that they are safe to use against children and young people, and without regard to evidence of harm. Use of tasers obviously has serious potential impacts for the child's right to life, survival and development. Consequently, will the Government give an undertaking that tasers will never be used against children and young people, or in circumstances where they are present and at risk of being harmed?

15. Children belonging to a minority or an indigenous group, in particular children of the Traveller community and the Roma

Suggested question for the UK Government:

Despite a wealth of evidence illustrating the disadvantages and discrimination experienced by Irish Travellers, policy and practice has not addressed underlying prejudice and inequalities. How, and when, does the Government intend to tackle the on-going discrimination experienced by Traveller children and guarantee Traveller children's rights without discrimination?

EXECUTIVE SUMMARY AND ACTIONS REQUIRED OF GOVERNMENT

This Executive Summary outlines the situation concerning children's rights in Northern Ireland since the UN Committee's last examination and the Concluding Observations of 2002. It notes areas of progress, continuing areas of concern, and new areas of concern. It is the belief of NGOs in Northern Ireland that, if the UK Government and Northern Ireland Executive/Assembly took the following Actions, children's rights in Northern Ireland would be more effectively promoted and protected.

EXECUTIVE SUMMARY

Northern Ireland is a society emerging from conflict, in which devolved government has only been re-established since May 2007 and Government at Westminster retains responsibility for reserved and excepted matters (including macro-fiscal policy, criminal justice, policing and immigration).

PROGRESS

Since the last report to the UN Committee progress has included:

- continued development of a *Bill of Rights for Northern Ireland*
- establishment of a Children and Young People's Unit within the Office of the First Minister and Deputy First Minister
- development of a ten-year *Children's Strategy* in which one of the 6 intended outcomes for children and young people is: 'living in a society which respects their rights'
- establishment of a Northern Ireland Commissioner for Children and Young People
- review of legislation concerning children in alternative care, education, and youth justice
- development of a range of strategies affecting the lives of children and young people (eg equality strategies, families and parenting, suicide prevention, anti-poverty and social exclusion, homelessness, children in and leaving care).

However, successful, child-rights compliant implementation of these developments is dependent on: political and professional commitment to promoting/protecting children's rights, clear understanding about the current situation for children and young people in Northern Ireland leading to targeted actions, and provision of adequate resourcing. The reporting process provides an opportunity to examine whether, and how, these developments are actually improving the lives of children and young people in Northern Ireland and implementing the UNCRC.

CONTINUING AREAS OF CONCERN

Many of the UN Committee's 2002 concluding observations have not been fulfilled over the past five years. In Northern Ireland, continuing areas of concern include:

General measures of implementation

Reservations to UNCRC Articles 22 and 37c

General measures of implementation of the UNCRC: incorporation of the rights, provisions and principles of the UNCRC into domestic law; analysis of budgets to show

proportion spent on children and appropriately allocate resources; co-ordination of implementation; plan of action for implementation; Paris Principle compliant independent human rights institutions; collection of disaggregated data about all under-18s; regular reports and debate; dissemination of information about the UNCRC and its implementation; training on human rights, including children's rights

General principles

Right to non-discrimination: the experiences of LGBT young people; children from minority ethnic communities, including Travellers; children with disabilities, looked after children

Best interests of the child: adoption as the paramount consideration in all legislation and policy affecting children

Right to life, survival and development: detention and transportation of asylum seeking children; suicide; children with disabilities; Traveller children; children living in poverty; use of plastic baton rounds/ plastic bullets

Respect for the views of the child: promoting meaningful and effective participation; legislation governing court procedures and administrative proceedings; taking children's views into account in programmes and policies affecting them

Civil rights and freedoms

Torture and other cruel, inhuman or degrading treatment: use of restraint and solitary confinement; corporal punishment; promotion of positive forms of discipline

Family environment and alternative care

Alternative care: safeguards for children in alternative care

Basic health and welfare

Basic health: inequalities in health and access to health services; breastfeeding

Adolescent health: mental health services; suicide; teenage pregnancies - provision of relationships and sexuality education, access to contraception and information/ advice about sexual health; provision of information and support to LGBT young people

Standard of living: child poverty; youth homelessness; benefits and allowances for 16-18 year olds

Education, leisure and cultural activities

Education: Article 12 in education; suspensions and exclusions; inequalities in educational achievement; education of children in detention and care; prevention of prejudice-driven bullying in schools and communities; human rights education in school curricula and teacher training; provision of Integrated education

Special protection measures

Asylum seeking and refugee children: use of detention for unaccompanied minors and asylum seeking children; access to services for, and fulfilling the rights of, refugee and asylum seeking children

Children belonging to minority ethnic groups: Irish Travellers - plan of action

Economic exploitation: minimum wage for young people; regulating the employment of children and young people

Sexual exploitation and trafficking: sexual exploitation and trafficking – scope, policies and programmes

The administration of youth justice: administration of youth justice; age of criminal responsibility; Anti-Social Behaviour Orders; detention of children; rights of detained children; access to advocacy and complaint procedures for detained children

NEW AREAS OF CONCERN

New areas of concern are:

General principles

Right to life, survival and development: use of Taser guns; use of children to gather low level intelligence

Civil rights and freedoms

Torture and other cruel, inhuman or degrading treatment: continued use of threat and intimidation towards young people by paramilitaries in some communities; retention of DNA; use of adult services for children and young people; use of Taser guns

Family environment and alternative care

Family environment: support to parents in the performance of their child-rearing responsibilities; access to quality, affordable, age-appropriate childcare services; impacts of violence on children; domestic abuse; safeguarding issues

Basic health and welfare

Adolescent health: trans-generational trauma resulting from the conflict; access to substance misuse services

Education, leisure and cultural activities

Education: academic selection and criteria for admission to post-primary education; Irish-medium education

Leisure and cultural activities: play and leisure for all under-18s

Special protection measures

The administration of youth justice: informed consent; Police Ombudsman

ACTIONS REQUIRED OF GOVERNMENT

Based on analysis of the UK Government's 2007 Report, the following actions required identify where responsibility for implementation of the UNCRC lies (UK Government and/or Northern Ireland Assembly and Executive), and how the above issues could be addressed.

General measures of implementation

Reservations and declarations

The UK Government should:

- immediately withdraw its general reservation to Article 22 (re refugee and asylum seeking children)
- act to ensure that it meets the requirements of Article 37c (that every child deprived of their liberty is separated from adults) and withdraw its reservation

General measures of implementation of the UNCRC

The UK Government should:

- incorporate the provisions and principles of the UNCRC into domestic law, including legislating to make them justiciable in domestic courts, and develop a formal child rights impact assessment process to ensure that any new legislation affecting children is compliant with the UNCRC
- ensure that the proposed *Bill of Rights for Northern Ireland* affords maximum protections for the rights of all children in Northern Ireland
- ensure that resources are allocated to the maximum extent possible and analyse spending on children across the State party and in each jurisdiction as a proportion of GDP
- establish a system for collection of disaggregated data about all under-18s, for all areas covered by the UNCRC, in a consistent format for each jurisdiction
- develop regular State party reports, including where relevant discreet sections on each jurisdiction, on the state of children's rights and promote parliamentary debate about these reports
- develop and fully resource a comprehensive strategy to disseminate knowledge of the UNCRC to children, parents, the general public, and government officials

The NIO should:

- ensure that Section 75 of the *Northern Ireland Act 1998* is fully implemented in relation to children and young people within reserved matters (in particular criminal justice, policing, immigration)

The Northern Ireland Assembly and Executive should:

- incorporate the provisions and principles of the UNCRC into domestic law, including legislating to make them justiciable in domestic courts, and develop a formal process to ensure that any new legislation affecting children is children's rights compliant
- ensure that the proposed *Bill of Rights for Northern Ireland* affords maximum protections for children's rights
- ensure that Section 75 of the *Northern Ireland Act 1998* is fully implemented by all public bodies in relation to children and young people
- establish the necessary systems and mechanisms to enable routine disaggregated analysis of spending on children in all budget setting and allocation
- ensure that funding allocated to children and young people is consistent with the proportion of under-18s requiring services, enables their rights to be fulfilled, is transparent within Government budgets, and is spent only on children and young people for the intended purposes

- amend the *Children's Strategy* to make it the explicit action plan for the implementation of the UNCRC and ensure that the CYPU has an adequate mandate and sufficient resources to co-ordinate the implementation of the UNCRC (eg requiring co-operation from other government departments and coordination at Ministerial level through the Ministerial Sub-Committee for Children and Young People)
- ensure that the *Children's Strategy* and *Action Plans* progress children's rights in all aspects of their lives, and for all children - including vulnerable groups
- amend *The Commissioner for Children and Young People (Northern Ireland) Order 2003* to ensure compliance with the Paris Principles
- establish a system to collect disaggregated data about all under-18s, for all areas covered by the UNCRC, using a standardised methodology across departments; use this data to assess progress, design policies to implement the UNCRC and inform rights-based practice
- produce an annual report about implementation of the UNCRC and the state of children's rights in Northern Ireland, which is the focus of a Northern Ireland Assembly debate
- develop and resource a comprehensive strategy to disseminate knowledge of the UNCRC to all children and young people, parents, the general public, all levels of government
- ensure that training about children's rights, including all relevant international standards, is mandatory for all professionals working with/ delivering services to children and young people, the court service/ judiciary and policy makers (including civil servants)

General principles

Right to non-discrimination

The UK Government should:

- ratify the *UN Convention on the Rights of Disabled People* to ensure the greatest protections for the rights of children with disabilities

The Northern Ireland Assembly and Executive should:

- children's rights proof all current and new legislation to ensure it promotes equality of opportunity and does not discriminate against children
- monitor enjoyment by children of their rights and take immediate, targeted actions to eliminate all forms of discrimination
- legislate the *Single Equality Bill* and provide comprehensive actionable equality protection, and protection against discrimination, to all children on all grounds – including socio-economic
- ensure that all current and proposed legislation and policy does not have a disproportionate adverse impact on specific groups of children
- revise the core syllabus for teaching of Religious Education
- remove the barriers to inclusion for children with disabilities by implementing and resourcing the comprehensive framework for assessment of children in need/ children with a disability (UNOCINI), coupled with provision of appropriate support for families, effective co-ordination of services, development of inclusive opportunities in education/ training/ employment/ leisure and social facilities, provision of independent advocates for disabled children and children with complex needs

- fully fund and implement the recommendations contained in *Care Matters in Northern Ireland* to ensure that the health, education and accommodation needs of looked after children are appropriately assessed and addressed, and that their rights are realised, with provision of independent advocacy and child-centred care plans
- ensure regular monitoring and review of the *Racial Equality, Gender Equality, and Sexual Orientation Strategies* to assess their impact on children experiencing discrimination

Best interests of the child

The Northern Ireland Assembly and Executive should:

- legislate to ensure that the best interests of the child is the paramount consideration in all legislation and policy affecting children, and in any administrative/ court/ tribunal decisions made in respect of the child

Right to life, survival and development

The UK Government should:

- ensure that the rights of child asylum seekers and immigration detainees are guaranteed and met during detention and transportation

The Northern Ireland Assembly and Executive should:

- evaluate, review and fully resource the *Suicide Prevention Strategy and Action Plan* and ensure that: research is undertaken to identify the causes and background of suicide in Northern Ireland; vulnerable groups of young people receive appropriate support; and there is a reduction in suicide rates amongst young people
- ensure the uniform and comprehensive introduction of assessment for children with complex disabilities and fully resource the provision of appropriate services
- ensure the targeting of resources and services to eradicate the disproportionately high mortality rates, poor educational and health outcomes, suffered by Traveller children and children living in poverty

The NIO, PSNI and NI Policing Board should:

- clarify whether asylum seeking children under-18 (whether unaccompanied minors or with a family) are detained in police custody on arrival in Northern Ireland and then transported to Dungavel House Immigration Removal Centre in Scotland. If so, take all appropriate steps to end this non-CRC compliant practice
- ensure that all police officers receive on-going training about child protection, children's rights and the UNCRC
- desist from and prohibit the use of Attenuating Energy Projectiles (AEPs/Plastic Bullets), which replaced L21A1 plastic baton rounds, against children and in circumstances where children and young people are present and at risk of being harmed
- prohibit the use of Tasers against children and in circumstances where children and young people are present and at risk of being harmed
- ensure that children and young people are not used as informers by the PSNI, and that operational guidelines concerning intelligence gathering are compliant with children's rights
- ensure that children and young people are not used for the purposes of entrapment

Respect for the views of the child

The Northern Ireland Assembly and Executive should:

- promote a culture of participation, providing long-term funding to resource participation structures and mechanisms to ensure the involvement of all children and young people in policy development, planning and decision-making processes (including young children, children with disabilities or specific additional needs, and 'hard to reach' groups)
- ensure that the Section 75 *Northern Ireland Act 1998* duty is fully complied with by public authorities and government departments in relation to children and young people, including via direct consultation, using accessible documentation, and sufficient enforcement mechanisms
- legislate to amend Section 75 to make it justiciable and enforceable. Schools should also be designated as public bodies under Section 75 as a matter of urgency
- legislate to ensure that children are able to express their views, and that these are given due weight, in court/ tribunal procedures and administrative proceedings (such as family/ domestic violence/ education/ mental health/ criminal proceedings)
- amend the *Children (Northern Ireland) Order 1995* to allow for separate legal representation of children in certain cases in the family proceedings courts
- legislate to ensure that children's views are taken into account in programmes and policies affecting them via a range of age-appropriate and accessible arrangements to enable their voices to be heard (eg statutory right to independent advocacy for specific groups such as young people with mental health problems, children with disabilities and complex needs, young people in care; peer advocacy; school councils; youth forums)

Civil rights and freedoms

Torture and other cruel, inhuman or degrading treatment

The UK Government should:

- conduct a review of use of restraint in custody, education, health and welfare institutions and end the use of all non-CRC compliant restraint
- ensure equal protection for children from assault
- accept the recommendations of the UN Secretary-General's *Study on Violence Against Children* and set out its programme of action
- legislate to remove the existing defence of 'reasonable punishment' under Article 2 of the *Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006*

The Northern Ireland Assembly and Executive should:

- carry out a review of restraint in all settings where children and young people are restrained and produce separate, explicitly child-specific and children's rights compliant guidance
- ensure equal protection for children from assault
- legislate to remove the existing defence of 'reasonable punishment' under Article 2 of the *Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006*
- provide regulations prohibiting use of physical punishment in childminding settings

- actively promote positive parenting, with public education campaigns highlighting the negative consequences of corporal punishment and alternatives
- ensure that guidance about positive parenting is developed for professionals and parents, with funding for comprehensive alternative discipline training, advice and support
- acknowledge the continued use of threat and intimidation directed towards alleged anti-social behaviour by young people in some communities, and ensure multi-agency responses protect children from abuse by adults within their own communities
- prohibit retention of DNA of under-18s by the PSNI in cases where there has been no conviction or caution
- legislate to abolish the detention of children with adults within the criminal justice system
- legislate to prevent the use of adult psychiatric wards for the inpatient treatment of children and young people

Family environment and alternative care

Family environment

The UK Government should:

- ensure development of mechanisms to facilitate debate across jurisdictions (Northern Ireland, Republic of Ireland, England, Scotland, Wales), as well as share understanding about jurisdictionally-specific contexts and initiatives, in relation to the impacts of violence on children and safeguarding issues

The Northern Ireland Assembly and Executive should:

- ensure all necessary resources for, and effective collaboration between, government departments with responsibility for development and delivery of services for children and families
- ensure that all families (in particular, lone parents, families living in poverty, parents of older children, migrant workers, parents of disabled children) have access to affordable, flexible, quality childcare services including: full and part-time nurseries, playgroups, registered childminders, summer schemes, after school clubs
- recognise the need for gender and age specific policies and initiatives to address domestic abuse, with associated ring-fenced funding and clarity over cross-departmental responsibility for implementation
- ensure that responsibility for safeguarding children is shared across all government departments and non-departmental public bodies with clear policies and procedures in relation to children with particular vulnerabilities at regional and local levels
- fully resource and implement the safeguarding elements in the 10-year *Strategy for Children and Young People in Northern Ireland 2006-2016*
- resource and develop specific policy initiatives to assess, respond to, and provide therapeutic services for children and young people who display sexually harmful behaviour

Alternative care

The Northern Ireland Assembly and Executive should:

- fully implement the recommendations in *Care Matters in Northern Ireland* and ensure that they are funded to the maximum extent of available resources
- amend legislation to make independent advocacy a legal right for all looked after children
- ensure appropriate identification and assessment of needs (in particular: special educational needs, issues leading to challenging behaviour and mental health difficulties) for looked after children and care leavers
- develop and implement strategies to improve placement stability for children in care
- promote recruitment of foster carers, with adequate remuneration
- ensure that residential facilities are community based and that there are adequate differentiated and specialised residential placements
- ensure development of person-centred, resourced, individual care plans which emphasise each child's strengths and potential
- ensure that professional training and staff development for those working with children in alternative care includes training on children's rights and emphasises their right to be involved in decisions affecting them and preparation for independent living

Basic health and welfare

Basic health

The Northern Ireland Assembly and Executive should:

- take all necessary steps to end inequalities in children's health and access to health services in Northern Ireland, including in respect of Traveller children
- promote and fund child-focused health services
- ensure that information about available services for children and families is proactively communicated in appropriate forms to groups not currently accessing them (eg Travellers, minority ethnic communities)
- ensure that pre- and in-service training of health professionals includes knowledge and understanding about: children's rights, cultural diversity and anti-racist policy/ practice, and the impacts of poverty on health
- review and fully resource the *Breastfeeding Strategy for Northern Ireland* and accompanying public education campaigns to assess why breastfeeding rates at six months are so low in Northern Ireland, and promote positive attitudes to breastfeeding

Adolescent health

The Northern Ireland Assembly and Executive should:

- introduce new children's rights compliant legislation relating to mental health, which addresses the vulnerabilities, needs and rights of children and young people
- ensure that sufficient, identifiable, ring-fenced funding is allocated to mental health provision for all children and young people to fully implement the Bamford Review recommendations (including: access to school counselling programmes for all children and young people, including early years; CAMHS; preventative strategies across Northern Ireland; intensive support within community based or hospital services; training of appropriate paediatric professionals)

- ensure that the effects of trans-generational trauma resulting from the conflict are appropriately identified and addressed (including 'normalisation' of violence and the potentially challenging behaviour of young people)
- prioritise research to identify the causes of child and adolescent mental health problems in Northern Ireland, including the legacy of the conflict and the experiences of vulnerable groups (such as children and young people: with disabilities, living in poverty, in or leaving care, in conflict with the law, in custody, identifying as LGBT, who misuse substances)
- ensure that health education, including relationships and sexuality education, is part of the curriculum in every primary and post-primary school
- ensure that contraception, sexual health services, and access to confidential, free, age-appropriate advice/ information/ support are available to all young people, particularly those in areas of high social and economic deprivation and low educational achievement
- ensure adequate provision of information and support to LGBT young people within health, education and youth agencies
- prioritise research to identify factors contributing to an increase in the number of young people receiving treatment for drug and/or alcohol misuse, and ensure access to age-appropriate substance misuse services for all young people
- ensure integration, co-ordination and full implementation of existing strategies through the *Children's Strategy*

Standard of living

The UK Government should:

- invest additional funding (of at least £4 billion every year) to meet its own target of halving child poverty by 2010 across all jurisdictions
- legislate to ensure a benefit system that is not age discriminatory and which will lift all children out of poverty, including children of refugees and asylum seekers (recognising the relatively higher costs of living in Northern Ireland and taking these into account in benefit allowances)

The Northern Ireland Assembly and Executive should:

- ensure that the *Anti-Poverty and Social Exclusion Strategy* includes child-focused targets which address the impacts of poverty on education, health, employment opportunities; with regular monitoring and review of the strategy to assess whether and how it has improved outcomes for children
- ensure that the standard and quality of social housing are improved
- increase provision of affordable social housing (with priority need status for 16-18 year olds who are homeless and do not fall within the remit of social services)
- ensure that 16-18 year olds are easily able to claim adequate, non-discriminatory benefits and allowances
- legislate to guarantee all children who work the same minimum wage as adults

Education, leisure and cultural activities

Education

The Northern Ireland Assembly and Executive should:

- ensure adequate funding for the provision of education without discrimination in Northern Ireland
- urgently implement plans to abolish academic selection by 2009

- ensure that new post-primary school admissions criteria set by the Department for Education provide equality of access to suitable educational provision for all, in accordance with Article 2 and Article 29 of the UNCRC
- ensure that children are able to express their views and have them given due weight in all matters concerning their education, in accordance with UNCRC Article 12, including: school discipline, anti-bullying policies and procedures, suspension and exclusion procedures
- ensure the child's right of appeal against suspension, as provided for under Article 32 of the *Education (Northern Ireland) Order 2006* (not yet enacted); legislate to extend existing rights of appeal to include an independent right of appeal for children and young people against expulsion and decisions relating to their special educational needs and/or provision in educational tribunals
- fully resource independent advocacy and representation services for children experiencing difficulties in accessing education including in respect of suspensions, exclusions and tribunals
- ensure the reduction of school exclusions, promote inclusion by continuing to pilot alternative methods of engaging excluded children in education and ensure availability of resources to fulfil the educational rights of excluded pupils
- ensure that resources are appropriately allocated to address inequalities in educational attainment amongst disadvantaged groups, including: the poorest children, looked after children, children in custody, Travellers, children with disabilities and special educational needs, migrant children
- extend publicly funded legal aid to ensure equality of access to legal advice and representation and the appropriate legal remedies available through the Special Educational Needs and Disability Tribunal, Expulsions Appeals Tribunals and the Courts for all children and young people whose right to education is infringed
- ensure the independence and effectiveness, and promote the use, of the regional Dispute Avoidance and Resolution Service and (once operational) the ECNI Conciliation Service to deal with disputes arising from the SENDO legislation
- ensure that children who are detained under the legal justice system enjoy equality of access to an effective education that is commensurate with their age, ability and aptitude
- ensure that children who are looked after enjoy equality of access to an effective education that is commensurate with their age, ability and aptitude
- ensure that every school has procedures to tackle all forms of bullying (including prejudice-driven bullying) and that staff are adequately trained in identifying, responding to and monitoring incidents; ensure frequent and effective monitoring and review by the Education and Training Inspectorate and the new Education and Skills Authority; ensure that inter-agency working continues to tackle bullying of children through the Northern Ireland Anti-Bullying Forum
- ensure that primary and post-primary school curricula include education about human rights, children's rights and the UNCRC
- ensure that initial and in-service teacher training includes knowledge about human rights, children's rights and the UNCRC, with clear guidelines/competencies to enable schools to create a rights-respecting culture (monitored and evaluated by the Education and Training Inspectorate and the new Education and Skills Authority)
- ensure that funding and provision are available to meet every child's choice in relation to attendance at Integrated or Irish-medium education

Leisure and cultural activities

The Northern Ireland Assembly and Executive should:

- raise public awareness about the importance of play in children's development
- prioritise development and implementation of play policies for all children and young people (under-11s and 12-18s)
- increase investment in play and leisure facilities for children and young people of all ages
- ensure that planning and decision-making processes concerning housing and recreational developments are informed by the views of children and young people about the types of quality, safe, age-appropriate, inclusive provision required in urban and rural communities
- ensure that staff working in the play sector are fully trained, including in children's rights, and adequately paid

Special protection measures

Asylum seeking and refugee children

The UK Government should:

- extend the duty to safeguard and promote the rights and best interests of children to immigration agencies in all jurisdictions
- immediately end the detention of asylum seeking children in families in immigration removal centres
- fully resource their anti-trafficking action plan; ensure high quality training of professionals for the identification of trafficked children; provide high quality services and safe accommodation for these children; ensure adequate data collection to provide a clear overview of the extent of child trafficking in the UK

The NIO should:

- ensure that the duty to safeguard and promote the rights and best interests of children is extended to immigration agencies in Northern Ireland
- ensure that asylum seeking children are not detained in police custody before removal to a detention centre in Scotland or England
- take all necessary steps to end the removal of children from the jurisdiction to detention centres in Scotland or England

The Northern Ireland Assembly and Executive should:

- ensure that asylum seeking and refugee children enjoy the same rights and protections as all other children in the jurisdiction
- legislate to ensure that asylum seeking and refugee children are included in frameworks for the assessment, care and protection of children in Northern Ireland (ie UNOCINI, *Children (Northern Ireland) Order 1995*, the *Children's Strategy*, the remit of NICCY)
- legislate to establish a statutory system of guardianship for all separated children

Children belonging to ethnic minority or indigenous groups

The Northern Ireland Assembly and Executive should:

- effectively target time-framed actions to remove obstacles to enjoyment of rights by Traveller children, with regular monitoring and review of these actions

Economic exploitation, including child labour

The Northern Ireland Assembly and Executive should:

- review legislation governing the employment of children in Northern Ireland to ensure it adequately protects children and does not discriminate
- remove the exception in the *The Employment Equality (Age) Regulations (Northern Ireland) 2006* to ensure that all children in employment are receiving the same minimum wage as adults
- ensure that the employment of children and young people is effectively regulated; amend legislation to reflect the reality of life in Northern Ireland and employment opportunities for young people

Sexual exploitation and trafficking

The Northern Ireland Assembly and Executive should:

- establish mechanisms for proactively identifying young people at risk of, or experiencing, sexual exploitation; develop multi-agency protocols enabling effective pathways of referral and provision of services
- ensure provision of adequately resourced early intervention and intensive support services to address the complex needs of sexually exploited children and young people (including health, mental health, sexual health and relationship education, basic education, child protection, family support, substance misuse, safe accommodation, continuity of care)
- ensure that statutory agencies use existing legislation to criminalise the perpetrators of sexual exploitation and employ ways of securing prosecutions which do not rely on the evidence of the 'victim'
- ensure that professional training for those working with children and young people includes awareness about: the factors affecting those at risk of, or experiencing, sexual exploitation; relevant guidance and procedures; protection and promotion of their rights
- ensure that NICCY has the power to promote and protect the rights of children who are the victims of sexual exploitation and trafficking, especially those coming from outside the jurisdiction

The administration of juvenile justice

The UK Government should:

- fully integrate relevant international standards into youth justice legislation, policies and practice
- substantially raise the age of criminal responsibility
- ensure that custody is used as a measure of last resort
- reform legislation to ensure that no child under 18 is tried as an adult, irrespective of the circumstances or the gravity of their offence

The Northern Ireland Assembly and Executive should:

- legislate to ensure that the best interest principle underpins all legislation, policy and practice pertaining to the administration of criminal justice relating to children and young people
- ensure that there are effective children's rights compliant alternatives to the criminalisation of children (including family support and community based diversion), which are in the child's best interests. All programmes should be effectively regulated and monitored to protect the child

- ensure that all appropriate measures are taken to facilitate the participation and understanding of all children involved in criminal proceedings
- ensure that all children have the right to be tried for a criminal offence in an appropriate setting and manner, having regard to the child's age, maturity, needs, vulnerability and understanding
- legislate to ensure that Anti-Social Behaviour Orders are not used against children and young people
- ensure that sentencing guidance, policy and practice incorporates the principle that custody should be used as a measure of last resort, for the shortest appropriate period of time
- determine the reasons for over-representation of specific groups in the youth justice system/ custody and take immediate, targeted actions to address these inequalities
- ensure that when denial of liberty is essential and unavoidable, young people in detention are separated from adults
- ensure that the rights of detained children and young people are fully respected and protected, including their rights to: independent advocacy services; health, including mental health services; be educated within the formal schools curricula or educational/ vocational training; child protection; accessible complaints procedures
- ensure that the Police Ombudsman's office provides a breakdown of complaints from under-18s, to assess the type and extent of complaints and any emerging patterns

Optional protocols

The UK Government should:

- remove its declaration on ratifying the Optional Protocol on the involvement of children in armed conflicts as this undermines its commitment to keep under-18s in the armed forces out of combat zones
- ratify and implement the Optional Protocol on the sale of children, child prostitution and child pornography at the earliest opportunity