

**NORTHERN IRELAND
NGO ALTERNATIVE REPORT**

**SUBMISSION TO THE
UNITED NATIONS COMMITTEE ON THE RIGHTS OF THE CHILD
FOR CONSIDERATION DURING THE COMMITTEE'S SCRUTINY
OF THE UK GOVERNMENT REPORT (JULY 2007)**

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

MARCH 2008



NORTHERN IRELAND NGO ALTERNATIVE REPORT

SAVE THE CHILDREN NI and CHILDREN'S LAW CENTRE

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ENDORSEMENT

We the undersigned endorse this submission, including recommendations, to the UN Committee on the Rights of the Child in respect of the implementation of the UNCRC in Northern Ireland:

Organisations

An Munia Tober

Barnardo's Northern Ireland

Belfast Interface Project

Centre on Human Rights for People with Disabilities

Children in Northern Ireland

Citizens Advice

Clan Mór Sure Start

Committee on the Administration of Justice

Community Restorative Justice Ireland

Dalriada Sure Start

Disability Action

Early Years – the organisation for young children

Extern

Forthspring Inter Community Group

Gingerbread Northern Ireland

Include Youth

Inner City South Belfast Sure Start

Lifestart Foundation

Mencap

National Deaf Children's Society

NCB Northern Ireland

NCH Northern Ireland

Newstart Education Centre
Northern Ireland Alternatives
Northern Ireland Anti-Poverty Network
Northern Ireland Community for Refugees and Asylum Seekers
Northern Ireland Women's Aid
NSPCC NI
Old Warren Partnership
Parents Advice Centre
Pat Finucane Centre
Playboard
Relatives for Justice
Rethink
RNIB Northern Ireland
Rural Community Network
Springwell Centre
The Rainbow Project
VOYPIC (Voice Of Young People In Care)
Windsor Women's Centre

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INTRODUCTION

NORTHERN IRELAND

Northern Ireland is emerging from a prolonged period of conflict and political instability. Devolution was suspended on 14 October 2002 and direct rule from Westminster was re-instated until the end of March 2007. During this time, legislation was introduced with no opportunity to scrutinise or amend prior to its adoption. No locally accountable political institutions existed, many earlier advances in relation to equality and human rights were undermined or reversed, and the emerging prioritisation of children's issues by government was effectively halted. A small number of Ministers appointed by the Northern Ireland Office each held several ministerial portfolios, with a limited amount of time being dedicated to any one ministerial brief. No Assembly or parliamentary committees were in operation during this period, and there was no political scrutiny of the UN Committee's 2002 concluding observations.

In October 2006 the *St. Andrew's Agreement* provided for the restoration of the Northern Ireland Executive by 26 March 2007. This was followed by restoration of devolution on 8 May 2007 and the election of a four-party Executive of 12 Ministers. The British Secretary of State continues to have responsibility for reserved and excepted matters, which creates difficulties at legislative and policy levels in Northern Ireland. For example, the Northern Ireland administration claims not to have any jurisdiction in relation to issues of national minimum wage and benefits as the Westminster Parliament retains responsibility for fiscal matters. However, this issue (and reserved matters such as criminal justice, policing, immigration) obviously have serious implications for children and young people.

Northern Ireland is a society in transition, and the legacy of conflict impacts on children, young people, their families and communities. Between 1967 and 1999 there were 3,636 conflict-related deaths – 2037 of which were civilian. 36% of all those killed in the 'troubles' were children and young people – almost three quarters of these children were Catholic, a fifth were Protestant, and the remaining 6% were from outside Northern Ireland. Sectarianism and division still affect the well-being of children, who report feeling threatened or intimidated by republican or loyalist displays; being threatened by paramilitary groups; having to move house because of intimidation; being the victim of a paramilitary beating; being injured due to a sectarian incident.

The long term trend of outward migration has been reversed, with significant inward migration since 2000; benefiting the local economy and fostering the development of a more intercultural society. However, many migrant workers and members of minority ethnic communities have experienced orchestrated campaigns of racist harassment and attacks on their persons or homes.

COMPILATION OF THE NORTHERN IRELAND NGO ALTERNATIVE REPORT

The consultation process conducted by the Children and Young People's Unit (CYPU) in Northern Ireland, and the then Department for Education and Skills (DfES), fell short of what is expected with very limited timescales in which to read and respond to a draft report.

The *Northern Ireland NGO Alternative Report* was compiled and written by the Children's Law Centre and Save the Children, informed by consultation with NGOs. The process was initiated with an information seminar for NGOs in August 2006, addressed

by the then Chair of the Committee Professor Jaap Doek. Twelve consultation workshops were held with NGOs between May and August 2007 to elicit information for inclusion in the submission. NGOs received a draft copy of the submission to check for accuracy and endorse before it was submitted to the UN Committee in March 2008. The submission appendices include statistics demonstrating 'The Current Situation of Children in Northern Ireland', and an 'Executive Summary and Recommendations'. A more detailed and fully referenced report - *The State of Children's Rights in Northern Ireland* - provides background material to support the reporting process and inform NGOs about the current situation concerning implementation of the UNCRC. The focus in both the *Northern Ireland NGO Alternative Report* and *The State of Children's Rights in Northern Ireland Report* is compliance with the principles and standards of the UNCRC under the 8 thematic clusters. Previous UN Committee (2002) concluding observations provide the basis for analysis, which highlights continued violations and new areas of concern.

GENERAL MEASURES OF IMPLEMENTATION

RESERVATIONS AND DECLARATIONS

Reservation to Article 22

Reconsider its reservation to article 22 with a view to withdrawing it (UN Committee 2002, para 7)

The UK Government Reservation has been repeatedly criticised by the UK Joint Committee on Human Rights and in 2006 the Council of Europe's Human Rights Commissioner called for a review of the UK's asylum legislation to make it compliant with the UNCRC. Prioritisation of the government's immigration policy over its obligations to asylum seeking children results in discriminatory treatment towards these children, including: discriminatory benefit entitlements to their families; inadequate levels of support for unaccompanied minors; invisibility of the child and their best interests in the asylum application process; detention and removal from the jurisdiction; exclusion from the remit of the Children's Commissioner in Northern Ireland as well as from the overarching *Children's Strategy* (See 'Special Protection Measures: Asylum seeking and refugee children'). While recent announcements by the Home Secretary about the Government's intention to ratify the Council of Europe *Convention Against Trafficking* by the end of 2008 and to review the Reservation to Article 22 are welcome, it remains to be seen whether the Government delivers on these intentions.

Reservation to Article 37(c)

Take all necessary measures to end the detention of children in the same facilities as adults and withdraw its reservation to article 37(c) (UN Committee, 2002, para 7)

The UK Government statement that in Northern Ireland "only in very exceptional circumstances are children ever accommodated with adults" is not true. Schedule 11 of the *Justice (Northern Ireland) Act 2002* (enacted in August 2005) placed 17 year olds within the jurisdiction of the youth courts. However, the powers of the courts to sentence 17 year olds to the Juvenile Justice Centre (for 10-17 year olds) are restricted - only those who will not reach the age of 18 during the period of the Order, and who have not received a custodial sentence within the previous two years, can be accommodated in

the Juvenile Justice Centre. 17 year olds not meeting these criteria must be sentenced to serve their period of detention in Hydebank Wood Young Offenders Centre, operated by the Northern Ireland Prison Service and accommodating 17-21 year old males on remand, committal or conviction. In addition, 16 and 17 year olds can be detained with adults in Prison Service custody under the *Treatment of Offenders (Northern Ireland) Act 1968*. Article 13 of the *Criminal Justice (Children) (Northern Ireland) Order 1998* states that those aged at least 15 deemed to be at risk of harming themselves or others must be remanded to Prison Service custody, and, under para 6 Schedule 2, children in the Juvenile Justice Centre deemed to be at the same risk may be sent to the prison system.

The *Criminal Justice Review*, established as part of the Peace negotiations, recommended that special provision should be made for males under 18 years old to be kept apart from 18-21 year olds at Hydebank Wood Young Offenders Centre. While they are held on separate landings for 'juveniles', it remains a matter of concern that children at the YOC are detained in the same institution as adults up to the age of 21, and one which is operated by the Prison Service.

There is no discrete provision for young women under 18, who are detained with adult women within a 'House' in the Hydebank Wood male Young Offenders Centre. An inspection in 2004 found that the small number of detained young women had initially been detained in the Juvenile Justice Centre but considered difficult to manage.

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

Legislation

Incorporate into domestic law the rights, principles and provisions of the Convention to ensure compliance (UN Committee, 2002, para 9)

The provisions and principles of the UNCRC have not been incorporated into domestic law. There has been no comprehensive audit of existing legislation to ensure compliance with the UNCRC, or development of a child rights proofing tool. Nor has there been progress by the UK Government or Northern Ireland Assembly on development of a framework for conducting child rights impact assessments regarding new legislation¹. The potential of a *Bill of Rights for Northern Ireland* envisaged by the Peace settlement still remains to be realised. Following several years of lack of progress, children/ young

¹*The Human Rights Act 1998* requires government departments to publish a statement on all Parliamentary Bills and their compatibility with the *European Convention on Human Rights*. There is no tool specific to children's rights and implementation of the UNCRC. Concerns have been raised re the compliance of some legislation with the ECHR as it relates to children (eg the *Anti-Social Behaviour (Northern Ireland) Order 2004*). The Northern Ireland Commissioner for Children and Young People has developed a children's rights impact assessment tool based on the Scottish model.

people and the organisations who work with them have high expectations of the Forum on a Bill of Rights, established by the UK Government in December 2006. Building on the UNCRC, a 'Children and Young People's Sector Bill of Rights Group' has developed specific proposals to consolidate children's rights within the Bill of Rights. It is hoped that the Northern Ireland Human Rights Commission will endorse these recommendations, and that subsequent legislation will be developed in line with them.

The enormous potential created by the unique equality of opportunity duty imposed on public authorities by Section 75 of the *Northern Ireland Act 1998*² has not been realised in respect of children and young people.

Resources

Undertake an analysis of all sectoral and total budgets across the State party and in the devolved administrations to show the proportion spent on children, identify priorities and allocate resources to the 'maximum extent of... available resources' (UN Committee, 2002, para 11)

Government in Northern Ireland has repeatedly claimed that it is not possible to provide a breakdown of expenditure on children. When requested, some individual government departments have been able to provide figures in relation to the percentage of an overall budget spent on children. However, at present it is not possible to obtain figures for spend on all children and young people by each department, let alone on specific groups. Serious difficulties also exist in tracking budgets, as funding is not ring fenced and there are discrepancies between the intended target for monies and where they are actually spent. Research examining public expenditure and overall fiscal support dedicated to children and young people in Northern Ireland relative to their counterparts in Great Britain demonstrated significant disparities (See Appendix 1: General Measures of Implementation).

Coordination

Assign coordination of the implementation of the Convention to a highly visible and easily identifiable permanent body with an adequate mandate and sufficient resources (UN Committee, 2002, para 13)

The establishment of the CYPU within the Office of the First and Deputy First Minister (OFMDFM) was a very positive development. Its website states that the CYPU: "was established to ensure that the rights and needs of children and young people living in Northern Ireland are given a high priority", but coordination of the implementation of the Convention is not listed as one of its main responsibilities. The CYPU does not have the mandate to require cooperation from other government departments and its resourcing and staffing levels are minimal.

Lack of coordination also exists at the political level. Northern Ireland does not have a Minister for Children. The announcement in July 2007 that two Junior Ministers in the Northern Ireland Executive were to have children's issues included in their portfolios was

² Section 75(1) of the *Northern Ireland Act 1998* places a positive duty on public bodies in Northern Ireland to have "due regard to the need to promote equality of opportunity" between members of nine categories, including people of different ages. The process also includes a requirement to consult directly with children. These provisions have the potential to child impact assess policy and legislation and to assist in the delivery of Article 12.

welcome, as was the recent announcement that a Ministerial Sub-Committee for Children and Young People will be established. However, it is not clear how Junior Ministers will be able to hold full Ministers, especially from different parties, to account on children's rights. Consequently, NGOs remain to be convinced that effective coordination measures are in place.

Plan of action

Expedite the adoption and implementation of a comprehensive plan of action for the implementation of the Convention ... paying special attention to children belonging to the most vulnerable groups... through an open, consultative and participatory process (UN Committee, 2002, para 15)

Although there was an initial commitment that the *Children's Strategy for Northern Ireland* would be the implementation plan for the UNCRC, this has not happened. The 2006 *Children's Strategy* committed to respecting and progressing the rights of children and young people in Northern Ireland, guided and informed by the UNCRC. Despite stating that the Strategy would be the key mechanism for charting progress on this commitment, critical omissions from the *Strategy and Action Plan 2007-2008* were mechanisms to ensure compliance by all government departments with children's rights standards. A Strategy Planning and Review Group was to have been set up within 3 months of the launch of the Strategy and to have a role in commenting on the associated Action Plan. This Group was supposed to include representation from the statutory, voluntary and community sectors and relevant government departments. However, the *Action Plan for 2007-2008* was published without consultation and the Strategy Planning and Review Group has not yet been established; denying access by members of the voluntary and community sectors to the process of development. Nor is there a specific structure to engage children and young people in the process of developing Action Plans.

Independent monitoring structures

Establish independent human rights institutions with broad mandate and appropriate powers and resources, in accordance with the Paris Principles, to monitor protect and promote all the rights of the Convention for all children (UN Committee, 2002, para 17a)

The Commissioner for Children and Young People (Northern Ireland) Order 2003 led to the very welcome appointment of the first Northern Ireland Commissioner for Children and Young People (NICCY). At the time of drafting, Government was made aware that the legislation was not Paris Principle compliant, and in 2006 two independent reviews found this to be the case – recommending amendments to the Order to ensure compliance.

Data collection

Establish a nationwide system whereby disaggregated data are collected on all persons under 18 years for all areas covered by the Convention; use these data to assess progress and design policies to implement the Convention (UN Committee, 2002, para 19)

The UK Government Report makes no reference to how the Committee's recommendation on data collection has been addressed outside England. In particular,

the Report does not critically analyse the impacts of legislation/ policy, or allocation of funding, over the last five years on children's lives in Northern Ireland.

Northern Ireland government departments fail to collect and analyse disaggregated data in respect of all children's lives. There is no standardised methodology for collecting data across Northern Ireland departments and agencies. Nor is data comparable across the jurisdictions. Information about specific groups is limited and unco-ordinated. Information collected is not disaggregated to reflect local concentrations, which impedes planning and appropriate allocation of resources. Although local Health and Social Services Board areas have tried to gather information about changing demographics and service provision in each area, this has not been based on a consistent approach.

Regular reports and debate

Develop regular reports in Northern Ireland and for the whole State party; promote wide public and parliamentary debate on them in the United Kingdom Parliament and Northern Ireland Assembly (UN Committee, 2002, para 19)

NICCY commissioned a major audit of the state of children's rights in Northern Ireland which was published in 2004. The UK Government has not developed regular reports. Nor have public or parliamentary debates been held in either Westminster or Northern Ireland. The Northern Ireland *Children's Strategy and Action Plans* do not commit to producing such a report.

Dissemination of information on the UNCRC

Substantially expand dissemination of information on the Convention and its implementation among children and parents, civil society and all sectors and levels of government, including initiatives to reach vulnerable groups (UN Committee, 2002, para 21a)

There has been no political or parliamentary scrutiny or debate of the UN Committee's 2002 concluding observations in Northern Ireland. These did not appear to have been disseminated to all government departments and agencies at the time. They were not disseminated to children and young people, their parents or NGOs by any government departments. There has been no information produced directly by government, other than a section on the CYPU website about the UNCRC which (since October 2007) includes copies of the 2007 UK Government Report, a Northern Ireland specific Report, and two Reports about consultations with children and young people.

A survey in 2007 of all 16 year olds illustrated their limited knowledge about rights and the UNCRC. When asked which statement best described what they knew about the rights of children and young people living in Northern Ireland, 49% ticked 'We have rights, but I don't know anything about them' and 41% ticked 'We have rights, and I could list a few'. 70% responded 'No' to the question 'Have you ever heard anything about the UN Convention on the Rights of the Child?'

Training on human rights, including children's rights

Develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children (UN Committee, 2002, para 21b)

There is no mandatory training about human rights, children's rights and the UNCRC for personnel working with, or delivering a service to, children and young people or for government officials. Children's Law Centre and Save the Children received one-off funding in 2004 to deliver CRC training for civil servants and NGO personnel, to inform development of the *Children's Strategy*. One Health Board area commissioned additional training during 2006. Within limited resources, Children's Law Centre and some other NGOs provide seminars or workshops about children's rights and their implications for policy/ practice. An outstanding need for mainstreamed training has been identified by NGOs.

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

THE RIGHT TO NON-DISCRIMINATION

While there have been a number of positive legislative developments in the area of equality and discrimination law since the last UK Government examination, the inclusion of both broad and specific exceptions threatens to undermine any positive impact for children and young people. Equality law in Northern Ireland continues to be piecemeal and there is a 'hierarchy' of protection, with discrimination on grounds of age having least protection.

The law in Northern Ireland generally adopts a non-discrimination approach – prohibiting direct and indirect discrimination – but provides individual-based remedies. There is no established mechanism for child rights proofing existing and new legislation to ensure child equality and that it does not discriminate against children and young people. Because of historical disadvantage suffered by many groups, including children and young people, additional measures are needed to address disadvantage. In its first *Programme for Government*, the Northern Ireland Executive gave a commitment to produce a harmonised *Single Equality Bill* for Northern Ireland. It is hoped that the Northern Ireland Assembly will introduce this legislation to remove hierarchies of protection, impose positive obligations to achieve equality of opportunity and provide comprehensive protection against discrimination on all grounds, especially age.

Monitor the situation of children, in particular those belonging to... vulnerable groups, who are exposed to discrimination (UN Committee, 2002, para 23a); Develop, on the basis of the results of this monitoring, comprehensive strategies containing specific and well-targeted actions aimed at eliminating all forms of discrimination (UN Committee, 2002, para 23c)

Lesbian, gay, bisexual and transgendered young people

New laws prohibiting discrimination on grounds of sexual orientation have been introduced. The *Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003* cover discrimination in employment and training, and the *Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006* provide similar protection in relation to the provision of services. However, there has been widespread concern about the broad exceptions contained in these Regulations relating to the activities of religious organisations³. These exceptions have the potential to undermine the effectiveness of the new legal protections, particularly in terms of protection against discrimination on grounds of sexual orientation in faith schools.

LGBT young people experience homophobic bullying and negation of their sexuality within education. They also endure negative experiences related to their sexuality in youth clubs, youth groups, church based organisations and uniformed groups – indicating that few elements of the statutory or voluntary youth sector are effectively operating anti-discriminatory policy and practice.

Minority ethnic groups, including Travellers

Northern Ireland is becoming an increasingly diverse population, including: established minority ethnic groups (eg Jewish, Chinese, Indian, Pakistani, Sikh, Irish Traveller communities), migrant workers from European countries and a small number of refugees and asylum seekers. In addition to their economic contributions, these groups are contributing to the social, public and cultural life of Northern Ireland and changing the traditional ‘bipolar’ focus on Catholic and Protestant communities.

‘Ethnic minorities’ are not one homogenous group, and many of their experiences are similar to those of children or families from majority communities. However, cultural diversity is not generally respected or valued in Northern Ireland. Research evidence has highlighted the racial inequalities and exclusion suffered by people from minority ethnic communities, including: harassment, discrimination, stereotyping and institutional racism. Despite anti-discriminatory legislation such as the *Race Relations (Northern Ireland) Order 1997*, amended by the *Race Relations Order (Amendment) Regulations (Northern Ireland) 2003* which gave effect to the *European Union Racial Equality Directive*, discrimination continues to affect the educational, health, social and employment opportunities of individuals from minority ethnic groups. The *Criminal Justice (No. 2) (Northern Ireland) Order 2004* introduced legislation concerning ‘hate crime’ and led to more detailed monitoring by the PSNI of racist incidents and crimes, which increased between 2005-06 and 2006-07.

A revised core syllabus for the teaching of Religious Education was introduced from September 2007. However, only the ‘four main churches’ (all Christian) were invited to draw up the proposals for this syllabus. As a result, the revised syllabus focuses almost

³ The Regulations have already been subject to a substantive challenge brought by the Christian Institute, as a result of which the express statutory protection of harassment was removed.

exclusively on Christianity⁴. In a society where the school population is becoming increasingly diverse, this imbalance in religious teaching impacts adversely on children who are non-Christian and is also potentially discriminatory on grounds of race (in breach of Articles 2 and 29 of the UNCRC, as well as both Section 75 and Section 76⁵ of the *Northern Ireland Act 1998*).

Travellers are amongst the most disadvantaged members of Northern Ireland society. In spite of recommendations by the PSI Working Group on Travellers in 2000 and the UN Committee on Racial Discrimination in 2003, Traveller children continue to experience unsuitable, unsafe and poor living conditions; poor health, lower life expectancy and higher infant mortality rates; high levels of illiteracy which makes it difficult for them to access other areas of the formal economy. *De facto* segregated education provision for Traveller children continues to be provided at St Mary's primary school in Belfast. In addition, prejudice and discrimination continue - 12% of the Northern Ireland population believe the culture of Irish Travellers is less respected than it once was. These issues are compounded by the introduction of the *Unauthorised Encampments (Northern Ireland) Order 2004*⁶, which affords statutory powers to the Police Service of Northern Ireland (PSNI) to remove and criminalise trespassers who have the intent of residing on land, together with their vehicles and other property. Clearly, this has a disproportionate impact on Travellers and their families. There are also examples of Anti-Social Behaviour Orders having been used on Travellers to prevent them camping on land that is not their own. This is likely to have a major impact on the children from these families.

Children and young people with disabilities

Children and young people with disabilities face particular barriers to inclusion, including:

- inadequate services and support for children and their families, including respite care and family support
- inadequate comprehensive assessment of individual children's needs
- lack of co-ordination of services
- limited opportunities for play, leisure and social interaction
- limited appropriate or inclusive educational opportunities
- limited or no access to public transport and other facilities within their communities
- bullying at school and on the streets
- lack of appropriate day care provision (particularly once a young person has been discharged from children's services)
- absence of age-appropriate, accessible options to support independent living
- lack of information or support when making the transition from secondary level to university education
- limited options related to training, further education and employment

⁴ There is a learning objective at Key Stage 3 (11-14) entitled 'world religions' to teach Christian children about other world faiths, rather than meeting the needs of children and young people from other faith groups.

⁵ Section 76(1) of the *Northern Ireland Act 1998* makes it "unlawful for a public authority carrying out functions relating to Northern Ireland to discriminate, or to aid or incite another person to discriminate, against a person or class of person on the ground of religious belief or political opinion."

⁶ The introduction of this legislation was deferred for one year to allow the Northern Ireland Housing Executive time to provide transit sites and similar culturally appropriate accommodation. However, by 19th July 2006, when the legislation came into force, there were only one permanent transit site and two emergency sites.

- limited access to independent advocacy services.

Ratification of the *UN Convention on the Rights of Disabled People* would reinforce a commitment to challenging discriminatory policy or practice affecting children and young people with disabilities.

Looked after children

As the statistics clearly demonstrate (See Appendix 1: Family Environment and Alternative Care), looked after children experience discrimination in education, health, employment and within the criminal justice system.

A range of strategies have been developed in Northern Ireland over the last two years to promote equality of opportunity and anti-discriminatory policy/ practice, including: a *Racial Equality Strategy*, a *Gender Equality Strategy*, a *Sexual Orientation Strategy*. However, the objectives within these can be vague – implementation plans will need to be closely monitored and reviewed to assess whether they make any real difference to the lives of children and young people.

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

Adopt the best interests of the child as a paramount consideration in all legislation and policy affecting children, notably within the juvenile justice system and in immigration practices (UN Committee, 2002, para 26)

Despite the engagement of NGOs and statutory bodies, legislators in Northern Ireland and Westminster have consistently failed to ensure that legislation likely to impact on children is based on the principle that the best interest of the child is the primary consideration, with the exception in Northern Ireland of *The Commissioner for Children and Young People (NI) Order 2003*⁷. Generally, legislation continues to operate the welfare rather than best interests standard. The principle of the best interest of the child is not currently incorporated into youth justice, policing, mental health, education or immigration legislation.

There has been judicial recognition in the High Court in Northern Ireland of the importance of the court giving due weight to the wishes and feelings of children in the context of decisions about what is in their best interests⁸. But this is not yet uniform in all tribunals and courts dealing with children's cases.

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

Detention and transportation of asylum seeking children to removal centres

Since 2006, immigration detainees (including some asylum applicants) are no longer routinely held in prison in Northern Ireland. Instead they are being stopped and held at their point of entry to Northern Ireland and then detained in police cells until they are sent to removal centres in Britain. In May 2007, the Chief Inspector of Prisons published a report in which she criticised the fact that asylum seekers are often held overnight in poorly equipped police cells in Belfast prior to the journey to Dungavel House Immigration Removal Centre in Lanarkshire, Scotland. She expressed further concerns that asylum seekers were handcuffed while being transported and were not always given access to proper legal advice. This report also found that the numbers of children in Dungavel House had increased from 94 in 2005 to 122 in the eleven months to December 2006. The report noted that while most children remained at the centre for less than 72 hours, in 2006 seven children were held for more than seven days (including two for 32 days).

There are currently no figures available about children and young people (whether unaccompanied minors or with family) being detained in police custody on arrival in Northern Ireland and then transported to Dungavel. More information is urgently required from the immigration authorities to ascertain exactly what is happening to under-18s and

⁷ Article 6 of *The Commissioner for Children and Young People in Northern Ireland Order 2003* states that the principal aim of the Commissioner is to safeguard and promote the rights and best interests of children and young people (emphasis added).

⁸ Re: S, N & C (*Non Hague Convention Abduction: Habitual Residence: Child's Views*) [2005] NI Fam 1; Re: E (*Voice of the Child*) [2005] NI Fam 12

whether their right to life is being potentially comprised by these detention and removal procedures.

Suicide

High rates of suicide amongst young people in Northern Ireland are a significant concern, particularly since the suicide rate for young males living in deprived areas is nearly twice that for those living in wealthier communities (See 'Basic Health and Welfare: Adolescent Health').

Disabled children and young people

Disabled children and their families frequently raise issues about poor, or late, assessment of their needs. If identified, the services required to meet these needs are not always locally available. Full implementation of the rights of children with disabilities requires effective assessment of their needs and adequate resourcing of appropriate services.

Traveller children

Mortality rates for Traveller children are disproportionately high – the death rate is 10 times higher than the rate for other children, and life expectancy within the Traveller community is 20% lower than the rate for the general population – they die 15 years earlier. Other health outcomes for Travellers are poor, as are educational outcomes (See 'Basic Health and Welfare' and 'Education').

Children living in poverty

People living in the 20% most deprived electoral wards have a poorer life expectancy, higher death rates, higher rates of admission to hospital, more infant deaths and more suicides than the Northern Ireland population as a whole. Living in poverty negatively impacts on the health and well-being, educational, employment, and accommodation outcomes of children and young people (See 'Basic Health and Welfare' and 'Education').

Use of plastic baton rounds/plastic bullets

Abolish the use of plastic baton rounds as a means of riot control (UN Committee, 2002, para 28)

Plastic and rubber bullets have killed 17 people in Northern Ireland, including 9 children. The L21A1 version of the plastic bullet was replaced with the Attenuating Energy Projectile (AEP) in 2005. The UK Government claims that AEPs "are considerably less likely to cause serious injury in the event of impacting on vulnerable areas of the body" and that the AEP "had been fully evaluated by an independent medical committee before introduction". Neither claim stands up to scrutiny. The 'independent medical committee' referred to is the Defence Scientific Advisory Council's sub-committee on the Medical Implications of Less Lethal Weapons (DOMILL) – an advisory non-departmental public body, all of whose councils, boards and working parties include official members from the Ministry of Defence, undermining the claim of independence. The statement produced in 2005 by DOMILL on the comparative potential of the AEP for causing injury concluded that the risk of an AEP impact to vulnerable areas such as the head and chest "will not exceed" that of the L21A1 – in other words, the AEP is no safer than the L21A1.

A recent study conducted by a group of doctors at four hospital emergency departments in Northern Ireland suggested that, in fact, AEPs have actually caused more harm than previously used plastic bullets. Amongst the 14 people hit by AEPs, one third of their injuries were to the head and neck and 17% were to the chest – in total, over 50% of the injuries were to the face, neck, head or chest, despite PSNI guidelines stating that AEPs should “be aimed at the belt buckle, thus militating against any upper body hits”.

No evidence has ever been produced of a child impact assessment having been conducted prior to the introduction of the AEP. In 2006 revised guidance on use of the AEP was issued, but this fails to adequately address long standing concerns - it instructs police officers to “take cognisance of the UNCRC”, but without guidance on exactly how they are expected to do this, the statement is meaningless.

Use of Taser guns

The PSNI has purchased 12 Taser Guns for use in Northern Ireland on a pilot basis. The Northern Ireland Policing Board has raised a number of concerns about this issue, and stated that there should be no deployment of Tasers in advance of adherence to human rights and equality obligations. The Policing Board have been advised that some groups are more vulnerable to the use of Tasers than others⁹ and that evidence from Britain suggests Tasers have been used against these groups in a high percentage of cases. There is no independent medical evidence as to the impact of Tasers on children, although two risks have been identified: a heightened risk of cardiac arrest resulting from ventricular fibrillation, and a greater risk of injury from the penetrative effects of Taser barbs.

Use of children to gather low level intelligence

NGOs working with children and young people have expressed concern about the PSNI using children to gather low level intelligence within their communities. Such practice is clearly in breach of the best interest principle and, given the context of the contested nature of policing and use of informers in Northern Ireland, could potentially compromise their right to life. While the PSNI have claimed that child informers were only used “in exceptional circumstances”, NGOs state that they have observed an increase in this practice in their communities. This reinforces research into the detention and questioning of young people by the police, which found that in some cases “the interview was being used, not so much to extract a confession from the young person or to provide an opportunity for exculpation, but rather to gather information about other matters or individuals”. NGOs have also highlighted lack of transparency surrounding use of informers, as the area remains beyond the scrutiny of the Police Ombudsman’s office, the Policing Board or the Public Prosecution Service.

The *Draft Criminal Justice (Northern Ireland) Order 2007* proposes to introduce powers for the PSNI to test for sales of alcohol by allowing a child, under the direction of the police and with the parent’s consent, to enter licensed premises and seek to purchase alcohol. This proposed entrapment using children raises obvious issues concerning informed consent, child protection and the best interests of the child.

⁹ Terence Allen, former Deputy Medical Examiner of Los Angeles, argued that whilst Tasers may be “generally safe in healthy adults”, pre-existing heart disease, psychosis and the use of drugs “may substantially increase the risk of fatality” (Starmer and Gordon, 2007: 16, para 46)

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

Take further steps to promote, facilitate and monitor systematic, meaningful and effective participation of all groups of children in society, including in schools; consistently reflect the obligations of both paragraphs of article 12 in legislation; establish procedures allowing the views expressed by children to be taken into account in, and to have an impact on, programmes and policies affecting them (UN Committee, 2002, para 30)

Promoting meaningful and effective participation

The establishment of government-funded initiatives such as a proposed Northern Ireland Network for Youth and a Participation Network are welcome developments. But they require on-going evaluation and review to assess their impact on positive changes for children and to ensure sustainability.

Long-term core funding is required to resource effective participation structures and mechanisms at regional and local levels. Effective participation is based on involving all children and young people, including groups often excluded from decision making processes (such as young children, children and young people with disabilities and specific additional needs, so-called 'hard to reach' groups). This requires investment of time and resources to explore the most appropriate methods for involving individuals/ groups and adequately support their involvement. Meaningful participation involves informing children about their rights, addressing the issues of concern to them, publicly acknowledging their views and contributions, and providing feedback about the impact of their suggestions on development of policies/ practice. This requires strategic commitment to participation across statutory, voluntary and community sectors, and a shared focus on fulfillment of children's rights.

See 'Education: Article 12 in education' for information about Article 12 in schools.

Legislation governing court procedures and administrative proceedings

Section 75 of the *Northern Ireland Act 1998* places a statutory equality of opportunity duty on public authorities and represents a key mechanism by which government can give partial effect to Article 12 in the legislative and policy making arena. There have been a number of problems with the operation of the duty as it applies to children and young people. These are mainly as a result of failure by public authorities and government departments to afford the degree of political will required. Among the problems identified have been:

- failure to consult directly with children and young people, as required under the duty¹⁰
- limited statistics produced on the state of children's rights in Northern Ireland
- limited public awareness-raising in relation to Section 75 and its potential
- lack of a sufficient enforcement mechanism¹¹
- limited sanctions in terms of the outcome of an investigation by the Equality Commission
- schools are not designated as a 'public body' under Section 75.

Concerning application of Article 12 in the context of judicial and administrative proceedings, the particular groups whose rights in this context are more vulnerable to violation include: looked after children, children whose parents are separating/divorcing, children exposed to domestic violence, children with mental health problems and learning disabilities, children with special educational needs, children at risk of suspension and/or expulsion from school, children in conflict with the law and children as victims of crime. In Northern Ireland, the required mechanisms do not exist, are inaccessible and/or are insensitive to their needs. For example, there has been no amendment to the *Children (Northern Ireland) Order 1995* to allow for the separate representation of children in the family proceedings court; Article 36 of the *Family*

¹⁰ Between December 2004 and May 2007, the Children's Law Centre monitored consultation exercises carried out by public bodies in relation to matters which will impact on the lives of children and young people. Direct consultations with children and young people happened in just 6 out of 60 consultation exercises, and child-accessible documentation was made available in only 4 of the 60 exercises.

¹¹ Schedule 9 of the *Northern Ireland Act 1998* details the procedures to follow when there is a perceived breach of a public body's Section 75 duties.

Homes and Domestic Violence (Northern Ireland) Order 1998, which would allow for separate representation of children in domestic violence cases, has never been commenced.

Taking children's views into account in programmes and policies affecting them

There is currently no legislative basis for individual independent advocacy services for children and young people with mental health and/or learning disabilities. Organisations working with disabled children and young people have noted with concern the lack of age-appropriate, accessible arrangements to ensure that their voices are heard and suggest that such arrangements should encompass a range of options including, in particular, peer advocacy.

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 OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT

Use of restraint and solitary confinement

Review the use of restraints and solitary confinement in custody, education, health and welfare institutions to ensure compliance with the Convention (UN Committee, 2002, para 34)

The *Education (Northern Ireland) Order 1998* authorises use of reasonable force by school staff to restrain or control pupils in certain circumstances (eg where the pupil is likely to cause serious harm to themselves, other pupils, school staff or school property). Physical restraint is used in the Juvenile Justice Centre. Research published in 2006 by the Northern Ireland Human Rights Commission found that use of physical restraint and separation had significantly reduced, and staff training/ recording of incidents had improved, since 2002. However, some staff raised concerns about safety for themselves and young people when using restraint and the Commission expressed concerns about the extent to which the current method of restraint may cause emotional distress for children. DHSSPS guidance about use of restraint (eg in hospitals of adult psychiatric wards) is not child-specific. There has been no review of the use of restraint in education, custody, health and welfare institutions.

Corporal punishment

With urgency adopt legislation to remove the “reasonable chastisement” defence and prohibit all corporal punishment in the family and in any other contexts not covered by existing legislation (UN Committee, 2002, para 38a)

In Northern Ireland, Article 2 of the *Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006* was introduced in September 2006. This legislation allows use of the defence of reasonable punishment in respect of a charge of common assault tried summarily. As this clause does not remove the defence of reasonable chastisement in its entirety, it does not meet the recommendations made by the UN Committee. Delivering the Children’s Law Centre Annual Lecture in 2007, the Council of Europe Commissioner for Human Rights was unequivocal in his view that physical punishment constitutes a clear abuse of human rights: “smacking children is not just a lesson in bad behaviour; it is a potent demonstration of contempt for the human rights of smaller, weaker people”.

The Northern Ireland Commissioner for Children and Young People has challenged the introduction of Article 2 of the *Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006* by Judicial Review in the High Court. Three NGOs (Save the Children, Children’s Law Centre and the Parent’s Advice Centre) were third party interveners in this case. Judgement was given on the case on 21 December 2007, and the Applicant was unsuccessful¹². However, the case has now been appealed to the Court of Appeal in Northern Ireland, and an appeal date is awaited.

There is a continuing gap in the provision of regulations prohibiting physical punishment in childminding settings. While the DHSSPS held a consultation in 2004-05 on minimum care standards for services for children under 12, the findings of this consultation have yet to be published. In the absence of clear policy and guidelines, child care workers may find it difficult to support parents in seeking alternative non-violent methods of discipline.

Promotion of positive, non-violent forms of discipline

Promote positive, participatory and non-violent forms of discipline and respect for children’s equal right to human dignity and physical integrity involving children,

¹² Judgment 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

parents and all those who work with and for them; carry out public education programmes on the negative consequences of corporal punishment (UN Committee, 2002, para 38b)

An Inter-Disciplinary Group on Positive Parenting has been established and, with representatives from the Office of Law Reform, DHSSPS and NGOs, produced two guides to positive parenting for parents (one concerning children and the other about parenting teenagers). In association with the four Health and Social Services Area Child Protection Committees, DHSSPS has issued a *Safe Parenting Handbook*. DHSSPS plans to issue guidance to professionals on the change of law and the importance of promoting positive parenting. However, evaluation of a practitioners course on alternatives to physical punishment in 2006 highlighted resistance to non-violent forms of discipline. This indicates that on-going training and awareness raising amongst professionals is necessary if positive parenting is to be effectively promoted and practiced.

Retention of DNA

Information obtained through a 'freedom of information request' by the Pat Finucane Centre (a human rights NGO), revealed evidence of the widespread retention of DNA by the PSNI in cases where no conviction or cautioning has followed. In total, DNA is held on at least 3,065 under-18s, of whom 1,119 have no convictions or cautions¹³. NICCY has expressed concern about this issue, calling on both the PSNI and Policing Board to reconsider the retention of DNA of under-18s and pointing out that it potentially breaches UNCRC Articles 16 and 40.

Use of adult services for children and young people

Under current legislation, policy and practice children/ young people are sometimes detained in adult services rather than child-specific provision. Within the criminal justice system both young men and women under 18 are detained in prison service institutions with adults. Because there is a limited number of in-patient psychiatric beds for adolescents (approximately 12), children are often placed in adult psychiatric wards and inspection teams have noted the unsuitability of such settings.

Use of taser guns

See 'General Principles: Right to Life, Survival and Development' for information about use of taser guns.

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***

¹³ The PSNI has indicated that this figure may be higher: "there are a further 620 DNA records on a separate system which would have to be manually checked against the records held on the main system to ensure there is no duplication" (Statewatch, 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
- 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

Support to parents in the performance of their child-rearing responsibilities

Assistance to parents includes provision of maternity rights, paternity leave, appropriate family support services and protection of those considered 'at risk of significant harm'. In Northern Ireland, Children's Services Planning Committees aim to meet these objectives through a combination of universal services with services targeted at 'children in need' or 'children at risk'. However, responsibility for development and implementation of policies affecting children and families lies with a number of government departments. It is vital that these departments effectively collaborate to ensure successful integration of the numerous strategies affecting children and families, a 'joined-up' approach, and appropriate allocation of resources. In particular, implementation of the family and parenting strategy *Families Matter: Supporting Families in Northern Ireland* will need to be regularly reviewed to ensure that: parents are aware of available services and encouraged to access them; services adequately meet the needs of children, parents and families; assessment and provision are based on the best interests of the child; adequate protection is provided for those considered 'at risk of significant harm' through shared responsibility for safeguarding across all government departments.

Access to quality, affordable and age appropriate childcare services

Research commissioned by the Equality Commission for Northern Ireland about the demand for, and supply of, childcare found evidence that affordability and availability were problems for working parents. A review of *Children First, the Northern Ireland Childcare Strategy* found that, over the five years of the strategy, the number of

childcare places increased by only 5.7% - mainly due to an increase in the number of day nursery places, the majority of which were private. In 2003, a review of childcare for children up to age 14 found that there was a much lower level of full-time nursery provision and child minding services in Northern Ireland than in England. In the absence of affordable and flexible childcare, there continues to be a heavy reliance on informal sources of childcare such as family or friends. However, such solutions are unlikely to be workable in the long term given the geographical dispersion of families, the increase in the number of women in the labour market and the policy objective of raising the number of over-50s in paid work.

Despite the existence of working family tax credits, many families living in poverty cannot afford childcare for their children ¹⁴. In 2002-2003, almost one in four children (23%) in severe poverty did not have access to an after schools' club, compared to one in ten (10%) of all children. There is a specific gap in child care provision for children over 8 and single parents have raised the issue of a lack of age appropriate childcare for older children. Access to childcare is also an issue for the increasing numbers of migrant workers in Northern Ireland. NGOs working with migrant families have observed that existing childcare provision fails to meet their needs for a variety of reasons, including: lack of flexibility to accommodate patterns of shift work, language skills deficits, cost of childcare for those working in the low wage economy combined with (non EU) ineligibility for the childcare element of the Working Tax Credit. Parents of disabled children and young people have highlighted the difficulties they experience in accessing summer scheme provision for their children, raising obvious issues in relation to compliance with Article 2 of the UNCRC.

There is a prevailing view among the childcare sector that government is not discharging its responsibilities in respect of the provision of childcare, which is becoming increasingly privatised when what is needed is a mixed economy of provision – all of which should be focused on meeting the best interest of the child and ensuring provision is non-discriminatory. In addition to issues relating to equality of access, quality, and the cost of childcare offered, delays in registration of childcare facilities and under-valuing of the childcare role result in an undermining of childcare provision.

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**

¹⁴ Working family tax credits provide up to 70% of childcare costs for families living on low incomes. However, many families – particularly lone parents – find it difficult to make up the remainder of the costs.

ALTERNATIVE CARE

Ensure consistent legislative safeguards for all children in alternative care, including those who are privately fostered (UN Committee, 2002, para 40c)

Children in alternative care

Research has consistently shown that children and young people in care experience disadvantage and discrimination. Key concerns include:

- lack of placement stability
- identification of, and addressing, special educational needs
- poor educational attainment
- lower rates of involvement in education, training and employment, and higher rates of unemployment, than their peers
- over-representation amongst children expelled and excluded from school
- higher rates of teenage pregnancy than their peers
- over-representation in the youth justice system
- mental health problems, with mental health and well-being affected by instability in their lives; lack of contact with their birth family; placement moves; change of schools and friendship networks

(See Appendix 1: Family Environment and Alternative Care)

Issues raised by Social Services Inspectorate (2002) in relation to adoption services included: planning, review, maintaining information, working with birth families, court and planning delays. It is hoped that the current fundamental review of adoption legislation and policy will address these problems, and in particular that Articles 3 and 12 of the UNCRC will be enshrined in any new legislative framework.

While there has been a rise in the proportion of looked after children placed in foster care, this has not been matched by a rise in foster carers, leading to concerns regarding placement choice as children are inappropriately placed in residential care despite assessment of need. Social workers have highlighted insufficient placement availability, particularly: long-term placements, emergency placements and placements for adolescents. One reason for the inadequate number of foster carers would appear to be lack of remuneration for carers. It is too early to assess the impact of recent developments, such as the introduction of national minimum foster care allowances from October 2006 and the establishment of a 24/7 helpline for foster carers.

Negative media coverage and public reaction to the location of residential facilities within local communities has resulted in facilities continuing to be inappropriately located on hospital sites or Trust campus sites.

Care planning arrangements are generally bureaucratic, adult-led and problem-focused rather than a child-centered process, which emphasises each child's strengths and potential and provides advocacy support for looked after children. NGOs working with children in alternative care express concern that the emphasis in training tends to be on skills, expertise and regulatory policies and procedures rather than values and attitudes towards children, promotion of and compliance with children's rights, service user involvement and participation. While attention is correctly paid to issues of risk management, safeguarding and compliance with regulations (eg health and safety), this is often at the expense of children's and young people's need for preparation to live a more 'normal' life in society. In addition, children and young people in care require

improved health and educational assessments, and access to specialist services (particularly dedicated therapeutic and CAMHS services for those at risk of coming into care, those in care, care leavers, and those who have been adopted or who are the subject of special guardianships) – as recommended in the new strategy for looked after children: *Care Matters in Northern Ireland. A Bridge to a Better Future*.

It is hoped that recent legislative and policy developments, including enactment of the *Children (Leaving Care) Act (Northern Ireland) 2002* and *Care Matters*, will lead to improved provision and more positive outcomes for looked after children and care leavers.

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

Take all appropriate measures to reduce inequalities in health and access to health services; promote breastfeeding; enforce the prohibition of female genital mutilations (UN Committee, 2002, para 42)

Inequalities in health and access to health services

Recent research about Travellers' perceptions of health and health services by the Royal Hospitals in Belfast found that almost a quarter of those involved believed they suffered poor/ very poor health - 16% of men, 32% of women. They attributed this to: lack of appropriate accommodation and basic amenities, poor health behaviours (eg poor dietary habits, smoking, alcohol and drug misuse, lack of regular exercise, 'self-neglect' with health and health-checks being a low priority), discrimination and racism. Although improved access to health services has created some positive change for Travellers, depression is a major concern – often not talked about within their

community, this was closely linked to racism and discrimination, accommodation needs, stress and grief, and lack of employment opportunities.

NGOs working with minority ethnic communities have highlighted the difficulties faced by these groups in registering with GPs and dentists, leading to additional pressures on emergency dental clinics and Accident and Emergency departments in hospitals. Stereotyping and limited knowledge about cultural diversity affect the responses of health professionals to children and families of minority ethnic groups (eg concerning childbirth, weaning, parenting, child protection, mental health, sexual health).

Children living in poverty face a greater risk of death from illness, accident and suicide, and are more susceptible to physical and mental disease (See Appendix 1: Health).

Breastfeeding

The national infant feeding survey has shown increases in the initiation of breastfeeding in all four UK jurisdictions and breastfeeding rates on discharge from hospital in Northern Ireland increased from 54% in 2000 to 63% in 2005. However, although over half of new mothers start to breastfeed in Northern Ireland, by six weeks this is down to 25% and by six months to 10%. One of the main reasons is 'lack of social acceptability' - research has shown that a third of the public thought breastfeeding was embarrassing, and half thought it should always be done in private. Despite the introduction of a Breastfeeding Strategy for Northern Ireland in 1999, with accompanying public education campaigns, there is clearly a need to promote positive attitudes to breastfeeding among the public.

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

Mental health services

Take all necessary measures to strengthen mental health services, ensuring that they are accessible and sensitive to adolescents (UN Committee, 2002, para 44c)

The existing legislative framework for mental health, *The Mental Health (Northern Ireland) Order 1986*, makes no provision for the rights and best interests of children (eg by failing to incorporate the best interest principle, not providing a statutory right to independent advocacy, or the right to education for detained children). It also fails to

require age-appropriate in-patient facilities to be provided for children, who are consequently often placed in adult facilities. Because there are insufficient in-patient psychiatric facilities in Northern Ireland, some young people are sent to facilities in England (eg those with complex mental health problems or eating disorders). This obviously affects their access to family life, education and work opportunities, social and leisure activities with friends.

The incidence of mental health problems is disproportionately high among vulnerable groups, including children and young people with disabilities, living in poverty, in conflict with the law, in or leaving care, who identify as LGBT. Paradoxically, and despite being identified as having particular mental health needs, such groups of children and young people often experience greater difficulties in accessing mental health services.

The 2006 *Independent Review of Mental Health and Learning Disability* (Bamford Review) included a review of Child and Adolescent Mental Health Services (CAMHS); describing the current situation as “wholly inadequate... characterised by overwhelming need and chronic underinvestment”. The review made a range of recommendations, all of which are welcomed and should be progressed without delay. A key factor influencing implementation will be children’s rights compliant legislation and the ring-fencing of adequate additional funding.

While government plans to provide access to counselling within post-primary schools are welcome, there needs to be recognition that provision at a much younger age is also required. Training is needed for early years staff to detect mental health difficulties and to refer children to appropriate services. Early intervention around mental health should be integrated into other strategies and implemented through the *Children’s Strategy*.

The Bamford Review recommending that specialist CAMHS should develop closer working relationships with youth justice teams. However, it did not address the issue of mental health services for detained children. Many young people in the Juvenile Justice Centre or prison have experienced personal and/or family difficulties and suffer from mental health problems. Recent research found that, while access to psychology services for young people requiring it had improved since 2002, staff working with young people in custody continued to feel that there was a need for more staff with specific skills and expertise in dealing with mental health problems, in particular with trauma and grief, and recommended that children with serious mental health problems should be cared for in the community or hospital services rather than in custody.

As noted, marginalised and disadvantaged groups of young people (eg those who are LGBT, disabled, or poor) highlight their experiences of bullying and discrimination, which affect emotional well-being. Although numbers are relatively low, NGOs have also highlighted the issue of meeting the needs of asylum seeking children who are likely to have experienced trauma and require counselling or specialist mental health provision.

The impacts of the conflict in Northern Ireland obviously add an additional dimension to children’s mental health and well-being. Research has demonstrated higher rates of mental illness in areas most affected by the conflict. Many of these communities are also economically disadvantaged. The experiences of children and families living in these areas include: bereavement, injury, punishment beatings and paramilitary threats, forced exiling, high levels of inter-personal and inter-community violence and the impact of imprisonment. Organisations working with victims and survivors of the conflict, as well as

those working with children and families, have identified the impacts of intergenerational trauma and unmet mental health needs amongst both children and the adults who care for them.

Suicide

Undertake studies on the causes and backgrounds of suicides (UN Committee, 2002, para 44c)

The Suicide Prevention Strategy objectives include provision of support for research and evaluation of suicide and self-harm issues. It is hoped that initiation of in-depth research into the underlying causes of suicide and self harm in Northern Ireland, identified in the accompanying Action Plan, will lead to longer term strategies aimed at tackling these causes and implementation of effective practice - both amongst the general population and those most at risk (including targeted groups such as: those with mental illnesses, those misusing drugs and alcohol, young males, survivors of abuse, marginalised and disadvantaged groups, prisoners).

Teenage pregnancies

Take further necessary measures to reduce the rate of teenage pregnancies through making health education, including sex education, part of the school curricula, making contraception available to all children, and improving access to confidential and adolescent-sensitive advice and information and other appropriate support (UN Committee, 2002, para 44a)

The Education (Curriculum Minimum Content) Order (Northern Ireland) 2007 requires schools to “prepare pupils for the opportunities, responsibilities and experiences of adult life by equipping them with appropriate knowledge, understanding and skills.” However, provision of formal relationships and sexuality education in Northern Ireland is limited and generally aimed at those in post-primary education. It occurs within a context emphasising morality rather than informed choices, reinforcing the predominance of heterosexuality and reproduction.

Availability of contraception, and access to confidential advice/ information/ support for young people are key health rights. Young people themselves believe that they should be able to access these services without their parents’ knowledge or permission. However, in Northern Ireland younger teenagers find it less easy to access contraception than those over 17 or in their early 20s. Of those young people who do obtain contraception, most are likely to obtain it over the counter in chemists, shops or pubs (rather than from GPs or sexual health clinics). Access to information and support from schools and parents is limited, especially for LGBT young people.

Lesbian, gay, bisexual and transgendered (LGBT) young people

Provide adequate information and support to homosexual and transsexual young people (UN Committee, 2002, para 44d)

LGBT young people report their involvement in negative and risk taking behaviours such as alcohol misuse, practicing unsafe sex, self harm and attempted suicide. Research consistently highlights lack of positive information and support for those who identify as LGBT, particularly within education and youth organisations. Their main sources of information are the internet, books and magazines, lesbian or gay groups/ helplines/ venues.

The *Children's Strategy* provides the central mechanism through which other health and welfare related strategies need to be co-ordinated and implemented. Amendment of the *Children's Strategy* into the action plan for implementation of the UNCRC would reinforce rights compliance within existing strategies affecting children and young people.

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)**
- **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**
- **ensure adequate provision of information and support to LGBT young people within health, education and youth agencies**
- **ensure integration, co-ordination and full implementation of existing strategies through the *Children's Strategy***

STANDARD OF LIVING

Child poverty

Take all necessary measures to the 'maximum extent of... available resources' to accelerate the elimination of child poverty (UN Committee, 2002, para 46a)

In a poll about child poverty conducted in 2007, 70% of people across the UK felt that ending child poverty should be a high priority for government. In Northern Ireland, 92% felt this should be the case. Poverty is an issue disproportionately affecting children in Northern Ireland. Between 2001-2004, short-term poverty (ie poverty for 1-2 years of a 4 year period) affected 27% of children in Northern Ireland compared with 22% in Great Britain, and persistent poverty (ie poverty in at least 3-4 years of a 4 year period) affected 21% of children in Northern Ireland (compared with 9% in Great Britain).

Benefit levels are currently too low to enable a family to rise above poverty – a couple with four children, dependent entirely on benefits and claiming all of the benefits to which

they are entitled, survive on a weekly income of £289 - £128 below the government's own poverty threshold. Income levels in Northern Ireland are lower among both lone parent families and couples with children than levels in Great Britain. Income deprivation is compounded as poor households pay more for essential goods and services (eg food, fuel, transport, childcare, insurance and banking). This affects poor families in Northern Ireland more as the costs of living are higher.

Severely poor children are more likely than their peers to be living in accommodation that has mould, damp walls and floors, rot in window frames or floors, or is in a bad state of repair. Such living conditions impact on children's health and education, but also affect their social activity as they may be reluctant to invite friends home. The standard and quality of public housing in which poor children live was heavily criticised by NICCY in 2007.

An effective and coordinated poverty eradication strategy across the State party has not been developed. Although an *Anti-Poverty and Social Exclusion Strategy* has been drafted in Northern Ireland, this has not yet been approved by the Executive. Current concerns about the draft Strategy focus on the vagueness of its objectives. The Strategy requires targets which focus on the impacts of poverty on children's education, health, employment opportunities, etc. These need to be regularly monitored and reviewed to assess whether and how they are improving outcomes for children and young people.

Youth homelessness

Better co-ordinate and reinforce efforts to address the causes of youth homelessness and its consequences (UN Committee, 2002, para 46b)

Decent housing is a key to countering poverty and a catalyst for improved health, educational opportunities, access to services and quality of life. Yet housing stress and homelessness are at record levels in Northern Ireland. During 2006-07, 21,013 households presented as homeless, including: 7,100 families; 263 single young women aged 16-18 and 202 single young men aged 16-18. This housing crisis has been caused by a shortage of new social housing and an unprecedented rise in housing costs, which is pushing the cost of renting in the private sector far beyond the level of housing benefit. In July 2007 the DSD launched a strategy on homelessness – *Including the Homeless*. It is also developing legislative proposals to give priority need status to 16-17 year olds who are homeless and do not fall within the remit of social services. However, this issue needs to be addressed as a matter of urgency.

Benefits and allowances for 16-18 year olds

Review legislation and policies concerning benefits and social security allowances for 16 to 18-year-olds (UN Committee, 2002, para 46c)

16-17 year olds continue to experience age-based discrimination in relation to payment of benefits and allowances. They have no automatic rights to social security and receive lower levels of support than over-25s, despite the fact that they might be living independently. Under 16s are not entitled to the minimum wage, and 16-18 year olds receive a lower minimum wage rate than those over 18. Many young people in employment are likely to be living in households experiencing severe poverty, in a situation where they must work. Thus, the discriminatory nature of the minimum wage contributes directly to child poverty.

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

Academic selection and criteria for admission to post-primary education

In 2007-08, a total of 147,942 children attended post-primary schools in Northern Ireland. Of these, 62,279 (42%) attended grammar schools which select pupils primarily on the basis of their performance in academic selection tests. The remaining 85,663 (58%) attended non-selective secondary schools.

The current system of academic selection for post-primary education is discriminatory in a way that impacts on some of the most vulnerable and disadvantaged children in Northern Ireland. The most commonly voiced concern among parents, education practitioners and NGOs is that children may be discriminated against on the basis of their socio-economic background in circumstances where their parents do not have the academic ability, or financial resources to pay for private tuition, to assist them in preparing for the transfer tests. Achievement in the transfer test has been shown to be related to poverty, a proxy measure for which is receipt of free school meals – as the proportion of pupils entitled to free school meals increases, the proportion of pupils achieving grade A in the transfer test decreases. Children with a disability and/or special educational needs are not afforded appropriate concessions (such as additional time) to enable them to complete the tests or to fully demonstrate their academic potential within the selection process. Children from minority ethnic groups may also be discriminated against on the basis of their language, national or social origin.

Research evidence reflects concern that emphasis on preparation for 11 plus tests may have an adverse impact on the primary curriculum – children entered for the tests

received a restricted version of the common curriculum and those not participating in the tests did not have their wider educational needs met. This research also highlighted significant differences in educational attainment at GCSE level between children attending grammar and non-grammar schools, with those who attended grammar schools gaining on average an additional 16 points at GCSE stage.

Seven years ago, the Burns Report (Post-Primary Review Body) recommended the ending of academic selection at age 11. The government established a Post-Primary Review Working Group which recommended in 2004: the abolition of selection based on ability, the introduction of pupil profiles to help parents decide which post-primary school their child should attend, an 'Entitlement Framework' which would guarantee pupils access to a wider range of academic and vocational courses. These recommendations, accepted by the then Minister for Education, were not immediately implemented as devolution was suspended in October 2002. The 'Entitlement Framework' was introduced from September 2007, providing a more vocationally oriented curriculum for young people aged 14+ with increased flexibility in provision. Since the restoration of devolution in May 2007, the Minister for Education has been reviewing plans for the education system. In December she announced her intention to "improve our system and to end the two tier culture which brands so many of our young people as failures at the age of 11". It is intended that 2008 will be the last year of the 11+ transfer test.

While the abolition of academic selection is welcome, it will be vital to ensure that all children are included in proposed admissions arrangements for post-primary schools. This will require the Department for Education to establish admissions criteria which provide equality of access to suitable educational provision for every child (including those with disabilities or special educational needs, from minority ethnic backgrounds, and from poor families).

Article 12 in education

Ensure that legislation reflects article 12 and respects children's rights to express their views and have them given due weight in all matters concerning their education, including school discipline (UN Committee, 2002, para 48a)

Involvement of children in school policy making is limited. Few pupils report that they are asked their opinion on how things are done in school, or that they have helped to change something in their school. There is no formal policy on establishment of school councils in Northern Ireland. Despite examples of excellent practice, in some schools where school councils exist not all children are aware of their existence, some feel that they do not have opportunities to raise issues of concern to them or that their views are not taken into account in decision-making, some perceive them to be inactive, ineffective and teacher-led. Key barriers to involvement of children in school policy-making are: no culture of pupil participation; negative perceptions amongst staff about the ability of children to inform policy making; lack of training in different ways to involve children and young people; time constraints and organisational demands.

Suspensions and exclusions

Take appropriate measures to reduce temporary or permanent exclusion, ensure that children have the right to be heard before exclusion and to appeal against temporary and permanent exclusion, and ensure that children who are excluded continue to have access to full-time education (UN Committee, 2002, para 48b)

For the academic year 2005-06, a total of 54 pupils were expelled from school and two of these were primary school children. Substance abuse was the most common reason given, accounting for 15 expulsions. 5,577 children were suspended from school during 2005-06 (almost 500 more individual suspensions than in the previous academic year), including 47 children aged 4-7 and 214 aged 7-11. The most common reasons for suspension were: verbal abuse of staff, persistent rule breaking and physical attacks on pupils (See Appendix 1: Education).

Article 30 of the *Education (Northern Ireland) Order 2006* provides for the introduction of a new, uniform expulsion and suspension scheme. Currently, parents can lodge an appeal against exclusion to the School Board of Governors. Article 31 of the Order provides for the establishment of a new expulsion appeal tribunal and representations can be made to the tribunal by, or on behalf of, the pupil. At the moment, the only route of appeal against suspension is through a Judicial Review. Article 32 of the Order provides for the introduction of a mechanism of appeal against suspension. However, there is no indication as to when these proposed changes will take effect.

For those not attending mainstream education, current provision includes Community-based Alternative Education Provision (mainly for young people out of school by their own volition or as the result of the formal exclusion process) and Training Organisation/School Partnerships (mainly for young people at risk of exclusion or unlikely to achieve 5 grades at GCSE). However, research published in 2007 found that, although alternative education provision was relatively successful in re-engaging disaffected young people, the projects involved were poorly resourced – funding was ad hoc, short-term and unstable; information sharing about the young person and the circumstances surrounding their referral was minimal; teaching staff did not have automatic access to professional development courses; the projects did not have access to standard educational psychology or welfare services; access to physical resources such as ICT equipment, Art/ Science/ PE areas, work-related learning was limited or non-existent; post-16 support for those leaving the projects was not readily available or accessible. Many of the young people attending alternative education provision did not understand why they had been placed in the project, perceiving it to be a ‘sin bin’ or provision for ‘the stupid’.

Inequalities in educational achievement

Take all necessary measures to eliminate the inequalities in educational achievement and in exclusion rates between children from different groups and to guarantee all children an appropriate quality education (UN Committee, 2002, para 48c)

The education system in Northern Ireland delivers high quality academic excellence to some young people. However, it continues to fail a large proportion as the Minister for Education recently stated: “every single year there are 4,000 young people leaving school after 12 years of compulsory education who do not have the appropriate basic literacy and numeracy skills.”

Poverty impacts negatively on educational outcomes and children’s educational experiences. Young children living in areas of high deprivation score less well on verbal skills, early number concepts and general cognitive skills, and show less progress in sociability and cooperation, than their peers from higher socio-economic backgrounds. This continues throughout their educational careers - children attending schools with

higher levels of deprivation achieve lower test scores and examination results than the general school population in both primary and post-primary education (See Appendix 1: Education). The 'hidden' costs of education (eg uniforms, books and equipment, school trips, extra-curricular activities) can be significant and obviously disproportionately affect families living in poverty. In addition, bullying may be linked to poverty with children and young people feeling aware that they 'stand out' amongst their peers and being stigmatized because they live in poor families.

Educational attainment amongst Traveller young people is significantly lower than that of their peers (See Appendix 1: Education). The *Racial Equality Strategy* identified "serious underachievement of Traveller children" as one of its four education priority areas, although how this will be addressed is unclear since the associated implementation plan merely contained the action of continuing to progress the recommendations made by the PSI Working Group on Travellers in 2000. Evidence from Traveller support groups and education welfare officers indicates that significant numbers of Traveller children of school age do not attend school.

It is difficult to access reliable figures for the number of children in the education system from minority ethnic communities, and these are often localised. According to the school census in October 2007, 2% of pupils were of mixed or minority ethnic groups and 5,665 children had English as an additional language. Within the education and childcare sectors, there are few professionals with proficiency in languages other than English which obviously limits effective participation in decision-making and provision based on their needs for children who speak English as an additional language or without English. Access to the pre-school and formal education systems in Northern Ireland are dependent on application for places and registration. Families arriving after the beginning of the year in which they need to register their child, or who are unaware of this process, are likely to be disadvantaged in choice of school. Positive recognition of, and response to, cultural and religious diversity are undermined by: the segregated system in Northern Ireland (in which schools are predominantly either Catholic or Protestant); focus in Religious Education on Christianity; school policies (such as anti-bullying policies) which do not address racism; limited opportunities for children to study minority ethnic languages.

With the enactment of the *Special Educational Needs and Disability (Northern Ireland) Order 2005* (SENDO), and its emphasis on mainstream education, there has been a marked increase in the numbers of children with disabilities in mainstream education. In October 2006, 8,336 pupils with statements of special education needs (67% of the total number of statemented children in the school system) were being educated in mainstream schools. This compares with 63% immediately prior to the enactment of SENDO in 2005, and 56% in 2000. However, educationalists and advocacy workers have expressed concerns at the lack of resourcing, planning, preparation and support linked to the introduction of SENDO, resulting in pupils with disabilities being placed in mainstream education settings that are ill-prepared to meet their needs. Lack of training for teachers and classroom assistants, as well as lack of appropriate resource materials to support pupils with disabilities, have also been highlighted.

The Department of Education does not fund any advocacy and representation services for children with Special Education Needs. The Children's Law Centre provides a limited free legal advice and representation service in relation to special education needs, and has experienced an increase in the number of parents requesting legal representation in

appeals to the Special Educational Needs and Disability Tribunal (SENDIST) established under the SENDO legislation. There is currently a lack of legal aid for representation at SENDIST, or for the cost of obtaining independent expert evidence to support an appeal. The regional inter-board Dispute Avoidance and Resolution Service (DARS) is currently under-used by the public. There are concerns that the primary reason is public perception that this service is not fully independent from the Education Boards. The Conciliation Service, required to be set up by the Equality Commission for Northern Ireland under the provisions of the SENDO to deal with disputes involving claims of disability discrimination in education, is not yet operational.

Education of children in detention and care

Ensure that children in detention have equal statutory right to education; improve education for children in care (UN Committee, 2002, para 48d)

Children detained in custody have no legal entitlement to be educated within the Northern Ireland curriculum because the Northern Ireland Office (rather than the Department of Education) has responsibility for their education. In addition to marginalising them from mainstream education, this also deprives their teachers of vital training and support according to a 2006 Northern Ireland Human Rights Commission report.

A significant number of young people in care experience disruption in their education. They are also more likely to experience school suspensions and/or expulsions, and poorer educational attainment levels, in comparison to the school population generally. (See Appendix 1: Family Environment and Alternative Care).

Prevention of bullying and other forms of violence in schools

Take measures and set up adequate mechanisms to prevent bullying and other forms of violence in schools, and include children in the development and implementation of these strategies (UN Committee, 2002, para 48e)

98% of young people surveyed in 2002 about what they wanted in a Bill of Rights for Northern Ireland identified protection against bullying as their top right. Since 2003, schools in Northern Ireland have been required to develop anti-bullying policies and to consult pupils and parents in this process under Article 19 of the *Education and Libraries (Northern Ireland) Order 2003*. However, research has demonstrated that some policies are specific anti-bullying policies and some are part of a set of pastoral care policies. Few directly refer to consulting pupils during their development.

Despite the establishment of an Anti-Bullying Forum, bullying remains a major concern - over half the groups consulted in Northern Ireland in preparation for the UK Government report raised bullying as an issue currently affecting children and young people. Identifying figures similar to those in a 2002 survey, research published in 2007 found that amongst Y6 pupils (aged 10-11), 43% had been bullied during the previous two months; amongst Y9 pupils (aged 13-14), 29% had been bullied during the previous two months. This suggests that there are still challenges facing schools in relation to developing an anti-bullying culture, preventing bullying and protecting children who have been affected.

Research about development of anti-bullying policies in schools in Northern Ireland found that bullying incidences were generally treated the same, regardless of their

nature – none of the policies of mainstream schools singled out bullying linked to homophobia, xenophobia or gender, despite the fact that prejudice-driven bullying affects a number of children and young people. Those with disabilities and learning difficulties relate their experiences of being bullied. Disablist bullying affects children's capacity to enjoy life, their opportunities to achieve at school, and limits their life chances. According to LGBT young people, homophobic bullying is not specifically addressed in anti-bullying policies. Many LGBT young people do not feel that talking to a teacher about bullying is an option – either because they may be 'outed' to their parents or because school staff are perceived to collude with the bullying. Children from minority ethnic communities report experiences of bullying and harassment, and lack of understanding about their cultural backgrounds. Travellers also experience bullying and harassment when attending a predominantly 'settled' school, leading to feelings of alienation and discouraging them from continuing education.

Human rights education in school curricula and teacher training

Taking into consideration the Committee's General Comment No. 1 on the aims of education, include the Convention and human rights education in the curricula in all primary and secondary schools and teacher training (UN Committee, 2002, para 48f)

In the 2002 survey of what they wanted in a Bill of Rights for Northern Ireland, education rights were the second most often raised set of rights by young people, and equality and human rights were amongst the subjects they felt should be on the school curriculum. Lack of human rights/children's rights education in the school curricula, or within teacher training, has been criticised by education practitioners who have voiced concern that: "the culture in schools is fearing telling young people about their rights".

Recent revisions to the school curriculum contained in *The Education (Curriculum Minimum Content) Order (Northern Ireland) 2007* include reference to: "human rights and responsibility" at Key Stage 2 (7-11); an element entitled 'Human Rights and Social Responsibility' at Key Stage 3 (11-14); and enabling pupils to "identify and exercise their rights and social responsibilities in relation to local, national and global issues; develop their understanding of the role of society and government in safeguarding individual and collective rights in order to promote equality and to ensure that everyone is treated fairly" at Key Stage 4 (14-16). However, the UNCRC and education about children's rights are not explicitly included.

Equality and human rights are not explicitly addressed within teacher training, which emphasises a 'standards agenda' (ie teaching, learning and assessment practices to improve pupil examination performance).

Provision of Integrated education

Increase the budget for and take appropriate measures to facilitate the establishment of additional integrated schools in Northern Ireland to meet the demand of a significant number of parents (UN Committee, 2002, para 48g)

Education in Northern Ireland is mainly segregated. Attitudinally, there has been a consistently stated preference amongst 60% of parents for sending their children to a mixed religion, or to an integrated, school. During 2007-08, 18,867 children attended integrated schools. However, this is only 6% of the total enrolment in nursery, primary and post-primary schools. According to the OFMDFM *Good Relations Indicators*

Baseline Report produced in 2007, 16% of first preference applications to post-primary integrated schools in 2005-06 did not result in admission. In September 2007, around 700 applicants for places at integrated schools had to be turned away due to lack of places. These figures imply that there are still a significant number of young people in segregated education whose parents would prefer them to be in an integrated school. This situation is exacerbated by the small number of integrated schools (41 primary and 21 post-primary), providing limited choice in many areas.

Irish-medium education

The *Education (Northern Ireland) Order 1998* stated that: "It shall be the duty of the Department (of Education) to encourage and facilitate the development of Irish-medium education." During 2007-08, 2,638 children attended 32 primary and 4 post-primary Irish-medium schools. There are currently 21 stand-alone Irish-medium schools, 12 Irish-medium units attached to English-medium host schools, and 2 independent schools teaching through the medium of Irish. Need for additional post-primary Irish-medium schools is reaching a critical point. A review of Irish-medium education is taking place with the aim of developing a comprehensive Irish-medium education policy. The Minister for Education has noted the need to ensure that this sector is treated fairly through development of policies that recognise growing demand for Irish-medium 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 fulfill 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 that experienced by LGBT young people) and that staff are adequately trained in identifying, responding to and monitoring incidents; with 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

Play and leisure for all under-18s

Increased emphasis on minimising risk and child protection have led to fewer opportunities for children to play outside, engage in outdoor activities, and participate in their communities. While the current development of a play policy for children aged eleven years and under is to be welcomed, this is not in itself an adequate response to what the leading play agency in Northern Ireland has described as: "one of the most comprehensive crosscutting social policy issues affecting families and communities".

Key issues relating to play and leisure for children and young people include:

- insufficient priority given to play and leisure by government
- lack of consultation/ consideration of children's views about play spaces in planning of housing developments
- under-investment in play and leisure facilities
- poor quality and unsafe play and leisure spaces
- lack of access to age-appropriate activities for all children and young people

- play spaces being restricted as a result of increased traffic, use of Anti Social Behaviour Orders, security concerns
- impact of discrimination on particular groups accessing and participating in play and leisure, including children and young people: with disabilities, from minority ethnic communities, living in poverty, living in rural areas
- inadequate remuneration and training for staff in the play sector
- schools not playing a big enough role in relation to play.

While a play policy is an important statement of commitment, an action plan and adequate resourcing are required to address these issues.

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

Use of detention for unaccompanied minors and asylum seeking children
Refrain, as a matter of policy, from detaining unaccompanied minors and ensure the right to speedily challenge the legality of detention; always use detention as a measure of last resort and for the shortest appropriate period of time (UN Committee, 2002, para 50a)

The ongoing reservation to UNCRC Article 22 has the effect of breaching a wide range of Convention rights for asylum seeking children. As previously highlighted, serious concerns exist about the treatment of children and young people (whether they are unaccompanied minors or with family), who may be detained in police custody on arrival in Northern Ireland and then transported to Dungavel. More information is urgently required from the immigration authorities in order to ascertain exactly what is happening vis a vis under-18s and whether their right to life is being potentially comprised by these detention and removal procedures.

Access to services for, and fulfilling the rights of, refugee and asylum seeking children

Ensure that refugee and asylum-seeking children have access to basic services such as education and health, and that there is no discrimination in benefit entitlements for asylum-seeking families that could affect children (UN Committee,

2002, para 50b); Consider the appointment of guardians for unaccompanied asylum-seeking and refugee children (UN Committee, 2002, para 50c); Take all necessary measures to prevent children who have settled in a particular area being forced to leave when they reach the age of 18 years (UN Committee, 2002, para 50d); Undertake efforts to expedite the procedure for dealing with asylum applications and to avoid placing children in temporary accommodation which are inappropriate, accommodate them rather as “children in need” under the child care legislation (UN Committee, 2002, para 50e); Carry out a review of the availability and effectiveness of legal representation and other forms of independent advocacy for unaccompanied minors and other children in the immigration and asylum systems (UN Committee, 2002, para 50f); Address thoroughly the particular situation of children in the ongoing reform of the immigration and asylum systems to bring them into line with the principles and provisions of the Convention (UN Committee, 2002, para 50g)

It is difficult to source statistics about child refugees and unaccompanied minors in Northern Ireland, primarily because no single agency compiles this information. The British Home Office, which does collect data, does not break the data down by jurisdiction or by children who enter the country with families or alone. The Borders and Immigration Agency has recently undertaken a consultation on ‘Planning better outcomes and support for unaccompanied and asylum seeking children’. However, the main motivation for proposed changes would appear to be financial concerns and an intention to speed up the deportation process, rather than the welfare of the children involved.

As immigration is an excepted matter constitutionally, refugees and asylum seekers are the responsibility of the Home Office. The legislative remit of NICCY does not include refugee and asylum seeking children. Nor are the needs of asylum seeking children addressed in the inter-departmental 10-year *Children’s Strategy*, despite the fact that (notwithstanding the government’s immigration reservation) asylum seeking children are supposedly entitled to the same level of provision of services as other children (See Appendix 1: Special Protection Measures).

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 MINORITY ETHNIC OR INDIGENOUS GROUPS

Irish Travellers – plan of action

Devise, in a consultative and participatory process with Traveller groups and their children, a comprehensive and constructive plan of action to effectively target the obstacles to the enjoyment of rights by Traveller children (UN Committee, 2002, para 52)

The government commissioned PSI Working Group on Traveller Issues report into Travellers and social inclusion has largely been unimplemented. The Equality Commission for Northern Ireland found that only 4 out of 14 recommendations on education had been acted upon four years after a clear action plan had been developed by OFMDFM in 2002. The *Racial Equality Strategy* integrates Travellers but does not make specific commitments concerning Traveller inequalities other than identifying the role of the Race Equality Forum in monitoring and reviewing progress on the PSI Working Group recommendations (via a Traveller thematic group). *A Shared Future: Policy and Strategic Framework for Good Relations in Northern Ireland* provides an additional context for anti-racist work with Travellers, although it does not explicitly mention them as an ethnic group. Traveller groups report that there has been limited consultation between statutory bodies and the Traveller community to develop a plan to tackle obstacles to Traveller children's rights

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

Reconsider policies regarding the minimum wage for young workers in light of the principle of non-discrimination (UN Committee, 2002, para 56)

Minimum wage for young people

The Employment Equality (Age) Regulations (Northern Ireland) 2006 is the first law against discrimination on grounds of age. Though welcome, it is limited to discrimination in employment and training – it does not prohibit age discrimination in service provision. In addition, of fundamental concern is the exception contained in the Regulations for the

current age discriminatory regime under the *National Minimum Wage Act 1998*. This provides for a lesser pay rate for the same work to those aged 16 and 17, and no protection at all for workers between the ages of 13 and compulsory school age (16) who can be lawfully employed in a number of specified occupations in Northern Ireland.

Regulating the employment of children and young people

Employment of children is a poorly regulated area, with limited knowledge about legislation on the part of children, employers and those charged with enforcement. The number of children registered for employment through employment permits issued by Education and Library Boards significantly underestimates the number of children working, many of whom work illegally (eg before the age of 13, exceeding the number of hours they are permitted to work on school days or at weekends, or working outside the times permitted by legislation). Despite requests from NGOs, the relevant statutory bodies have failed to: accurately determine the numbers of children working, regulate employers and child workers, and amend legislation to reflect the reality of Northern Ireland's society (eg Sunday opening of shops, hotels and public houses).

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

Undertake a study on the scope, causes and background of child prostitution; Review legislation so as not to criminalise children who are sexually exploited; Ensure that adequate resources are allocated to policies and programmes in this area (UN Committee, 2002, para 58a-d)

Sexual exploitation

Research drawing on the knowledge and experiences of services established to meet the needs of sexually exploited young people in the UK has shown that these young people are extremely vulnerable – they have often experienced abuse, neglect, domestic violence, parental difficulties in the past while currently at risk as a result of going missing from home, placement breakdown while in care, disengagement from education, poor health and well-being, use of drugs/alcohol, homelessness, peers' involvement in prostitution, and association with 'risky' adults. Most do not recognise their own exploitation and, by virtue of previous experiences, seek attention, 'love' and a sense of belonging which their abusers supply. They generally have limited, if any, experience of reliable supportive adults, distrust professionals, and are convinced that they are best served by leaving childhood and looking after their own interests. Some young people experiencing sexual exploitation are detained in secure accommodation, for their own protection. However, there is little evidence that this changes their lives and they perceive it to be a punitive response; reinforcing a sense of personal blame for the abuse they experience and reluctance to seek help in the future.

There is no central source of information about the numbers of children and young people involved in sexual exploitation in Northern Ireland. Given denial about the existence of this issue, its hidden nature, and the chaotic lives of those involved, few young people access services directed at supporting them and addressing the issues they face. Despite claims in the UK Government Report that the NIO funds a specialised project in Northern Ireland (operated by a voluntary organisation), this funding has ended and the project has re-focused to become a service for missing young people – leaving a gap in provision for sexually exploited children and young people.

Trafficking

A study carried out in 2006 about internal trafficking of young people in the UK found that young women were moved for relatively short periods of time (predominantly evenings and weekends) from their place of residence to other places in the UK for the purpose of sexual exploitation – including by boat between Northern Ireland and Scotland, and in taxis paid for by older men to places in Belfast that the young women did not know. In the absence of the Government acting on the Committee's previous recommendation to undertake a study, the Northern Ireland Human Rights Commission and Equality Commission for Northern Ireland plan to commission a scoping study about human trafficking during Spring 2008 - to identify the scale of the issue and its impacts on children and women.

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

Establish a system of juvenile justice that fully integrates into its legislation, policies and practice the provisions and principles of the Convention and other relevant international standards in this area

Administration of youth justice

Youth justice legislation, policy and practice in Northern Ireland do not currently comply with relevant international standards. The behaviour and actions of children in Northern

Ireland are increasingly criminalised. Greater emphasis needs to be placed on early intervention, family support and community-based diversion from the criminal justice system using alternatives based on the child's best interests. All under-18s need to be treated as children at every stage of the criminal justice process.

Informed consent

Informed consent is an essential element of participation in proceedings under Article 12 and the child's right to a fair trial. Issues of capacity in relation to informed consent within the criminal justice system are evidenced by research into the detention and questioning of young persons by the police in Northern Ireland, which found that many young people had great difficulty understanding the cautions delivered under the *Criminal Evidence (Northern Ireland) Order 1988*. NGOs are aware of cases where children have admitted guilt and agreed to receive a caution, without being fully aware of the consequences of their actions. Anecdotal evidence also suggests that children are not always aware that their agreement to a Youth Conference Plan involves admission of guilt and a criminal record. These issues are further exacerbated when children have a learning difficulty and/or mental health problems, a disability, or English is not their first language.

Age of criminal responsibility

Considerably raise the minimum age for criminal responsibility (UN Committee, 2002, para 62a)

In Northern Ireland, the age of criminal responsibility continues to be 10 years.

New orders introduced by the Crime and Disorder Act 1998 – ASBOs

Review the new orders introduced by the Crime and Disorder Act 1998 and make them compatible with the principles and provisions of the Convention (UN Committee, 2002, para 62b)

The *Anti-social Behaviour (Northern Ireland) Order 2004* introduced ASBOs to Northern Ireland. ASBOs are civil orders which the Police Service of Northern Ireland, the Northern Ireland Housing Executive and District Councils can apply to be granted by courts to individuals aged 10 and over – for behaviour deemed to be 'anti-social', but not necessarily criminal.

The definition of anti-social behaviour is subjective and, because ASBOs are civil orders, there is a lower burden of proof – hearsay and professional evidence is admissible in ASBO hearings. There is a distinct blurring of the civil and criminal law. If an ASBO is granted and subsequently breached, a child can receive a custodial sentence – despite the fact that their anti-social behaviour is not criminal, they have not had the protections of the criminal justice system and they have been denied the right to a fair trial (Article 6 European Convention on Human Rights, as incorporated by the Human Rights Act 1998).

Use of ASBOs can have serious implications for children and their families. Concerns relating to child protection have been raised since the three named bodies which can apply for an ASBO have the power to challenge an application for imposition of reporting restrictions and make a young person's personal information public. Known as 'naming and shaming', this would be particularly dangerous given the influence of non-state

forces in Northern Ireland and past connotations with 'anti-social behaviour'¹⁵. ASBOs can be used in conjunction with a prison sentence, effectively resulting in a form of 'release under licence' – a condition normally imposed on individuals who have committed serious crimes. NGOs report that some parents of young people threatened with an ASBO have been told their tenancy agreement in the public housing sector may be affected.

ASBOs have been used disproportionately against children and young people in England and Wales. In Northern Ireland, there was a unanimously negative response to the introduction of ASBOs from NGOs in the children's sector. Mobilisation against their use, vigilant monitoring of their implementation, and emphasis on diversionary approaches have led to relatively limited use of ASBOs in Northern Ireland – between 24 August 2004 and 29 May 2007, 20 ASBOs were issued to under-18s. Of these, 19 were issued by the PSNI and one by the Northern Ireland Housing Executive.

Detention of children

Ensure that detention of children is used as a measure of last resort and for the shortest appropriate period of time and that children are separated from adults in detention, and encourage the use of alternative measures to the deprivation of liberty (UN Committee, 2002, para 62e); Review the status of young people of 17 years of age for the purpose of remand with the view of giving special protection to all children under the age of 18 years (UN Committee, 2002, para 62h)

The *Criminal Justice (Northern Ireland) Order 1998* provides for the detention of children aged 10-17. Use of custodial sentences is supposed to be restricted to serious crimes and protection of the public, although grave crimes can result in a specified period of custody in conditions ordered by the Secretary of State. The Court is compelled to provide justification for each custodial sentence.

Between 1999 and 2004, on average 10% of young people under 18 in Northern Ireland convicted of an offence were sentenced to immediate custody. This is greater than the proportion of under-18s receiving a custodial sentence in England and Wales during the same period, which was on average 8%.

Looked after children are over-represented in the criminal justice system, and custody in particular. In a review of 10-13 year olds admitted to custody in the Juvenile Justice Centre between January 2003 and August 2004, over half (17/29) were admitted to custody from a residential childcare facility and these 17 children had 40 admissions to custody between them. Children who are disruptive in care homes (ie 'management problems') are moved, via PACE¹⁶.

¹⁵ During the period when Northern Ireland's ASBO policy was being developed, 13 children were shot and 25 were assaulted by non-state forces for allegedly engaging in anti-social behaviour (PSNI, 2004)

¹⁶ Under the *Police and Criminal Evidence (Northern Ireland) Order 1989* (PACE), when a child is charged with an offence and bail cannot be granted, or no place of safety can be secured, s/he can be held in custody pending a court appearance. PACE admissions are generally for 1-2 days, although they represent a consistently high proportion of admissions to the Juvenile Justice Centre (46% of those admitted under PACE or on remand between 2003-05 were PACE admissions).

NIO figures show that during 2003-2005, the average population of the Juvenile Justice Centre consisted of 1 young person detained under PACE, 16 young people (64%) detained on remand and 8 sentenced young people (35%). In the same period, the average population of under-18s in the Young Offender's Centre included 26 young people (68%) on remand and 12 sentenced young people (32%). There were 436 admissions to custody in the Juvenile Justice Centre between April 2006 and March 2007 – 157 (36%) under PACE, 237 (54%) on remand, and 42 (10%) on committal. The high proportions of remand and PACE admissions indicate that custody is not being used as a measure of last resort by courts. (See 'Reservations: A37c' for information about separation from adults.)

Rights of detained children

Take all necessary measures, as a matter of urgency, to review the conditions of detention and ensure that all children deprived of their liberty have statutory rights to education, health and child protection equal to those of other children (UN Committee, 2002, para 62g)

A recent report by the Northern Ireland Human Rights Commission into the care of children in the Juvenile Justice Centre noted continuing areas of concern, including: need for greater freedom of movement within the grounds and external trips for risk-assessed young people, use of restraint, facilitation of family contact, responses to self-harm and suicide prevention, need for greater multi-agency and family involvement in assessment and planning for release, provision of suitable accommodation and post-release support services.

An unannounced inspection of the Youth Offenders Centre published in 2005 found that systems for managing suicide and self-harm had improved. However, key procedures such as first night and anti-bullying needed to be developed and too many vulnerable young people were routinely placed in strip-clothing and special cells as a first response to fears of self-harm. Concerns raised in this inspection focused on severity of punishments in the 'special supervision' unit, lack of formal records and evidence of support or a structured regime for young people held there. There was too little positive engagement and the inspectors found evidence of informal, or double, punishments. Systems, procedures and management of healthcare were poor; the 10-hour core day was not routinely available; there was no regular exercise in the fresh air; there was insufficient work and training, with a third of juveniles having no access to education at all.

Access to advocacy and complaint procedures for detained children

Ensure that every child deprived of his or her liberty has access to independent advocacy services and to an independent, child-sensitive and accessible complaint procedure (UN Committee, 2002, para 62f)

A review of the handling of complaints in the criminal justice system between November 2005 and October 2006 found that young people in the Juvenile Justice Centre raised a number of issues, including: not remembering having received any literature about the complaints process; differences in response to complaints by staff; lack of confidentiality; delays in the complaints system; limited confidence in the complaints system; fear of negative treatment by staff. Common issues that young people said they would raise if they thought they would be dealt with were: smoking, bedtimes, food, condition of rooms, restriction on visiting, different rules for females and males.

Although Independent Representatives visited the Juvenile Justice Centre to discuss any issues or raise young people's concerns with staff and management, they are not independent advocates. Young people were unclear about their role and whether or not they were JJC staff. They also referred to inconsistency in personnel, and the difficulties this posed in terms of building trusting relationships, as well as perceived lack of confidentiality.

Prior to 2006, complaints were not closely monitored and those emanating from the Juvenile Justice Centre were recorded on the young person's personal files (not in a complaints register), which adversely affected availability of complaints statistics. Recommendations to introduce an independent complaints system were made by both the Northern Ireland Human Rights Commission and the Criminal Justice Inspectorate. In October 2006 the Youth Justice Agency introduced a complaints charter, complaints leaflets and a complaints form, a monthly reporting system for complaints, and external scrutiny through an Independent Complaints Reviewer. Between October 2006 and March 2007, 14 complaints were received by the Youth Justice Agency – 12 of these were from custodial services. Introduction of an independent complaints mechanism would be reinforced by development of independent advocacy services for detained children and young people.

Police Ombudsman

While the establishment of the office of Police Ombudsman has been broadly positive, its success in ensuring that it provides an "effective and independent police complaints system" for children per se has been questioned. Few young people have heard of the Police Ombudsman's office, realise that it is independent of the police, or have confidence in the ability of the office to respond effectively to their complaints. An underlying problem identified by NGOs is 'normalisation' by young people of routine experiences of disrespect, harassment and intimidation by the police - habitual low level complaints fail to be translated into formal complaints to the Police Ombudsman's office. In 2006, most of the young people in the Juvenile Justice Centre responding to a review of the handling of complaints in the criminal justice system 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 they did not do this because they felt they would not be believed.

The Police Ombudsman's office does not record complaints received from, or on behalf of, anyone under 16 years of age. Given the significant issues expressed by children and young people in relation to policing, it would seem imperative that the Police Ombudsman's office provides a breakdown of age of complainants to ascertain the extent of complaints from all under-18s and any emerging patterns which require further research.

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 the 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

Ratify the Optional Protocols to the Convention on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict (UN Committee, 2002, para 64)

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**

APPENDIX 1: THE CURRENT SITUATION OF CHILDREN IN NORTHERN IRELAND

Population

- The estimated population of Northern Ireland at 30 June 2006 was 1,741,600 – an increase of 17,200 (1%) over the preceding 12 months due to more births than deaths (giving a natural increase of 8,300 people) and civilian population migration (9,900 people came to Northern Ireland and 1,000 HM Forces left) (NISRA, 2007a: 3). Based on family doctor registrations, population figures show that between July 2005 and June 2006 just over 30,500 people came to live in Northern Ireland and just over 20,600 left, resulting in an overall gain in population of 9,900 people – the highest figure ever recorded for net migration to Northern Ireland in a single year (NISRA, 2007a: 7).
- The estimated population of under-18s in Northern Ireland on 30 June 2006 was 432,014 (221,598 males and 210,416 females) – this is 24.8% of the Northern Ireland population (NISRA, 2006a).
- The proportion of under-16s in Northern Ireland on 30 June 2006 was 22%, compared with 19% in England, 19% in Wales, and 18% in Scotland (NISRA, 2006b).

General measures of implementation

Resources

- In 2004-05, personal and social services expenditure per 0-17 year old in Northern Ireland was £287 - 29% less than expenditure in England (£402), 33% less than expenditure in Wales (£429), and 44% less than in Scotland (£513) (ERINI and IFS, 2007:50-51).
- The proportion of Northern Ireland's personal and social services budget spent on children amounts to only 14.1% compared to 24% in England and 26.1% in Wales (ERINI and IFS, 2006:8).
- Although in 2004-05 spending per head of population on education was higher in Northern Ireland (£1,435) than in England (£1,086), Wales (£1,107) or Scotland (£1,179), this reflects the fact that the proportion of school-aged children in Northern Ireland is higher (20% compared with 17% in each of the other countries) (ERINI and IFS, 2007: 55-56).
- In 2004-05, spending per child on primary school pupils in Northern Ireland was £2,398 - £500 (17.2%) less than expenditure per child in Wales. Spending per child at post-primary school was £3,615 - £20 (0.5%) more than expenditure per child in Wales (ERINI and IFS, 2007:58).

General principles

Non-discrimination

- In research conducted in Northern Ireland, 29% of the LGBT young people involved had attempted suicide; 44% were bullied at school because of their sexuality; of the 63% who had experienced negative attitudes at school around sexual orientation, only 13% sought support; 69% of those who left school earlier than they would have preferred were bullied (YouthNet, 2003: 3).
- In the 2001 Census, 1,715 identified themselves as Irish Travellers (0.1% of the total population in Northern Ireland) – 32% of whom were aged under 16 (ECNI, 2006: 9). However, this is likely to be an underestimation as a result of racism, which discourages people from identifying as Travellers; nomadism and non-literacy, which

lead to non-completion of census forms. A more accurate figure estimated by the Traveller support movement in Northern Ireland is between 2,400-3,000 people.

- 2001 Census figures identified 162 Traveller children aged 0-4, whereas the Toybox project working with pre-school Travellers across Northern Ireland estimated in 2002 that this figure was 300-400, and in 2006 that the figure was 300-350 (McVeigh, 2007: 14).
- There are high levels of illiteracy among the Traveller community, 92% have no GCSEs or their equivalents or higher, the majority of Traveller children do not continue to attend school regularly after primary education; Travellers are eight times more likely to live in over-crowded conditions than the general population in Northern Ireland, and many still have extremely limited access to basic amenities; Travellers experience significantly poorer levels of health than the majority settled population, levels of child immunization are much lower, the mortality rate of Traveller children up to the age of 10 is 10 times that for the general population and overall life expectancy is around 20% lower than the general population (PSI Working Group on Traveller Issues, 2000: 5-6; Chief Medical Officer, 2007: 10; ECNI, 2007: 13-17).
- The degree of prejudice held against the Traveller community is greater than that expressed against any other minority ethnic group (Connolly and Keenan, 2000; ECNI, 2005).
- The 2001 Census quantified the size of the minority ethnic population in Northern Ireland as 14,279, 35% (5,046) of whom were under 18.
- Of the 30,500 who came to live in Northern Ireland during 2005-06, 18,100 (60%) came from outside the UK – of these, 9,700 (50%) came from Eastern European accession countries that joined the EU in May 2004 (NISRA, 2007a: 7).
- Only 17% of people agree they know quite a lot about the culture of some minority ethnic communities, and half the population believe minority ethnic communities are less respected than they once were (OFMDFM, 2007: 11).
- Reports of racially motivated incidents and crimes have significantly increased – racial incidents increased from 936 in 2005-06 to 1,047 in 2006-07, racial crimes increased from 746 in 2005-06 to 861 in 2006-07 (and such incidents or attacks are generally under-reported) (PSNI, 2007: 3).
- Research conducted in Northern Ireland schools during 2006 found that 46% of Y6 pupils (age 10-11) and 61% of Y9 pupils (age 13-14) thought a pupil's race or skin colour made them 'more likely' to be bullied (Livesey et al, 2007: 27 and 53).
- Almost two out of every five (37%) households in Northern Ireland include at least one person with a disability. 21% of adults have at least one disability, and 6% of children under 16 are affected by a disability (NISRA, 2007b: 16).
- Around 8% of boys aged 15 and under have a disability, compared with 4% of girls of the same age (NISRA, 2007b: 21).
- In 2006, research in Northern Ireland schools found that 44% of Y6 pupils (age 10-11) and 50% of Y9 pupils (age 13-14) thought a pupil's disability made them 'more likely' to be bullied (Livesey et al, 2007: 27 and 53).
- Research in the UK with children and young people with a learning disability found that 82% had experienced bullying - they are twice as likely to be bullied as other children and more likely to be targeted by bullies because of their disability (Mencap, 2007: 5). 8 out of 10 experienced bullying at school, 3 out of 10 were bullied on the street, at the park or on the bus (ibid: 6). For many, bullying does not stop when the child tells someone – this was the case for 4 out of 10 children with a learning disability (Mencap, 2007: 10) and in 44% of cases reported by children with autism (National Autistic Society, 2006).

Family environment and alternative care

Family life

- In 2006, there were 8,259 marriages in Northern Ireland (an increase of 2% on the 2005 figure). 2,565 divorces were granted in 2006 (an increase of 203 on the 2005 figure, and the largest number of divorces ever recorded in Northern Ireland). On 5 December 2005, the *Civil Partnership Act* came into force in Northern Ireland – in 2006 there were 116 civil partnerships (NISRA, 2007a: 3).
- In 2006, 38% of all live births occurred outside marriage (compared to 3% in the early 1960s). However, 76% of these births were jointly registered by both parents (NISRA, 2007a: 14).
- Compared with Great Britain, family sizes in Northern Ireland tend to be larger; the proportion of lone parent families is slightly lower; couples with children have more children, on average; average private incomes among both lone parent families and couples with children are lower (ERINI and IFS, 2007:10-11).

Alternative care

- In 2006, 141 children were recorded on the *Adopted Children Register* (including step-parent, relative and overseas adoptions), compared with 500 in 1970 (NISRA, 2007a: 28). There has been a decrease in the number of children adopted from care – from 109 in 2003, to 79 in 2004, to 56 in 2006 (DHSSPS, 2008:2). In 2006, 2% of looked after were adopted from care, compared with 6% in England (DHSSPS, 2008: iii). 26 (46%) of the 56 children adopted from care in 2006 were adopted by foster carers (DHSSPS, 2008: 6), compared with 55 (70%) of the 79 children from care adopted by foster carers in 2004 (BAAF, 2008).
- 2,436 children were in public care in Northern Ireland on 31st March 2006 – 1,285 (53%) were male, 1,151 (47%) were female; 60 (2.5%) were under 1 year old, 334 (13.7%) were aged 1-4, 830 (34.1%) were aged 5-11, 763 (31.3%) were aged 12-15, 449 (18.4%) were aged 16 and over (BAAF, 2008).
- Of the 2,436 children in care on 31st March 2006, 1,522 (62.5%) were living with foster carers, 486 (19.9%) were living with their family, 321 (13.2%) were living in residential care, and 107 (4.4%) were living in other types of placements (BAAF, 2008).
- At 31st March 2006, over half of the looked after children (53%) had been in care for more than three years, almost 3 in 10 (29%) had been in care between 1 and 3 years, and 1 in 5 (18%) for less than a year (DHSSPS, 2007a: 3).
- Of all children looked after for more than a year in 2002-2003, 14% had changed placement only once; 3% had changed placement twice and 4% had changed placement three times or more (DHSSPS, 2006a: 5).
- In 2005-06, 15% of those aged 16-18 leaving care in Northern Ireland had one or more disabilities – over 80% of these young people had a learning disability and almost 10% had mental health needs (DHSSPS, 2007c: 10).
- In 2005-06, 27% of those looked after for a year or more and 18% of young people leaving care had received a statement of Special Educational Need, compared with 4% of Northern Ireland's general school population (DHSSPS, 2007c: 10).
- In 2002-03, nearly two thirds of looked after children who sat Key Stage 1 English (64%) and Key Stage 1 Maths (66%) achieved Level 2 or above, compared with 95% of children in the Northern Ireland general school population (DHSSPS, 2006a: 9).
- In 2002-03, 30% of looked after children who sat Key Stage 2 English achieved Level 4 or above compared with 76% of the general school population, and 31% of

looked after children who sat Key Stage 2 Maths achieved Level 4 or above compared with 78% of the general school population (DHSSPS, 2006a: 10).

- In 2005-06, only 9% of looked after children attained 5 or more GCSEs at grades A*-C, compared with 64% of the general school population in Northern Ireland (DHSSPS, 2007c: 6). Care leavers were almost 20 times more likely than school leavers in general to leave school without gaining any qualifications - more than half of all care leavers (55%) left school with no qualifications, compared with 3% of all school leavers (DHSSPS, 2007c:6).
- 1.7% of school-aged looked after children (18 boys and 3 girls) were expelled in 2002-03, compared with 0.02% among the general school population in Northern Ireland. Similarly, over 9% of school-aged looked after children were suspended from school in 2002-03, compared with 1.7% of the general school population (DHSSPS, 2006a: 7).
- In 2005-06, 47% of care leavers whose economic activity was known were in education, training or employment (17% in employment, 30% in education or training), compared with 91% of all 16-18 year olds in Northern Ireland (of whom 25% were in employment and 66% were in education or training). 43% of care leavers were economically inactive because of caring responsibilities or sickness (DHSSPS, 2007c: 6; 16; 17).
- In 2005-06, the unemployment level among care leavers (8%) was almost three times the rate among all school leavers in Northern Ireland (3%). (DHSSPS, 2007c: 6).
- In 2002-03, 10% of the 986 looked after children aged 10 or over were cautioned or convicted, compared with 1% of all children in Northern Ireland. Of those convicted, almost two thirds were boys (DHSSPS, 2006a: 1). Looked after children aged 10 and over were 15 times more likely than all children aged 10 and over in Northern Ireland to have been cautioned or convicted (DHSSPS, 2006a: 12).
- The 2005-06 survey of care leavers who had reached their 19th birthday sometime during the year ending 31st March 2006 found that the proportion of female care leavers who had at least one child was seven times higher than for young women under 20 in the general population – 26% compared with 4%. 15% of male care leavers were fathers (DHSSPS, 2007c: 6).

Basic health and welfare

Health

- Life expectancy in Northern Ireland is 76.1 years for males and 81.0 years for females, compared with 53.8 and 54.4 years respectively in the 1920s (NISRA, 2007a: 18).
- In 2006, 23,272 births were registered to mothers in Northern Ireland – although an increase on the 2005 figure, the number of births in 2006 was well below the 26,000 registered in 1976 (NISRA, 2007a: 11).
- 14,532 deaths were registered in 2006 – over the last 30 years the death rate has fallen by a quarter – from 11.2 deaths/1,000 population in 1976 to 8.3 deaths/ 1,000 population in 2006. The most common causes of death in 2006 were cancer (26% of all deaths) and ischaemic heart disease (18% of all deaths) (NISRA, 2007a: 4).
- In 2006, there were 3.8 stillbirths/1,000 births, compared with 10.4/1,000 in 1976; and 5.1 infant deaths (deaths of children aged under 1)/1,000 live births compared with 18.3/1,000 in 1976 – a decrease of 70% (NISRA, 2007a: 16). There were 121 infant deaths in 2006 – 74% in the first 4 weeks of life. The main causes of infant deaths were conditions originating in the perinatal period or congenital abnormalities

(NISRA, 2007a: 22). 70 children aged 1-14 died in 2006 – the main causes of death were external causes (29: 41%), cancer (10: 14%) and diseases of the nervous system (10: 14%) (NISRA, 2007a: 22).

- Infant mortality rates for those born to parents living in more deprived areas are a third higher than for Northern Ireland as a whole (Chief Medical Officer, 2007: 10). Children born into poverty are four times more likely to die before the age of 20 than the general population – they are fifteen times more likely to die as a result of a house fire, and five times more likely to die in accidents (DHSSPS, 2000).
- The mortality rate for Traveller children up to the age of 10 is 10 times that for the population as a whole, and overall life expectancy of Travellers is around 20% lower than that of the general population (Chief Medical Officer, 2007: 10).
- In 2003-04, approximately 1 in 4 girls and 1 in 5 boys in Primary 1 (aged 5-6) were found to be overweight or obese. Levels of overweight and obesity in five year olds have increased from around 17% in 1997 to almost 23% in 2003-04. In 2005, 10% of all children aged 2-10 were classified as obese (10% boys, 9% girls), and 27% were classified as overweight including obese (26% boys, 28% girls) (Chief Medical Officer, 2007: 4).
- Compared to the UK average, 12 year old children in Northern Ireland have almost three times the level of tooth decay for this age group. In 2005, 7,000 children attended hospital to have their teeth extracted under a general anaesthetic (Chief Medical Officer, 2007: 11). Children living in the 20% most deprived wards in Northern Ireland are almost twice as likely to have experienced dental decay as children from the 20% most affluent wards (Chief Medical Officer, 2007: 11).
- In 2005, there were just under 13,000 diagnoses of an STI made by GUM clinics – an increase of almost 100% in the last 10 years (Chief Medical Officer, 2007: 9).
- Between March 2005 and March 2007, the number of under-18s in treatment for drug and/or alcohol abuse more than trebled from 271 to 847, representing 15% of the total number of 5,583 individuals in treatment (DHSSPS, 2007b). Young people from poorer families are more likely to engage in smoking, drinking alcohol, solvent and drug abuse than young people from wealthier backgrounds (Save the Children, 2007: 39).
- Children living in poor housing are more likely to develop diseases such as bronchitis, TB or asthma (Shelter, 2006).
- Young people in lower economic classes are more likely to be worried about having enough money, crime, getting a job and their future prospects than those in higher economic classes (Health Promotion Agency for Northern Ireland, 2001). The suicide rate for young males living in deprived areas of Northern Ireland is nearly twice that for those living in wealthier communities (Investing for Health, 2006).
- Within Northern Ireland, the rate of teenage pregnancy is highest in areas of greatest social and economic deprivation – in 2004, in the most deprived areas seven girls in every 1,000 aged 13-16 gave birth, compared with two girls in every 1,000 in other areas (Kenway et al, 2006). In 2005 there were 1,395 births to teenagers aged 19 and under (Chief Medical Officer, 2007: 9).

Mental health

- Over 20% of children under 18 suffer significant mental health problems (Kilkelly et al, 2004a: 112).
- The overall suicide rate in Northern Ireland is 9.7/ 100,000 (DHSSPS, 2006b: 13). Between 1999-2003, the suicide rate was higher in Northern Ireland than in England and Wales, but lower than in Scotland (DHSSPS, 2006b: 7).

- Between 1991-2004 in Northern Ireland, suicide rates were higher in economically deprived areas (16.5/ 100,000) than in non-economically deprived areas (8.1/ 100,000); in urban areas (10.3/ 100,000) compared with rural areas (8.6/ 100,000) (DHSSPS, 2006b: 12); and in parliamentary constituencies which have historically suffered from economic deprivation and witnessed some of the worst violence during 'the troubles', such as North Belfast (17.2/ 100,000) and West Belfast (16.2/ 100,000) (DHSSPS, 2006b: 13).
- In 2005 there were 213 suicides (167 males, 46 females) – 80% (4 out of every 5) occurred in men and half were in young men aged under 35 years (Chief Medical Officer, 2007: 16). In 2006, there were 291 registered suicides and undetermined deaths (227 males, 64 females) – a 37% increase on the 2005 figure (NISRA, 2007a: 21).
- Less than 5% of the mental health budget is spent on child and adolescent mental health services, despite the fact that under-18s represent approximately 25% of Northern Ireland's population (Kilkelly et al, 2004a:113).

Disability

- Just over 2% of children (as a proportion of all children) have a disability within one area only, but almost 4% are living with two or more disabilities (NISRA, 2007b: 25).
- Chronic illness, learning difficulties, social or behavioural difficulties are the most prevalent disabilities reported for Northern Ireland children (NISRA, 2007b: 25)
- Intellectual and social/ behavioural difficulties are noticeably more prevalent amongst boys than girls (NISRA, 2007b: 21).

Poverty

- In 2005-06, GB had a higher proportion of children in families with an income of more than £500/week before housing costs (19%) than those in Northern Ireland (14%); 18% of Northern Ireland's children lived in families with an income between £100-200/week before housing costs, compared with 13% of children living in GB (DSD, 2007: 57).
- Average Gross Weekly Household Income between 2002-03 and 2005-06 was £502 in Northern Ireland, compared with £610 in England, £544 in Scotland and £492 in Wales (DSD, 2008: 73).
- In 2005-06, more than half of children in Northern Ireland lived in households with incomes in the bottom two quintiles of the income distribution. Those more likely to live in low income included children living in families: where no adults worked; with lone parents; with one or more disabled child; with at least one disabled adult; in Housing Association properties; in the West of Northern Ireland (DSD, 2007: 15).
- Poverty in Northern Ireland is more concentrated than in Great Britain – in Northern Ireland, 25 out of 566 wards (4.4%) have concentrations of poverty in excess of 75% compared with 180 out of 10,000 wards in GB (1.8%) with child poverty rates of 50-70% in Britain (McLaughlin and Monteith, 2006).
- One in three children - more than 122,000 (29%) - live in income poverty (ie how much a household has to live on) (DSD, 2007). Around 170,000 (38%) children go without basic necessities because their parents can not afford them (ie a mixed measure of income and access to basic necessities) (Save the Children, 2007: 57). One in ten children - 44,000 (10%) are living in severe poverty (ie a mixed measure combining low income with experiences of deprivation) (Magadi and Middleton, 2007).

- Between 2001 and 2004, 52% of all children in Northern Ireland had not experienced poverty in any of the four years (compared with 68% in Great Britain), 9% of children were in persistent not severe poverty (compared with 4% in Great Britain), and 13% were in persistent and severe poverty (compared with 5% in Great Britain) (Monteith et al, 2008: 2-3).
- In 2005, 38% of young people who described themselves as 'not well off' reported that they had experienced bullying, compared with 31% of those who described their family as 'average' and 25% who described their family as 'well off' (ARK, 2005).

Homelessness

- In 2006-07, of the 36,182 applicants on the social rental sector waiting list, 19,703 were in housing stress (ie had 30 or more points under the Common Selection Scheme) (DSD, 2008: 43).
- In 2006-07, 84% of Northern Ireland Housing Executive tenants were in receipt of housing benefit (DSD, 2008: 48). Although Northern Ireland spends more on housing benefit per child than in Great Britain, need in Northern Ireland is greater because of higher levels of fuel poverty and homelessness (ERINI and IFS, 2007: 9).
- In 2006-07, 21,013 households presented as homeless, compared with 14,164 in 2001-02. This included 7,100 families, 202 16-18 year old single males and 263 16-18 year old single females (DSD, 2008: 41).

Education, leisure and cultural activities

Education

- In 2007-08, there were 1,254 schools in Northern Ireland: 98 Nursery schools; 885 Primary schools (401 Controlled – mainly Protestant; 404 Catholic; 20 Irish-medium; 4 other; 39 Integrated; 17 Grammar school prep depts); 226 Post-Primary (63 Controlled Secondary; 73 Catholic Secondary; 1 Irish-medium; 20 Integrated; 17 Controlled Grammar; 30 Catholic Grammar; 22 Other); 43 Special schools; 2 Hospital schools; 17 Independent schools (DENI, 2008a).
- In 2007-08, 326,113 attended educational establishments in Northern Ireland: 5,855 in Nursery schools; 166,639 in Primary schools (including Nursery classes, Reception classes, Primary school years 1-7, Grammar school prep depts. years 1-7); 147,942 in Post-primary schools (including Secondary schools and Grammar schools); 4,611 in Special schools; 246 in Hospital schools; 820 in Independent schools (DENI, 2008b).
- In 2007-08, 18,867 children (6% of the total enrolment in Nursery, Primary and Post-primary schools) attended Integrated schools; 2,638 (0.8%) children attended Irish-medium schools (DENI, 2008c: 2).
- In 2007-08, the reported religion of pupils in schools was 51% Roman Catholic, 39% Protestant, 2% Other Christian, 0.4% Non-Christian, and 8% Other/No religion/Not recorded (DENI, 2008c: 2).
- In 2007-08, 18% of pupils in schools were recorded as having special educational needs; 4% of pupils had a statement of special educational needs (DENI, 2008c: 2).
- In 2004-05, almost 1 in 5 pupils in Northern Ireland (19.9%) was eligible for free school meals – higher than equivalent figures in England (16.9%) and Scotland (18.5%) (ERINI and IFS, 2007: 59). In 2007-08, 17% of all pupils were entitled to free school meals – 18% of children in Primary schools; 25% of children in Secondary (non-Grammar) schools; 6% of children in Grammar schools (DENI, 2008c: 11).
- Pupils at schools with the lowest proportion of children entitled to free school meals are over two and a half times (48.7%) as likely to achieve a grade A in the transfer

test as those at schools with the highest proportion of children in receipt of free school meals (17.9%) (DENI, 2002).

- In 2004-05, 12% of children entitled to free school meals achieved no qualifications, compared to an average of 4.9% (DENI, 2005); in 2005-06, 46% of school leavers entitled to free school meals continued their education in Higher or Further Education institutions compared with 70% of those not entitled to free school meals (DENI, 2007a: 3)
- In 2005-06, 3.5% of all pupils in Northern Ireland left school with no formal qualifications - the UK equivalent was 3% (ERINI and IFS, 2007: 9); 64% achieved at least 5 GCSEs at grades A*-C or equivalent (71% of girls and 58% of boys); 5% had no GCSEs (6% of boys and 3% of girls) (DENI, 2007a: 1-2)
- In 2005-06, 45% of all school leavers achieved 2 or more A levels or equivalent (53% of girls and 37% of boys); 86% of Grammar school girls and 73% of Grammar school boys left school with 2 or more A levels or equivalent, compared with 31% of Secondary school girls and 15% of Secondary school boys (DENI, 2007a: 1-2)
- In 2005-06, the proportion of school leavers continuing to institutions of Higher Education was 37% (44% of girls and 31% of boys); the proportion continuing to institutions of Further Education was 28% (31% of girls and 26% of boys); the proportion unemployed after leaving school was 3% (DENI, 2007a: 2)
- In 2007-08, the reported ethnicity of pupils was 98% white (excluding Irish Travellers), with 2% pupils of mixed or minority ethnic groups (DENI, 2008c:2)
- In October 2007, there were 5,665 children and young people with English as an additional language in state education (112 in nursery; 3,809 in primary; 1,714 in post-primary; 30 in special schools) – for the past four years, the number of children with English as an additional language has risen by at least 30% each year (DENI, 2008d).
- Although the figure is likely to be an under-estimate because some fear bullying if they disclose their ethnicity and many do not attend school or are employed within their communities, approximately 750 Traveller children attended schools in Northern Ireland during 2005-06: 40 in pre-school, 552 in primary, 148 in post-primary, and 9 in special schools (DENI, 2007b). The proportion of Travellers attending pre-school provision increased from 18.3% in 1998-99 to 63.9% in 2004-05. However, there is still a marked difference between Traveller children and others since 97.4% of all children attended pre-school provision during the same year (McVeigh, 2007: 17). In 2004-05, 24% of Travellers achieved 5+GCSEs graded A*-G compared with 89% of all pupils; at Key Stage 3, 19% of Travellers achieved the expected level in English compared with 73% of all pupils, 29% of Travellers achieved the expected level in Maths compared with 71% of all pupils, and 26% of Travellers achieved the expected level in Science compared with 70% of all pupils (DENI, 2007c). In 2005-06, of 150 Traveller children in post-primary education, 42% were identified as having Special Educational Needs (DENI, 2007c). In the 2006-07 academic year, of 813 Travellers attending school, 55% were identified as having special educational needs compared with 17% of the rest of the school population (DENI, 2007d).
- During 2005-06, 54 children were expelled from school – 40 males and 14 females; 2 from Key Stage 2 (aged 7-11), 25 from Key Stage 3 (aged 11-14), 27 from Key Stage 4 (aged 14-16). Reasons for expulsions included: substance misuse (15: 28%), disruptive behaviour in class (8: 15%), significant damage to or misuse of property (8: 15%), physical attack on pupil (5: 9%), persistent infringement of school rules (5: 9%), physical attack on staff (4: 7%), verbal abuse of staff (4: 7%), bullying of a pupil (3: 6%), stealing (1: 2%), verbal abuse of a pupil (1: 2%) (DENI, 2006a)

- During 2005-06, 5,577 children were suspended from school – 4,276 males and 1,301 females; 47 from Key Stage 1 (aged 4-7), 214 from Key Stage 2 (aged 5-11), 2,615 from Key Stage 3 (aged 11-14), 2,701 from Key Stage 4 (aged 14-16). 3,831 were suspended once, 901 were suspended twice and 782 were suspended three or more times. Reasons for suspensions included: verbal abuse of staff (2,158: 24%), persistent infringement of school rules (1,996: 22%), physical attack on a pupil (1,951: 22%), disruptive behaviour in class (928: 10%), significant damage to or misuse of property (602: 7%), bullying of a pupil (339: 4%), physical attack on staff (278: 3%), substance abuse (212: 2%), stealing (204: 2%), verbal abuse of a pupil (164: 2%), alcohol abuse (86: 1%) (DENI, 2006b).
- During 2005-06, 39 Alternative Education Provision centres provided education for 930 11-16 year olds who were not attending mainstream schools (Chief Inspector's Report, 2006)

Play and leisure

- One in five children (21%) do not have access to nearby safe play areas. This rises to more than one in three children (37%) amongst those experiencing severe child poverty (McLaughlin and Monteith, 2004).
- In research conducted with school children aged 5-16, the main issues raised in relation to play and leisure were: access to play and leisure facilities (66% - 26% of those aged 9-11, 31% of those aged 12-14 and 30% of those aged 15-16); safety (31%, mainly 9-11 year olds); and lack of participation in decisions made about use of play parks (2%) (Kilkelly et al, 2004b: 32-41).

Special protection measures

Asylum seekers and refugees

- There are conflicting estimates of the number of asylum seekers and refugees in Northern Ireland and no data is centrally held. On 1 June 2005, 141 asylum seekers were being supported by the National Asylum Support Service, although there may be others who are self-supporting, and the Refugee Action Group estimates that there are 2,000 refugees in Northern Ireland (OFMDFM, 2005: 29).

Children belonging to minority ethnic groups, including Travellers

- In the 2001 Census, 1,715 identified themselves as Irish Travellers – 32% of whom were aged under 16 (ECNI, 2006a: 9). Travellers live in a range of accommodation – 42% in social housing, 21% in serviced sites, 11% on the side of the road, 9% on public land, 6% on private rented land, 4% in grouped homes, 7% other (NIHE, 2002, cited in ECNI, 2007).
- The 2001 Census quantified the size of the minority ethnic population in Northern Ireland as 14,279, 35% of whom (5,046) were under 18. However, some minority ethnic representatives suggest that the 'non-indigenous' population is closer to 45,000 (OFMDFM, 2005: 27), and this includes a range of ethnic minority communities. Minority ethnic children born and registered in Northern Ireland are recorded in statistics, but families with children arriving from A2 countries are not counted unless they register with a GP or school. Some whose ethnic status may be recorded as 'white' are members of ethnic groups with a shared culture distinct from the majority communities (eg Jewish, Bahá'í).
- No central body records migration to Northern Ireland of nationals from countries within the European Economic Area. In the 2001 Census, 5,490 people in Northern Ireland were born in EU countries (excluding the UK and Republic of Ireland), and

20,719 people were born in non-EU countries, leading to 26,659 people who could be classified as migrant workers or dependents on migrant workers (OFMDFM, 2005a: 31). These figures do not reflect current data, including an increase in migrant worker populations from areas other than former British Colonies (from which 2001 Census categories were derived) or the short term stay of many (migration inflow figures need to be compared with outflow figures to realistically assess numbers).

Children in the youth justice system

- Between April 2006 and March 2007, there were 1,298 Youth Conference referrals – 504 were diversionary and 794 were from the Courts; 880 Youth Conference plans were approved - 346 Diversionary and 534 Court (Youth Justice Agency, 2007: 47).
- Between April 2006 and March 2007, there were 436 admissions to the Juvenile Justice Centre – 157 under PACE (140 males: 89%, 17 females: 11%); 237 on remand (211 males: 89%, 26 females: 11%); 42 committals (41 males: 98%, 1 female: 2%). Figures for admission each month reflect those for admission during the period April 2006-March 2007 – on average each month 35% of admissions were under PACE, 54% were on remand, and 11% were on committal (Youth Justice Agency, 2007: 48).
- Between October 2006 and March 2007, 14 complaints were received by the Youth Justice Agency – 12 of these were from custodial services (ie the Juvenile Justice Centre). Of these 12, 10 were resolved by the member of staff receiving the complaint, 1 by the senior manager, and 1 was on-going (Youth Justice Agency, 2007: 50).

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APPENDIX 2: EXECUTIVE SUMMARY AND RECOMMENDATIONS

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 bullying in schools; 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: 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

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

RECOMMENDATIONS

Based on analysis of the UK Government's 2007 Report, the following recommendations 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
- 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 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

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)
- 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
- ensure adequate provision of information and support to LGBT young people within health, education and youth agencies
- 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 that experienced by LGBT young people) and that staff are adequately trained in identifying, responding to and monitoring incidents; with 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