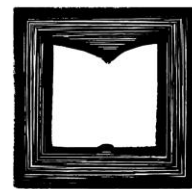


**SUBMISSION TO THE UNITED NATIONS' COMMITTEE ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Parallel Report on the Sixth Periodic Report of the United
Kingdom under the International Covenant on Economic,
Social and Cultural Rights**

September 2015



Northern Ireland Human Rights
Commission
Temple Court, 39 North Street
Belfast BT1 1NA
Tel: +44 (0) 28 9024 3987
Fax: +44 (0) 28 9024 7844
Textphone: +44 (0) 28 9024 9066
SMS Text: +44 (0) 7786 202075
Email: information@nihrc.org

NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

Contents

Introduction	11
Ratification of Optional Protocol	11
Involvement of NI Executive in treaty reporting	12
Northern Ireland Human Rights Commission	12
Constitutional and legal framework	13
Incorporation of economic, social and cultural rights	13
Human Rights Act and proposed repeal	13
Relationship of Human Rights Act to NI peace agreements.....	14
NI peace agreements and a 'Bill of Rights for NI'.....	15
Equality and non-discrimination legislation	16
Single equality bill	16
Gaps in NI discrimination legislation: gender, race, disability and age	16
Intersectional multiple discrimination.....	17
Gender equality (Article 3)	18
Gender Equality Strategy	18
Accessible childcare	19
Equal pay for work of equal value	21
Right to work (Article 6)	22
Persons with disabilities	22
National minimum wage, the new living wage and age thresholds	24
Protection and assistance to the family (Article 10)	25
Corporal punishment	25
Right to social security (Article 9)	25
Welfare reform	25
Carers and social security	28
Right to an adequate standard of living (Article 11)	28
Tackling poverty and child poverty.....	28
NI anti-poverty strategy and child poverty strategy	29
The new living wage.....	31
Taxation as a tool to reduce poverty	32
Right to housing: Travellers	34
Unauthorised Encampments (NI) Order 2005	35
Barriers to adequate site provision: planning permission and site licenses.....	36
Social Housing	37

Publication of disaggregated data	38
Efforts to address inequality in North Belfast.....	39
Equality impact assessments and the macro policy	40
The Crisis Fund.....	41
Asylum seekers and permission to work	42
Reductions in asylum financial support	43
The 28 day move-on period	45
The Destitute Domestic Violence Rule	46
Right to the highest attainable standard of health (Article 12)	47
Domestic violence and violence against women	47
Termination of pregnancy	49
Access to healthcare for irregular migrants	50
Mental capacity	52
Mental health	53
Armed Forces Covenant	54
Healthcare in emergency departments	56
Health and social care system	58
Eligibility to make blood donations	59
Right to education (Article 13).....	61
Education and Traveller children	61
Segregated education.....	62
Integrated education	62
Shared education	63
Special education needs and legislation	64
Education of children in custody	66
Right to take part in cultural life (Article 15)	66
Regional and minority languages	66
Stormont House Agreement and cultural rights	69

Executive Summary

The Northern Ireland Human Rights Commission (NIHRC) is one of the three A status National Human Rights Institutions in the United Kingdom (UK). In accordance with the Paris Principles, the NIHRC reviews the adequacy and effectiveness of measures undertaken by the UK Government and NI Executive to promote and protect human rights, specifically within Northern Ireland.

With respect to the UK's Sixth Periodic Report on compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR), the UN Committee on Economic, Social and Cultural Rights may want to ask the State Party:

- To ratify the Optional Protocol in order to strengthen the protection of Covenant rights both domestically and internationally.
- What steps it is taking to ensure that OFMDFM is consistently engaged at the earliest possible stage in the reporting process?
- To ensure that a representative from OFMDFM attends future constructive dialogues with the Committee.
- How it will ensure the NIHRC has a stable and sufficient budget in order to discharge its functions independently and effectively, and maintain its accreditation status?
- How it intends to give the Covenant "full legal effect in its domestic law, [make] the Covenant rights [...] justiciable, and [ensure] that effective remedies are available for victims of all violations of economic, social and cultural rights?
- Whether it is envisaged that any proposed British Bill of Rights will give greater recognition than the Human Rights Act to economic, social and cultural rights?
- How commitments within NI's peace agreements will be ensured if the Human Rights Act 1998 is repealed?
- How it intends to meet its obligation emerging from the Belfast (Good Friday) Agreement to implement a Bill of Rights for NI?
- What steps it will take to simplify and harmonise equality legislation in

NI within a Single Equality Act?

- To strengthen equality legislation in NI on the grounds of gender, race, and disability and to outline a timeline for delivery.
- What legislative measures it will introduce in NI to ensure that children under 16 are not discriminated against on the basis of age when accessing goods, facilities and services?
- What steps it will take to introduce a legal protection for multiple discrimination in NI?
- What steps it is taking to prioritise the publication of a draft NI gender equality strategy for public consultation?
- What steps it is taking to ensure the factors which hindered the implementation of the 2008-2011 action plans in NI are addressed?
- How the draft Childcare Strategy will increase the availability and affordability of childcare places in NI and for a timeframe for its delivery?
- What steps are being taken in NI to ensure that protections against gender pay inequality in the private sector in NI are at least as effective as in the rest of the UK?
- For an update on the development of the list of indicators to measure the success of the Disability Strategy in NI.
- What steps are being taken to develop a new Disability Strategy post 2017?
- For an update on the projects contained within the 'Enabling Success' Strategy.
- For further information to support its conclusion that raising the national minimum wage for under 20s will adversely affect their employment prospects.
- To set out a reasonable and objective justification why the new 'living wage' will not apply to persons under 25 years old.

- What steps are being taken in NI to implement the recommendation to prohibit corporal punishment in the home without further delay and to extend this throughout its jurisdiction?
- For an update on discussions on the welfare reform agenda in NI and when a Welfare Reform Bill will be introduced into the NI Assembly.
- What mitigating measures will be considered in respect of NI should Westminster legislate on welfare reforms?
- How the principle of non-retrogression is being complied with in the context of welfare reform discussions in NI?
- How the requirements set out in the ICESCR Committee Chair's 2012 letter to State parties are being complied with in NI?
- What steps are being taken to ensure a greater uptake of social security benefits among carers in NI?
- Whether the Carer's Allowance is adequate to cover the cost of care in all circumstances?
- What studies have been undertaken to assess whether the right to an adequate standard of living is being respected by those in receipt of Disability Living Allowance and Carer's Allowance?
- What immediate measures are being taken to develop an anti-poverty strategy for NI based on objective need?
- When it intends to publish a renewed child poverty strategy for NI?
- For further detail on the factors which inform how the new living wage has been calculated.
- What measures it intends to take to realise the full potential of taxation as a tool for generating revenue in order to allocate the maximum available resources to fulfil human rights obligations and address poverty?

- What combined impact will the living wage and social security measures have on low income households based on composition and size?
- In relation to the right to housing, for an update on the development of the programme for Traveller specific schemes in NI.
- What review has taken place since the 2009 examination with regards to the provisions of the Unauthorised Encampments (Northern Ireland) Order 2005 and what are the reasons for the legislation remaining in force in NI?
- How it will ensure that planning rules in NI take account of the specific needs of Travellers?
- What steps will be taken to amend legislation which requires the NI Housing Executive to obtain site licences from local councils?
- To ensure that the NI Housing Executive routinely publishes disaggregated, open and accessible data on the levels of 'housing stress' in NI.
- What action is being taken to promote shared social housing to improve community relations?
- What targeted, concrete and deliberate measures it is undertaking to address the lack of provision of social housing, including in particular for Catholics in North Belfast, and any assessment as to likely impact of such measures, for example, the 'reduct[ion] in interface barriers' referenced within the State report?
- For an update on the OFMDFM tendering process 2015-16 Crisis Fund, when the fund will become available and what plans are there to continue the fund on a permanent basis in NI?
- What steps have been taken to ensure that asylum-seekers are not restricted in their access to the labour market while their claims for asylum are being processed?

- How, given the reduction in cash amounts and arrangements for asylum support, is the State complying with the principle of non-retrogression and the requirements set out in the letter to State parties on adjustments to rights in times of economic crisis in 2012?
- How it will ensure that the proposed changes to the law concerning failed asylum seekers and irregular migrants do not as a consequence lead to individuals falling into destitution.
- Given the gap in moving from asylum to mainstream support, what it is doing to ensure that asylum seekers do not fall into destitution.
- What steps have been taken to extend provision for victims of domestic violence to persons who enter the UK other than on a spousal visa?
- To ensure that the DOJNI and the DHSSPSNI have given due regard to the NIHRC's advice and any relevant comments of the Special Rapporteur on VAW within the final 'Stopping Domestic Violence and Sexual Abuse Strategy 2013-2020', and to prioritise its publication.
- What actions it is taking to ensure that NI criminal law meets international standards and provides access to termination of pregnancy in cases of rape, incest, lethal and serious foetal abnormality?
- What steps it is taking to ensure that irregular migrants, in particular children have access to primary healthcare in NI?
- For an update on the Mental Capacity Bill in NI and when it will be enacted?
- What measures it will undertake to ensure the development of a legal framework governing decisions regarding mental capacity for children under 16.
- For an update on progress on the development of the new mental health promotion and suicide prevention strategy for NI and a

timetable for its implementation.

- What steps they have taken to address the needs of Armed Forces personnel in NI in the areas of health, housing and education to ensure, as is the case in the UK, that they do not suffer disadvantage compared to the rest of the population?
- What steps the NI Department of Health, Social Services and Public Safety is taking to progress the implementation of the recommendations made by the NIHRC's 'Human Rights Inquiry: Emergency Care', in particular concerning:
 - the incorporation of the right to health into domestic law and standards;
 - the introduction of dedicated ED minimum care standards rooted in human rights; and,
 - ensuring that ED staff are trained on the right to health, including the prohibition on discrimination.
- What steps the NI Executive and the NI Department for Health, Social Services and Public Safety are taking to implement 'Transforming Your Care'?
- In relation to eligibility to make blood donations, from men who have sex with other men, to set out the scientific basis for continuing the lifetime ban in NI, when it has been removed elsewhere in the UK.
- What measures have been put in place to monitor the impact of the Traveller Education Action Framework on the right to education, including the effectiveness of the Traveller Education Support Service (TESS)?
- What action it has taken to review Schedule 13 of the Education and Libraries Order with a view to supporting the attendance in school of Traveller children?
- What action it will take to review the schools planning policy in NI so as to increase access to integrated schools in order to meet the demand of a significant number of parents?

- What mechanisms it will put in place to evaluate the effectiveness of recent developments in shared education in NI?
- How it will ensure that the proposed changes to the Special Educational Needs and Disability framework will not lead to any retrogression in access to individualised support for children with SEN and disabilities towards their enjoyment of the right to education?
- To provide for a statutory right to education for all children deprived of their liberty in NI and provide a timeframe for implementation.
- For an update on proposals for an Irish Language Act for NI given that the consultation on the proposed Bill has closed.
- How the State party will fulfil its obligations to legislate to protect and promote the Irish language, in absence of political consensus in NI?
- For an update on the implementation of key areas for action contained in the Ulster Scots Strategy.
- For an update on the implementation of the Stormont House Agreement (SHA), including those aspects relating to the regulation of parades, protests, flags, symbols, emblems and the Oral History Archive.

Introduction

1.1 The Northern Ireland Human Rights Commission (the NIHRC) is a statutory public body established in 1999 to promote and protect human rights. In accordance with the Paris Principles¹ the NIHRC reviews the adequacy and effectiveness of measures undertaken by the UK Government and NI Executive to promote and protect human rights, specifically within Northern Ireland (NI).

1.2 The NIHRC is one of the three A status National Human Rights Institutions (NHRIs) in the United Kingdom (UK). The NIHRC's mandate extends to all matters relating to the protection and promotion of human rights in NI, both matters within the competence of the NI Assembly and those within the competence of the Westminster Parliament. This submission relates to the protection of human rights in NI.

1.3 As part of the NIHRC's engagement with the United Nations (UN) and Council of Europe treaty monitoring processes, it presents this submission regarding the UK's Sixth Periodic Report on compliance with the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR) to the UN Committee on Economic, Social and Cultural Rights (the Committee) pre-session working group at its 56th Session.

Ratification of Optional Protocol

2.1 The UK Government has not ratified the 2013 Optional Protocol to ICESCR, stating in July 2014 that it "remains unclear about the practical benefits of the right to individual petition to the UK". The UK Government gave the following four rationales for its decision: the existence of a "very strong" legal framework and (effective remedies) for the protection of human rights in the UK; the "very low" number of cases against the UK under the OP-CEDAW and the OP-CRPD (the only two treaties where it recognises the right of individual petition); the fact that all cases up to that point against the UK had been declared inadmissible, as well as the lack of enforceable remedies were a violation to be found; and, the time and resources allocated by the UK to respond to the cases, estimated in 2008 at approximately £4,000 per case.²

The Committee may wish to ask the State party to ratify the Optional Protocol in order to strengthen the protection of Covenant rights both domestically and internationally.³

Involvement of NI Executive in treaty reporting

3.1 In 2009, the Committee noted the “absence of representatives from Northern Ireland” among the State party’s delegation during the constructive dialogue.⁴ The NIHRC advises the Committee that the Office of the First Minister and Deputy First Minister (OFMDFM) is the responsible department for matters concerning the response of the NI administration to external relationships,⁵ including the compliance and realisation of international human rights obligations through interaction with the UK Government.

3.2 The Ministry for Justice (MOJ) is the UK Government department responsible for ICESCR reporting, and the NIHRC welcomes the stakeholder event held by MOJ in Belfast in December 2013.⁶ The NIHRC notes however, that OFMDFM have had limited involvement in the State report drafting process. Given the extent of devolution throughout the UK, and particularly the greater devolution of power to NI in relation to social security, the NIHRC advises the Committee of the need for improved coordination and proactive communication between the UK Government and the NI Executive in order to facilitate effective engagement of the devolved administration at an early stage and throughout the treaty reporting process.

The Committee may wish to ask the State party:

- **what steps it is taking to ensure that OFMDFM is consistently engaged at the earliest possible stage in the reporting process; and,**
- **to ensure that a representative from OFMDFM attends future constructive dialogues with the Committee.**

Northern Ireland Human Rights Commission

4.1 In 2010, the NIHRC’s cash budget was £1,702,000. Between 2010/11 and 2014/15, this figure was reduced by 18% in cash terms to £1,396,000. In the final year, the budget was reduced by a further £100,000 to £1,296,000. The figure was reduced by 25% in real terms. In the current

financial year the NIHRC's cash budget is set at £1,174,000, a further 9.4% reduction in cash terms on the previous financial year. In March 2015 the Chancellor of the Exchequer published the 2015 Budget which will reduce Departmental budgets across the UK public sector.⁷ The UK Government will announce the outcome of its comprehensive spending review in late November 2015. The NIHRC has been notified by the UK Government that it is likely to face continuing significant financial cuts over the next four years. The NIHRC advises that it will shortly be applying for the renewal of its accreditation as an A status national human rights institution.⁸

The Committee may wish to ask the State Party how it will ensure the NIHRC has a stable and sufficient budget in order to discharge its functions independently and effectively, and maintain its accreditation status.

Constitutional and legal framework

Incorporation of economic, social and cultural rights

5.1 The NIHRC notes the Committee's recommendation that, in line with General Comment 9, the "Covenant is given full effect in [UK] domestic law [and] that the Covenant rights are made justiciable".⁹ The NIHRC also notes that the Committee called for the enactment of the draft Bill of Rights for NI "without delay".¹⁰

Human Rights Act and proposed repeal

5.2 The ICESCR remains unincorporated in domestic law. The UK Government has set out its belief in the State report that "[t]here is no provision in the ICESCR that requires States parties to incorporate the Covenant into domestic law or accord to it a specific status in domestic law".¹¹ The NIHRC notes that this position does not reflect the guidance of the Committee.¹²

5.3 The Human Rights Act 1998 (HRA) remains the key mechanism through which international human rights standards are incorporated. The HRA gives domestic effect to the European Convention on Human Rights (ECHR). While the ECHR is increasingly interpreted as including elements of

economic, social and cultural (ESC) rights, its primary focus is civil and political rights.¹³ In the case, *Stec v UK*, the European Court of Human Rights (ECtHR) stated:

Whilst the Convention set forth what are essentially civil and political rights, many of them have implications of a social or economic nature, The mere fact that the interpretation may extend into the sphere of social and economic rights should not be a decisive factor against a decisive interpretation; there is no water-tight division separating that sphere from the field covered by the Convention.¹⁴

5.4 In the 2015 Queen's Speech, the UK Government set out its intention over the period of the current Parliament to "bring forward proposals for a [British] Bill of Rights to replace the [HRA]."¹⁵ According to the UK Government, "[t]his would reform and modernise our human rights legal framework and restore common sense to the application of human rights laws."¹⁶

Relationship of Human Rights Act to NI peace agreements

5.5 In June 2015, the NIHRC gave a joint briefing with the Irish Human Rights and Equality Commission (IHREC) to the 'Joint Oireachtas Committee on the Implementation of the Good Friday Agreement' in which both Commissions raised concerns about the impact of the proposed repeal of the HRA on Northern Ireland's peace agreements.¹⁷

5.6 The Belfast (Good Friday) Agreement was agreed in April 1998. It is a treaty between the UK and Ireland and is lodged at the UN. Therein, the UK Government outlines its intention to incorporate into NI the ECHR "with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule [NI] Assembly legislation on grounds of inconsistency".¹⁸ The HRA, incorporating the ECHR, came into force in October 2000.

5.7 The subsequent St Andrews Agreement 2006 reaffirmed that human rights and equality are at the heart of the new dispensation in NI,¹⁹ and the recent Stormont House Agreement 2014 confirmed that future measures on parades and inquests will comply with the ECHR.²⁰

5.8 As demonstrated, human rights protection and compliance has been the cornerstone of the Belfast (Good Friday) Agreement and subsequent agreements. Any attempt to dilute the role of the ECHR and the ECtHR jurisprudence through proposals to repeal the HRA and replace with a British Bill of Rights run counter to the Belfast (Good Friday) Agreement. The NIHRC believes that any legislative proposals should not undermine the commitments contained within the Belfast (Good Friday) Agreement.²¹

NI peace agreements and a 'Bill of Rights for NI'

5.9 In 2008, pursuant to its mandate under the Northern Ireland Act 1998, the NIHRC provided advice on a proposed Bill of Rights for NI to the UK Government.²² Although the Committee recognised this positive effort in 2009, there has been little progress towards enacting legislation since the advice was submitted.

5.10 In 2015, the UK Government informed the Human Rights Committee that it is "committed to progressing this issue on the basis of an overall consensus among the Northern Ireland parties."²³ The NIHRC however advises that in 2003 the UK Government, stated;

[a] Northern Ireland Human Rights Commission has been established and has, among other tasks, undertaken significant work towards a Bill of Rights for Northern Ireland. At the conclusion of that process, and after consultation with the parties, the British Government is committed to bringing forward legislation at Westminster where required to give effect to rights supplementary to the ECHR to reflect the particular circumstances of Northern Ireland.²⁴

5.11 The NIHRC informs the Committee that there is an absence of consensus among the political parties on the introduction of a Bill of Rights for NI. Further, the NIHRC reminds the Committee that the enactment of a Bill of Rights for NI may strengthen domestic protection to ESC rights.

The Committee may wish to ask the State party:

- **how it intends to give the Covenant "full legal effect in its domestic law, [make] the Covenant rights [...] justiciable, and [ensure] that effective remedies are available for victims of all violations of economic, social and cultural rights."**²⁵

- **whether it is envisaged that any proposed British Bill of Rights will give greater recognition than the Human Rights Act to economic, social and cultural rights;**
- **how commitments within NI’s peace agreements will be ensured if the Human Rights Act 1998 is repealed; and,**
- **how it intends to meet its obligation emerging from the Belfast (Good Friday) Agreement to implement a Bill of Rights for NI.**

Equality and non-discrimination legislation

Single equality bill

6.1 Despite the introduction of the ‘Equality Act 2010’ in the rest of the UK,²⁶ and the concerns raised by three UN treaty bodies (CESCR, CEDAW and CERD Committees),²⁷ NI law does not provide for a single legislative instrument to consolidate and clarify existing equality protections. In NI, discrimination is prohibited by a number of different laws and regulations, resulting in a complex framework.²⁸ The NIHRC notes that the NI Executive has expressed its intent to review its current equality framework through a step-by-step approach rather than through a single legislative instrument.²⁹

Gaps in NI discrimination legislation: gender, race, disability and age

6.2 The NIHRC notes concerns raised by the Equality Commission for Northern Ireland (ECNI), about ‘gaps’ in protections within NI discrimination law when compared with the rest of the UK.³⁰ For example on gender, the ECNI has expressed concern that unlike in the rest of the UK, the current legislative framework in NI does not prohibit unlawful discrimination and harassment by public authorities on the grounds of sex in the exercise of their public functions.³¹ Concerns have also been raised by stakeholders that NI law does not protect transgender persons against discrimination in schools.

6.3 On race, the ECNI has expressed concern that unlike in the rest of the UK, the current legislative framework in NI does not:

- address the impact of the *Malcolm* decision by prohibiting unlawful discrimination on grounds of “colour” and “nationality”;³²

- prohibit unlawful discrimination by public authorities when carrying out “all their public functions”. At present, such prohibitions are limited to four areas: namely, social security, healthcare, social protection and social advantage;³³ or,
- prohibit harassment “related to” “all racial grounds”. Currently harassment is defined as unwanted conduct ‘on the grounds of’ race or ethnic origins.³⁴

6.4 On disability, the ECNI has expressed concern that unlike in the rest of the UK, the current legislative framework in NI does not:

- address the impact of the *Malcolm*³⁵ decision by prohibiting “indirect discrimination and discrimination arising from disability”;³⁶ or,
- place an additional duty on schools to provide auxiliary aids and services for disabled pupils, where reasonable.³⁷

6.5 Furthermore, the NIHRC notes that there is currently no prohibition on discrimination in the provision of goods, facilities and services (gfs) in NI on the basis of age. While the NI Executive is currently consulting on proposals to extend the age discrimination legislation to cover gfs, the NIHRC, along with the NI Commissioner for Children and Young People (NICCY) and a number of children’s NGOs,³⁸ are concerned that these proposals exclude children under 16. NI Executive Ministers have stated that the decision to exclude under 16s was made on the basis of seeking to advance legislation as quickly as possible with the aim of eventually extending age discrimination protection to children under 16. They have described the proposals as “a work in progress” and highlighted that including 16 and 17 year olds will provide better protection for children than that which exists in England, Wales and Scotland under the Equality Act 2010, which only applies to those aged 18 and over.³⁹

Intersectional multiple discrimination

6.6 NI legislation does not recognise intersectional multiple discrimination cases.⁴⁰ At present, each discrimination ground has to be considered and ruled on separately even if inextricably linked. The ECNI reports “clear evidence” that individuals experience multiple discrimination in NI.⁴¹ For example, over a twelve month period during 2013/14, the ECNI received 113 hybrid ‘race’ discrimination enquiries/applications.⁴²

6.7 The NIHRC notes that the UK Government has not brought into force a narrowly drafted provision within the Equality Act 2010 permitting dual discrimination cases in GB,⁴³ and that there is no commitment from the NI Executive to introduce legislation providing for intersectional multiple discrimination claims in NI.

The Committee may wish to ask the State party:

- **what steps it will take to simplify and harmonise equality legislation in NI within a Single Equality Act;**
- **to strengthen equality legislation in NI on the grounds of gender, race, and disability and to outline a timeline for delivery;**
- **what legislative measures it will introduce in NI to ensure that children under 16 are not discriminated against on the basis of age when accessing goods, facilities and services; and,**
- **what steps it will take to introduce a legal protection for multiple discrimination in NI.**

[Gender Equality \(Article 3\)](#)

Gender Equality Strategy

7.1 In 2009, the Committee recommended that the State party “conduct a comprehensive review of its policies to overcome gender inequalities”.⁴⁴

7.2 Women in NI remain underrepresented in leadership positions in public and political life. Women comprise one fifth of the NI Assembly;⁴⁵ 29.2% of all executive public sector positions;⁴⁶ and, 22.5% of judicial office holders in the NI Courts⁴⁷ (with, no female High Court judges and, as recently noted by the Human Rights Committee, female representation concentrated at the lower levels).⁴⁸ A 2014 research report into the reasons for the inequality between men and women in public sector executive positions identified a number of barriers to career progression including: those related to caring responsibilities, a lack of recognition of work life balance, long hours’ culture and exclusion from informal networks of communication.⁴⁹

7.3 The OFMDFM Gender Equality Strategy 2006-2016 is the policy framework under which the NI Executive promotes gender equality in NI.

Between 2008 and 2011, the Strategy was complemented by two cross-departmental action plans, one for women and one for men. In 2013, an OFMDFM 'midterm review' of the Strategy considered that while its vision, objectives and key actions were still relevant, "progress against it had been limited and implementation and monitoring could be improved."⁵⁰ Among many conclusions, the review noted that, "[o]utcomes and targets in the action plans were generally not SMART (Specific, Measureable, Achievable, Realistic and Timebound) and ... this made it difficult to judge if a target or outcome had been achieved."⁵¹ The review gave an indicative achievement rate 29% of the action points across all departments.⁵²

7.4 After the review, in a November 2013 consultation event, the OFMDFM's Gender Equality Unit indicated that it would be revising the current Strategy. Instead, the Gender Equality Unit decided to develop a draft of the post-2016 Strategy given the proximity in time to the end of the current Strategy. The Gender Equality Unit consulted with the Gender Advisory Panel and the ad hoc Women's Policy Group (a civil society collaboration) on a draft of the new Gender Equality Strategy in June 2015. The NIHRC understands that the Gender Equality Unit is pursuing a process of 'co-design' for the Strategy but that consultation with the Women's Policy Group has recently stalled. No public consultation has to date taken place.

The Committee may wish to ask the State party what steps it is taking to:

- **prioritise the publication of a draft NI gender equality strategy for public consultation; and,**
- **ensure the factors which hindered the implementation of the 2008-2011 action plans in NI are addressed.**

Accessible childcare

8.1 While some fiscal and welfare childcare provisions are the same throughout the UK,⁵³ childcare provision varies substantially across the regions.⁵⁴ Concerns raised by recent reports in NI suggest that the cost of childcare is disproportionately larger than in the rest of the UK. For example, a report prepared by PwC determined that based on 2013 figures, childcare charges in NI on average cost £158 per week, which amounted to "43% of the level of median gross weekly earnings for all employees in [NI], proportionately higher than in the rest of the UK".⁵⁵ By way of comparison,

the report also noted that, "OECD data [...] imply that average childcare charges for the whole of the UK would be a lower percentage of average wages; about 25% in 2008."⁵⁶

8.2 Unlike the rest of the UK, NI does not have a childcare strategy and there is no statutory duty on public authorities to ensure adequate childcare.⁵⁷ The NIHRC notes that a 2013 report by the Equality Commission for Northern Ireland (ECNI) on *Childcare: Maximising the Economic Participation of Women*, emphasised the need for a childcare strategy in light of the "lack of centralised direction" within the NI Executive, as well as the need to "substantially increase" resources.⁵⁸ The ECNI also noted that "access to childcare is particularly limited for: rural families; parents with disabled children; families with more than two children; Travellers; migrant and minority ethnic families; those on low-incomes and single parent families".⁵⁹ For some of these groups, the ECNI's concerns were rooted in availability, while for others it was affordability. Finally, the NIHRC notes the reliance on informal childcare in NI. The Employers for Childcare, NI Childcare Costs Survey 2014 stated that

[o]ver half of the respondents relied on some element of informal care, either through using a mix of formal and informal care (39%), informal care only (11%), or they or their partner cared for the children themselves (5%).⁶⁰

8.3 Pursuant to a Programme for Government 2011-2015 commitment,⁶¹ as well as those outlined within the NI Executive's framework document 'Bright Start',⁶² the OFMDFM published a draft Childcare Strategy on 28 July 2015 for a period of consultation ending on 13 November 2015.⁶³ The NIHRC is currently considering the draft Strategy.

Given the right to work and the role of childcare in maximising the economic independence of women, the Committee may wish to ask the State party how the draft Childcare Strategy will increase the availability and affordability of childcare places in NI and for a timeframe for its delivery.

Equal pay for work of equal value

9.1 In 2009, the Committee recommended that the State party “continue intensifying its efforts to enhance equality between men and women in the workplace, particularly with regard to equal pay for work of equal value.”⁶⁴

9.2 OFMDFM statistics published in 2014, record that female earnings are slightly higher than male earnings when looking at median full-time and part-time gross hourly earnings in NI.⁶⁵ While these figures show a per hour pay gap in favour of women in NI, academics have noted that “when pay differences are calculated per week or per month men take home more pay than women.”⁶⁶ The NI Peace Monitoring Report 2014 notes two reasons for this disparity:

First, men work more overtime and so earn more per week and per month. The second reason is to do with the distribution of full-time and part-time work. Women predominate in part-time work where the overall pay rates are lower. The net effect of these two factors is a pay gap in favour of men, and there has been a slight widening of that gap over the past year [2013/14].⁶⁷

9.3 In conclusion, the NI Peace Monitoring Report notes that overall, in April 2013, the female median hourly earnings, excluding overtime, was 89.7% of male earnings. It was noted however that this is a narrower gap than in the rest of the UK, quoted at 80.3% over the same period.⁶⁸

9.4 The NIHRC advises the Committee that there is a relatively high ratio of public to private sector employment in NI. In the NI civil service, which comprises approximately 12% of public sector employment in NI, latest figures state that 50.1% of the workforce is female. This compares to an economically active female population at 46.2%.⁶⁹

9.5 The NIHRC notes that the Programme for Government 2011-2015 promotes the private sector and sets out the NI Executive’s vision for the “Northern Ireland economy based on a sustainable and growing private sector, with a highly skilled and flexible workforce, operating in productive and innovative firms that are competitive in global markets.”⁷⁰

9.6 The NIHRC further notes the Equality Act 2010 and related regulations, applicable to the rest of the UK, contain protections against pay inequality within the private sector. In particular, the legislation prohibits 'pay secrecy clauses' within employment contracts,⁷¹ and (through the Equal Pay Audits Regulations 2014) gives employment tribunals the power to order equal pay audits if an employer is found guilty of gender discrimination on pay.⁷²

The Committee may wish to ask the State party what steps are being taken in NI to ensure that protections against gender pay inequality in the private sector in NI are at least as effective as in the rest of the UK.

[Right to work \(Article 6\)](#)

Persons with disabilities

10.1 In 2009, the Committee called upon the State party to "reinforce its measures aimed at ensuring persons with disabilities, including those with learning disabilities, have equal opportunities for productive and gainful employment, equal pay for work of equal value and provide opportunities to gain necessary qualifications" in line with General Comment no 5.⁷³

10.2 One in five persons of working age in NI have a current long term disability (20.5%). The proportion was higher for females (22.4%) than for males (18.6%), equating to 131,000 women and 107,000 men.⁷⁴ Only 10.7% of persons with a disability in NI had a degree or an equivalent qualification, compared to 24.9% of persons without a disability. Thirty five per cent of those with a disability had no qualifications, almost three times the proportion of those without a disability.⁷⁵ The majority of persons with a disability in NI are economically inactive (60.1%), compared with 17.8% of those without a disability.⁷⁶ The employment rate for those without disabilities (78.1%) is twice that of persons with disabilities (32.8%).

10.3 The NIHRC notes the OFMDFM 'Strategy to improve the lives of people with disabilities 2012 – 2015' includes a theme on 'employment and employability' and strategic priorities aimed at 'increasing the number of people with disabilities entering all levels of employment and safeguard[ing]

the rights of those disabled people already in work' as well as 'increas[ing] the opportunities for people with disabilities to attain skills and qualifications through access to appropriate training and lifelong learning opportunities.'⁷⁷ The Strategy has been extended to 2017.⁷⁸

10.4 The NI Executive published an annual report for 2013/14 on the implementation of the Executive's Disability Strategy. OFMDFM reported that the number of people with disabilities enrolling in Further Education and Essential Skills programmes had increased. Furthermore, initiatives have been taken forward to help young people who face barriers in participation in education, employment or training such as the Collaboration and Innovation Fund and Community Family Support programme. The Disability Employment Service also delivers a number of services and programmes, including pre-employment and in work support provision. OFMDFM reported that in 2013/14, approximately 3,000 people with disabilities or health conditions were supported through the range of services.⁷⁹

10.5 OFMDFM also developed an interim list of draft indicators to measure the progress being made on the priorities in the Disability Strategy. A consultation took place on the interim list which ended in February 2015.⁸⁰ The consultation included draft indicators on employment including: employment rate by disability status; economic inactivity rate by disability status; percentage of individuals in high level employment by disability status; percentage of individuals who have never worked by disability status; hourly wage rate by disability status; educational qualifications (proportion with no qualifications and proportion with degree level qualifications) by disability status; and percentage of individuals not in work who want to work by disability status.⁸¹

10.6 Further, an "Enabling Success" strategy for reducing economic inactivity in Northern Ireland was published in April 2015.⁸² One of the key target groups within the strategy are people with work limiting health conditions or disabilities, as well as lone parents and carers in receipt of out of work benefits.⁸³ The strategy makes reference to a number of projects aimed at all the target groups and some specifically aimed at those with working limiting health conditions or a disability. An interim strategic target of achieving an employment rate of more than 70% by 2020 has also been included to assess the effectiveness of the strategy at a mid-point in the implementation process.⁸⁴

The Committee may wish to ask the State party for an update on:

- **the development of the list of indicators to measure the success of the Disability Strategy in NI;**
- **the steps being taken to develop a new Disability Strategy post 2017; and,**
- **the projects contained within the 'Enabling Success' Strategy.**

National minimum wage, the new living wage and age thresholds

11.1 In 2009, the Committee recommended that the State party "consider giving workers from 18 to 20 years of age the same [national] minimum wage which is given to those beyond the age of 21."⁸⁵ As noted in the State report, the UK Government continues this differential treatment on the rationale that "[r]emoving the youth rates would adversely affect employment prospects for this group, dissuading employers from taking on younger, less experienced workers and/or reducing the jobs available to such workers."⁸⁶

11.2 The NIHRC advises the Committee that the UK summer budget in July 2015 promised a 'new national living wage', by introducing a new premium on top of the National Minimum Wage with rates to be set at £9 an hour by 2020 (discussed further below).⁸⁷ The UK Government has limited this to a new category of persons: workers aged 25 and above.

The Committee may wish to ask the State party:

- **for further information to support its conclusion that raising the national minimum wage for under 20s will adversely affect their employment prospects; and,**
- **to set out a reasonable and objective justification⁸⁸ why the new 'living wage' will not apply to persons under 25 years old.**

Protection and assistance to the family (Article 10)

Corporal punishment

12.1 In spite of the Committee's repeated recommendations to prohibit the physical punishment of children in the home,⁸⁹ as well as similar recommendations by four other treaty bodies (CRC, HRC, CEDAW and CAT Committees),⁹⁰ the law in NI, as in the rest of the UK, remains unchanged. The State party outlined in its State report to the CRC Committee its belief that "parents should not be criminalised for giving a mild smack"⁹¹ and that Article 2 of the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006 remains in force. This provides for the defence of reasonable punishment in respect of a charge of common assault tried summarily.

The Committee may wish to ask the State party what steps are being taken in NI to implement the recommendation to prohibit corporal punishment in the home without further delay and to extend this throughout its jurisdiction.

Right to social security (Article 9)

Welfare reform

13.1 In General Comment 19, the Committee emphasises the link between social security and human dignity and states that "[s]ocial security, through its redistributive character, plays an important role in poverty reduction and alleviation, preventing social exclusion and promoting social inclusion."⁹²

13.2 The NIHRC notes the comments of the ICESCR Committee Chair in the 2012 open letter to State parties on the protection of Covenant rights in times of economic and financial crisis. The letter advised that while some adjustments will be inevitable in such a context, a number of requirements must be followed. These include, that the policy measure must: (1) be temporary covering only the period of crisis; (2) be necessary and proportionate, in that failure to act would be detrimental to ESC rights; (3) not be discriminatory and must comprise all possible measures including tax measures to support social transfers to mitigate inequalities; and (4) identify the minimum core content of rights or a social protection floor.⁹³

13.3 The NIHRC advises the Committee that a Welfare Reform Bill was introduced to the NI Assembly in 2012 to make provision in NI corresponding to the Welfare Reform Act 2012 in Great Britain (GB). Social security is a devolved to the NI Executive, any variation from Westminster policy has to be funded by the Executive from its block grant, which has consequential implications for the funding of other public services..⁹⁴

13.4 During the passage of the Bill, the NIHRC advised the NI Assembly Committee of the NI Executive's legal obligations as defined by ICESCR, Article 2 and General Comment 3 (including the presumption against retrogression).⁹⁵ The NIHRC advised the NI Assembly Committee to assess any retrogressive measures of the Bill in line with General Comment 3, in particular in provisions relating to Personal Independence Payments.⁹⁶

13.5 In the Stormont House Agreement 2014, a package of measures was agreed by NI's political parties on a number of issues, including on the 2015-16 budget and welfare reform. The Agreement contained a commitment to bring legislation before the NI Assembly in January 2015 to "give effect to welfare changes alongside further work to develop and implement flexibilities and top-ups from the block grant as part of a package of measures to address local need."⁹⁷ The Agreement noted that implementation of the welfare changes would take place in the financial year 2015-16 and implementation completed by 2016-17.⁹⁸

13.6 In May 2015, however, the Welfare Reform Bill did not pass the final stage of the legislative process causing uncertainty in the sphere of social security in NI.⁹⁹ It is not clear what will happen next; the Secretary of State for NI has not ruled out the Westminster Parliament legislating on welfare reform issues in NI.¹⁰⁰

13.7 At a speech at the British Irish Association annual conference in September 2015, the Secretary of State for NI stated:

... we have come to the conclusion that if the Executive cannot reach agreement on implementing the budget and welfare aspects of the Stormont House Agreement, as a last resort the Government will have to step in and legislate at Westminster for welfare reform in Northern

Ireland. We would do so reluctantly, and only if we had exhausted all the realistic alternatives.¹⁰¹

The issue of welfare reform is an aspect of the ongoing political talks in NI.¹⁰²

13.8 The NIHRC advises that since the 2015 General Election, the Westminster budget has included a number of further welfare reform measures, some of which will also have an adverse impact on some claimants in NI. These include: a new benefits cap to be set at £20,000 (£23,000 in London) (bearing in mind that the previous benefits cap as proposed in the Welfare Reform Bill had yet to be implemented in NI).¹⁰³ The work related activity component of the disability benefit Employment and Support Allowance and limited capability for work element of universal credit will be abolished with transitional protection for claimants already entitled to these payments.¹⁰⁴ Working age benefits (excluding maternity pay, paternity pay and sick pay) will be frozen for four years; and, support through child tax credit will be limited to two children for new claimants after 2017.¹⁰⁵ As some of these matters are “excepted”, e.g dealt with through the general taxation system, changes can be made without devolved legislation, for example limiting of child tax credit to two children.

13.9 The NIHRC notes that in the Summer budget the UK Government also announced a reduction in corporation tax from 20% to 19% in 2017 and 18% in 2020; and a decrease in the inheritance tax in respect of the family home.¹⁰⁶ The Stormont House Agreement contained an agreement to introduce legislation in the UK Parliament to devolve Corporation Tax in 2017.¹⁰⁷ Westminster legislation passed in 2015 subsequently made provision for a Northern Ireland rate of corporation tax.¹⁰⁸

13.10 Finally, the NIHRC also recalls the concerns raised by the UN Special Rapporteur on the Right to Food that food banks should not become a fundamental feature of our social protection system,¹⁰⁹ and advises that the number of food banks operating in NI has increased.¹¹⁰

The Committee may wish to ask the State party:

- **for an update on discussions on the welfare reform agenda in NI and when a Welfare Reform Bill will be introduced into the NI Assembly;**

- **what mitigating measures will be considered in respect of NI should Westminster legislate on welfare reforms;**
- **how the principle of non-retrogression is being complied with in the context of welfare reform discussions in NI; and,**
- **how the requirements set out in the ICESCR Committee Chair's 2012 letter to State parties are being complied with in NI.**

Carers and social security

14.1 NIHRC published research in November 2014 in which carers reported a number of concerns in relation to social security. These included: difficulty in accessing information on advice and benefits to which they were entitled; and, the belief that the Carer's Allowance inadequately compensates them for the time or costs associated with caring. The NIHRC also highlighted in the research that the move from Disability Living Allowance (DLA) to Personal Independence Payments (PIP) under welfare reform changes would result in a significant number of carers becoming ineligible for Carer's Allowance.¹¹¹ Many households will face a dual impact of the cared for person no longer receiving DLA and the carer no longer receiving Carer's allowance.¹¹²

The Committee may wish to ask the State party:

- **what steps are being taken to ensure a greater uptake of social security benefits among carers in NI;**
- **whether the Carer's Allowance is adequate to cover the cost of care in all circumstances; and,**
- **what studies have been undertaken to assess whether the right to an adequate standard of living is being respected by those in receipt of Disability Living Allowance and Carer's Allowance.**

[Right to an adequate standard of living \(Article 11\)](#)

Tackling poverty and child poverty

15.1 In 2009, the Committee called on the State party to intensify its efforts to "combat poverty, fuel poverty and social inclusion, in particular with regard to the most disadvantaged and marginalised individuals and

groups and in the most affected regions and city areas". The Committee also called on the State party to intensify its efforts to reduce child poverty by half by 2010.¹¹³

15.2 The NI Poverty Bulletin for 2013/14 reports that one-fifth of the population lives in poverty. According to the report, in 2013/14, 21% of individuals were in poverty (c. 376,000 individuals), an increase from 19% the previous year. This includes 20% of working age adults (c. 213,000 individuals), an increase from 18% the previous year; 21% of pensioners (c. 63,000 individuals), an increase from 20% the previous year; and, 23 % of children (c. 101,000 children), an increase from 20% the previous year.¹¹⁴ Furthermore, figures from the Institute for Fiscal Studies (IFS) predict that child poverty in NI will increase from: 21.8% in 2015-16 to 26.0% by 2020-21 using the relative low income measure; and, 25.3% in 2015-16 to 29.3% by 2020-21 using the headline absolute low-income measure.¹¹⁵ The Institute for Fiscal Studies in examining the effects of various reforms introduced between May 2010 and May 2015 reported that working-age households with children, by contrast, have lost more on average than other household types at each income level, as households with children have greater entitlement to benefits and benefits directed at families with children have been reduced (notably, through freezing child benefit, the high-income child benefit charge and means-testing child tax credit more aggressively).¹¹⁶

15.3 Preliminary research undertaken by the NIHRC on "Human Rights and Poverty" in 2014 found that despite a number of favourable strategies, the numbers living in poverty and not experiencing full enjoyment of their socio-economic rights is rising.¹¹⁷ According to the NIHRC's findings, the poor are becoming poorer, creating a greater risk of destitution. In addition, a 'middle class poor' is emerging, for example those facing redundancy and in a climate of high unemployment and underemployment finding a job is difficult.¹¹⁸

NI anti-poverty strategy and NI child poverty strategy

15.4 Section 28E of the Northern Ireland Act 1998 (as amended) provides that the NI Executive "shall adopt a strategy setting out how it proposes to tackle poverty, social exclusion and deprivation based on need".¹¹⁹ In June

2015, in a judicial review challenge taken by the Committee on the Administration for Justice (CAJ), the NI High Court ruled that the NI Executive breached its duties by failing to adopt an identifiable strategy meeting the Section 28E obligations. Mr. Justice Treacy stated:

The Oxford English Dictionary defines a “strategy” as a “plan of action designed to achieve a long term or overall aim”. In adopting only the “architecture and principles”, the Executive adopted something that was inchoate. There is no evidence before me that this inchoate strategy was ever finalised. There is no evidence that it was ever crafted into a road map designed to tackle the issues referred to in the section.¹²⁰

15.5 The Child Poverty Act 2010 (the Act), which was enacted on 25 March 2010 at Westminster, placed a statutory obligation on the NI Executive to develop a child poverty strategy and report on progress. As noted in the State party’s report, the NI Executive produced a three year child poverty strategy in 2011 and OFMDFM produced three annual progress reports, in line with their obligation under the Act.¹²¹

15.6 In January 2014, a consultation document, “Delivering Social Change for Children and Young People” was published for public consultation. The consultation document set out draft proposals to integrate the Executive's child poverty strategy with the ten year strategy for children and young people and to deliver commitments under the UN CRC. Following comments from stakeholders, a decision was taken to lay a separate child poverty strategy for 2014-17, separate from a revised children’s strategy.¹²²

15.7 Officials from OFMDFM informed an Assembly Committee in January 2015, that a new child poverty strategy has been developed which sets out the department’s actions and a new approach to efforts on tackling child poverty. The strategy will use the child poverty outcomes framework as a tool and future annual reports, starting with the 2014-15 report will use the outcomes based accountability methodology to report on outputs and the outcomes.¹²³

15.8 The NIHRC understands that at the time of writing both the annual progress report and the Child Poverty Strategy for 2014-17 are with Ministers for consideration. The UK Government introduced new legislation in

July 2015 to amend the Child Poverty Act 2010 which will be called the Life Chances Act 2010. This legislation will change child poverty measures which may have implications for the Child Poverty Strategy in NI.¹²⁴ Targets related to relative income, combined low income and material deprivation, absolute low income and persistent poverty will all be repealed. Duties to meet these targets are removed from the Secretary of State for Work and Pensions, alongside duties related to developing a UK wide strategy and devolved strategies for Northern Ireland and Scotland.

The new living wage

15.9 Members of civil society, including academics, have identified the introduction of a living wage as one of a range of measures that could assist in alleviating poverty.¹²⁵ The UK summer budget of July 2015 included a commitment to introduce a new national living wage (for those aged over 25). This will start next year at £7.20 and increase to £9 per hour by 2020.¹²⁶ The Director of the Living Wage Foundation has questioned however, whether this measure is a living wage. The Director stated:

Is this really a living wage? The living wage is calculated according to the cost of living whereas the Low Pay Commission calculates a rate according to what the market can bear. Without a change of remit for the Low Pay Commission this is effectively a higher national minimum wage and not a living wage.¹²⁷

15.10 Concerns have been raised that benefit cuts would hit low income working age families hardest and that overall the cuts are larger in scale than gains to those with lower hourly wages from the national living wage policy announced by the Government.¹²⁸ Research in September 2015 by the Joseph Rowntree Foundation projected the disposable incomes of households on out of work benefits and minimum wages. The main findings included that families with two parents in full time work, workers without children and pensioners will typically be better off over the next five years. However lone parents and families with more than two children are likely to see living standards stagnate or fall even if they work full time, as are low income families with one breadwinner.¹²⁹

Taxation as a tool to reduce poverty

15.11 The NIHRC notes that taxation has been identified as a crucial instrument for the realization of human rights and for generating resources to reduce poverty.¹³⁰ In addition to the comments of the ICESCR Committee Chair in the 2012 letter, a report of the UN Special Rapporteur on extreme poverty and human rights provides useful guidance for State parties. The Rapporteur highlighted that a State breaches its international obligations when, for example, acts or omissions diminish public revenues by allowing large scale tax evasion; similarly when tax structures have a disproportionate impact on the poorest segments in society this could violate human rights obligations, such as the obligation to allocate the maximum available resources to the enjoyment of ESC rights.¹³¹

15.12 The UN Special Rapporteur recommended that States must realise the full potential of tax collection as a tool to generate revenue for the fulfilment of human rights obligations and to redress discrimination and inequality. In order to achieve this purpose, the UN Special Rapporteur recommended that States should seek to increase tax revenue in a manner compatible with human rights obligations of non-discrimination and equality, and increase the allocation of revenue to budget areas that contribute to the enjoyment of human rights.¹³² State parties should also:¹³³ review tax structures, codes and instruments for explicit and implicit gender bias; ensure that people have access to all relevant data and information on fiscal policy and government revenues; take strict measures to tackle tax abuse; and implement regulations that prevent the financial sector playing a role in aiding tax evasion.¹³⁴ The International Bar Association similarly concluded that tax abuses deprive governments of the resources required to provide programmes that give effect to ESC rights.¹³⁵

15.13 The NIHRC advises the Committee that taxation is a non-devolved matter and responsibility remains with the Westminster Parliament. Ahead of the general election in 2015, a campaign on tax justice called on the political parties to commit to introduce a bill to tackle tax avoidance and evasion. They estimated that in introducing a well drafted Bill on tax avoidance and evasion, at least £3.6 billion a year in tax revenues to the UK which could be spent on addressing poverty in the UK.¹³⁶ The Conservative Party election manifesto pledged to “crack down on tax evasion and

aggressive tax avoidance and make sure those who can afford to pay the most do".¹³⁷

15.14 In the summer budget of July 2015, the new UK Conservative Government committed to reduce the deficit by raising £5bn by 2019-20 through tackling tax evasion and tax avoidance.¹³⁸ The budget included a number of measures relating to taxation, including significant investment in the HMRC's work on non-compliance and tax evasion. The work includes increasing the number of criminal investigations and prosecutions into serious and complex tax crime. The UK Government committed to introduce legislation to improve the transparency of tax strategies and give HMRC new powers to tackle businesses which persistently engage in aggressive tax planning. It is intended that HMRC will be given powers to acquire data from online business intermediaries and electronic providers to help identify businesses that are trading but not declaring tax.¹³⁹ The Government has pledged to raise the personal income tax allowance to £12,500 by the end of this Parliament. In 2016/17, the personal allowance will increase from £10,600 to £11,000.¹⁴⁰

The Committee may wish to ask the State party:

- **in light of the court judgment, what immediate measures are being taken to develop an anti-poverty strategy for NI based on objective need;**
- **when it intends to publish a renewed child poverty strategy for NI;**
- **for further detail on the factors which inform how the new living wage has been calculated; and,**
- **what measures it intends to take to realise the full potential of taxation as a tool for generating revenue in order to allocate the maximum available resources to fulfil human rights obligations and address poverty; and**
- **what combined impact will the living wage and social security measures have on low income households based on composition and size.**

Right to housing: Travellers

16.1 In 2009, the Committee recommended that the State party:

ensure that the provision of sufficient, adequate and secure stopping sites for Roma/Gypsies and Irish Travellers.... It also encourages the State Party to review provisions of the Unauthorised Encampments (Northern Ireland) Order 2005 and to provide for suitable accommodation arrangements for Roma/Gypsies and Irish Travellers.¹⁴¹

16.2 Moreover, the report of the UN Special Rapporteur on the Right to Adequate Housing who raised concerns after a country visit to the UK on the lack of appropriate and culturally adequate residential and transit accommodation which is often at the root of discrimination faced by Gypsies and Travellers in the UK.¹⁴² She noted that many Gypsies and Travellers are often caught between an insufficient support of accommodation on one hand and the insecurity of unauthorized encampments on the other.¹⁴³

16.3 The NIHRC remains concerned about the inadequate provision of sites and accommodation for the Traveller Community. In a submission to the CERD Committee in 2011, Equality Commission for NI (ECNI) reported that an undersupply of accommodation as well as a lack of basic amenities was central to the high levels of social exclusion and poverty experienced by Travellers.¹⁴⁴ The ECNI further reported in 2014 concerns that the lack of identification and development of sites had led to a dramatic shift in the number of Travellers moving to 'bricks and mortar' housing.¹⁴⁵

16.4 The Northern Ireland Council for Ethnic Minorities (NICEM) published research in 2014 in which Traveller respondents were asked to highlight priority issues affecting them. Accommodation was cited as the second highest priority after education, and priorities included better sites (both permanent and transit) alongside better homes and conditions on existing sites.¹⁴⁶

16.5 The NI Housing Executive (NIHE) published the Traveller Accommodation Needs Assessment in 2014. The analysis showed a gross need for 18 units of grouped accommodation, 28 serviced site pitches, two transit site pitches, 51 units of social housing and 13 units of other

accommodation forms: accommodation for 112 households in total.¹⁴⁷ The needs assessment highlighted that the net housing need was a much more complex calculation outside the scope of the research project and which will be undertaken by Strategic partnerships in consultation with the Traveller community, because if one type of accommodation is provided, this may affect the need for another type of accommodation. The NIHE has said that, in giving consideration to the findings of the assessment, it will draw up a programme of Traveller specific schemes over the next five years.¹⁴⁸

Unauthorised Encampments (Northern Ireland) Order 2005

16.6 The Unauthorised Encampments (NI) Order 2005 remains in force.¹⁴⁹ This legislation created a power for a police officer to direct a person to leave land and remove any vehicle or other property with him on that land. It also created an offence and a power of seizure for non-compliance with a direction. The NIHRC has highlighted in previous submissions that the 2005 Order actively contributes to the disadvantage faced by the Traveller community in NI and conflicts with equality and human rights legislation.¹⁵⁰ The NIHRC understands that the powers under the 2005 Order have rarely been used.

16.7 The NIHRC also notes NIHE operates a co-operation policy. This policy permits Travellers to set up an unauthorised encampment on public land for which there is no current or immediate use and permits them to occupy the land provided it does not create a public health or traffic hazard and the land is maintained in a reasonable and orderly manner.¹⁵¹ The NIHE emphasises that the policy is not a substitute for permanent or transit sites but is intended to act as a way of dealing with a humane requirement.¹⁵²

16.8 A positive development since the Committee's concluding observations is the introduction of the Caravans Act 2011. This Act, introduced by a Private Member's Bill, provides security of tenure for permanent caravan dwellers and other protections for persons living in caravans on temporary sites. During the passage of the Bill, the NIHRC noted that provisions included due process protections against eviction, and therefore urged consideration of the repeal of the 2005 Order via this legislation.¹⁵³ The Department for Social Development did not support a repeal of the 2005 Order as it dealt with trespass and police powers and did not consider that the issue came within the scope of the Caravans Bill.¹⁵⁴ The Committee for

Social Development, when considering the Caravans Bill during Committee Stage of the Bill, agreed that it would not support an amendment to repeal the 2005 Order.¹⁵⁵

Barriers to adequate site provision: planning permission and site licenses

16.9 Planning permission has provided a stumbling block in building facilities. For example, the NIHE is appealing a decision by a local council to stop it building a temporary facility for Travellers in Antrim. The appeal has been lodged with the Planning Appeals Commission and two grounds of refusal are being contested: that the development would adversely affect the setting of a monument; and, that it was not in keeping with the local area.¹⁵⁶ This temporary accommodation was for an extended family who were living on an unauthorised site in North Belfast and were displaced following legal action by the landowner.¹⁵⁷ The Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM) expressed concern in 2011 on the difficulties facing Gypsies and Travellers in all regions of the UK when seeking to obtain planning permission for private sites. The Advisory Committee called for planning rules to be applied in a manner that takes into account the specific needs of Gypsies and Travellers and that does not lead to discriminatory practice.¹⁵⁸

16.10 The NIHRC previously reported on a legislative anomaly, which can create a practical difficulty in ensuring adequate site provision to the Traveller community.¹⁵⁹ Under the Caravans Act (Northern Ireland) 1963,¹⁶⁰ Traveller sites had been among a number of caravan sites exempt from licensing requirements, but no consequential amendment was introduced when the power to provide sites was transferred from local councils to the NIHE.¹⁶¹ The NIHRC called for an amendment to the 1963 Act via the Caravans Bill in 2011 to rectify the anomaly.¹⁶² However no amendment was made and the position remains that the NIHE is required to obtain a site licence.¹⁶³ In 2011, the Advisory Committee on the FCNM expressed concern that the NIHE had not met its objectives in providing additional sites, and identified the need for the NIHE to obtain licences from local councils in order to deliver new sites seemed to be one of the reasons for a lack of delivery.¹⁶⁴

The Committee may wish to ask the State party:

- **for an update on the development of the programme for Traveller specific schemes in NI;**
- **what review has taken place since the 2009 examination with regards to the provisions of the Unauthorised Encampments (Northern Ireland) Order 2005 and what are the reasons for the legislation remaining in force in NI;**
- **how it will ensure that planning rules in NI take account of the specific needs of Travellers; and,**
- **what steps will be taken to amend legislation which requires the NI Housing Executive to obtain site licences from local councils.**

Social housing

17.1 In 2009, the Committee expressed concern about the “chronic shortage of housing, in particular social housing for the most disadvantaged and marginalised individuals and groups, such as ... Catholics in Northern Belfast”.¹⁶⁵ The Committee recommended an intensification of efforts to ensure everyone has access to housing, aimed at increasing the levels of affordable housing, including social housing. In addition, the Committee recommended that the equality impact assessment framework in NI be “effectively implemented” by,

ensuring the participation of affected populations and the development of adequate policies and targeted measures to promote substantive equality ... and adequate housing programmes for the poor, and in particular, Catholic families.¹⁶⁶

17.2 Similarly, following a country visit in 2013, the Special Rapporteur on adequate housing recommended that, “additional efforts [are made] to address challenges to overcome persistent inequalities in housing in North Belfast” and that official data should be “disaggregated, open and accessible to all”.¹⁶⁷

17.3 The Northern Ireland Housing Executive (NIHE) is the public body responsible for identifying housing need and managing the social housing allocation scheme, as well as having powers relating to housing development, and acquisition and disposal of land.¹⁶⁸ The Department for

Social Development Northern Ireland (DSDNI) has ultimate responsibility for the activities of the NIHE.¹⁶⁹ Social housing in NI is allocated on the basis of need using a points-based system. The term 'housing stress' refers to persons determined to be in housing need (i.e. with an allocation of 30 points or more).¹⁷⁰

17.4 Due to the particular circumstances of Northern Ireland, social housing stock is segregated. Research published by the NIHE in 2009 reported that based on the 2001 census, 91% of social housing in Belfast NIHE estates were highly polarised, defined as having more than 80% of one community or less than 20% of one community in an estate.¹⁷¹ Research also reported that there is evidence that there has been a sharp drop in young Catholics and Protestants expressing a preference for mixed religion neighbourhoods.¹⁷²

17.5 By way of example, the NIHRC advises the Committee that sectarian divisions in North Belfast have created "distinct housing markets" between the two main communities in NI.¹⁷³ This means that the common landlord areas (CLAs) within North Belfast tend to be either predominantly Catholic or predominantly Protestant. There have been recent instances of graffiti on entrances of new housing developments in what was intended to be a mixed housing development in North Belfast.¹⁷⁴ Furthermore, there has been a revival of paramilitary murals in some areas against the trend to remove such murals elsewhere.¹⁷⁵ Commenting on the 2009 concluding observation, the State report refers to efforts aimed at improving community relations, such as the 'Together: Building a United Community' (TBUC) strategy, new shared neighbourhood developments and the reduction of interface barriers.¹⁷⁶

Publication of disaggregated data

17.6 The annual NIHE District Housing Plans identify the numbers of applicants in 'housing stress' per 'housing district' in NI but do not disaggregate the data. Disaggregated figures are only available via Freedom of Information (FOI) requests.

17.7 The importance of the publication of disaggregated data on grounds of religion has been consistently demonstrated in information obtained via FOI

requests by the Participation and the Practice of Rights (PPR) concerning North Belfast. Latest figures show that in July 2014, the residual need (i.e. the need when the numbers in housing stress is compared to available properties), continued to be greatest for applicants in predominantly Catholic common landlord areas (CLAs) (table 1). While the NIHRC notes that there is disagreement over how data is presented, with some politicians preferring to look at the broader North Belfast Parliamentary constituency area (and thereby including more predominantly Protestant CLAs),¹⁷⁷ the figures obtained by PPR show a greater residual need within Catholic CLAs irrespective of the boundary used (table 2).

Table 1: NIHE North Belfast 'housing district' information received by PPR under FOI request (July 2014)¹⁷⁸

	Waiting list	Housing Stress	Allocations	Voids	Residual Need / Shortfall	New Build on site 2013/2014	Draft SHDP 2014/17
Protestant CLAs	693	326	346	49	-72	2	64
Catholic CLAs	1681	1112	411	35	666	154	284

Table 2: NIHE North Belfast 'Parliamentary constituency' information received by PPR under FOI request (July 2014)¹⁷⁹

	Waiting list	Housing Stress	Allocations	Voids	Residual Need / Shortfall	New Build on site 2013/2014	Draft SHDP 2013/17
Protestant CLAs	2088	1081	653	164	264	23	130
Catholic CLAs	1755	1166	421	36	709	177	284

17.8 The NIHRC advises the Committee that the figures in tables 1 and 2 refer to the predominant religion of the various common landlord areas in North Belfast and not the individual applicants' religious background.

Efforts to address inequality in North Belfast

17.9 As demonstrated by tables 1 and 2, there is greater availability of housing stock to meet the demand in Protestant CLAs than in Catholic CLAs.

One of the difficulties therefore in addressing the need within predominantly Catholic CLAs in North Belfast is the availability and expense of suitable land on which to build. The NIHRC notes the efforts of PPR in 2015 to identify and photo-map “windfall sites” within North Belfast (and other areas) which it proposed could be used for social housing.¹⁸⁰

Equality impact assessments and the macro policy

17.10 In October 2013, the Committee on the Administration of Justice (CAJ), a local NGO, alleged that the DSDNI had “fail[ed] to carry out screening and equality impact assessment of strategic housing policy centred around its ‘Facing the Future: Housing Strategy for Northern Ireland 2012-2017’ policy”.¹⁸¹ The allegations were based on the DSDNI’s decision not to screen ‘Facing the Future’ but instead to screen the individuals policies set out in the strategy as they are developed.¹⁸² CAJ alleged that such a policy would restrict meaningful analysis of the equality impacts of the macro policy.¹⁸³ Further allegations include the suggestion that the DSDNI is progressing with its action plan without screening or equality impact assessments being conducted on the collective or individual elements.¹⁸⁴

17.11 In May 2014, the ECNI initiated an investigation into the DSDNI on whether it “failed to comply” with its approved Equality Scheme in four areas, namely: (1) Facing the Future: Housing Strategy for Northern Ireland 2012-2017; (2) Facing the Future: Housing Strategy for Northern Ireland, Action Plan 2012-2017; (3) Social Housing Reform Programme¹⁸⁵; and (4) Building Successful Communities Initiative.¹⁸⁶

17.12 In June 2014, Sinn Fein requested that the NIHRC undertake an investigation of the “current and proposed policy on the provision of social housing and allocation of social housing by the DSD and the NIHE with particular reference to the [ICESCR].” A principal basis of the complaint was the alleged “longer waiting times, higher levels of housing stress and greater homelessness within Catholic and nationalist communit[ies]”.¹⁸⁷ In light of the then ongoing ECNI investigation, the NIHRC submitted an advice to the ECNI on what the international human rights standards, including those contained within ICESCR, requires of any domestic equality assessment.¹⁸⁸ This advice included identifying: the immediate obligation to effectively monitor the housing situation; the immediate obligation to prohibit

discrimination, whilst noting this obligation will not be violated where there is a 'reasonable and objective' justification; and, that the prohibition on discrimination should be understood as a fundamental human right which coexists alongside, but must not be limited by the duty to promote mutual respect and understanding.¹⁸⁹ The NIHRC notes that the ECNI has not yet published its investigation findings.

The Committee may wish to ask the State party to:

- **ensure that the NI Housing Executive routinely publishes disaggregated, open and accessible data on the levels of 'housing stress' in NI;**
- **what action is being taken to promote shared social housing to improve community relations;and,**
- **what targeted, concrete and deliberate measures it is undertaking to address the lack of provision of social housing, including in particular for Catholics in North Belfast, and any assessment as to likely impact of such measures, for example, the 'reduct[ion] in interface barriers' referenced within the State report.**

The Crisis Fund

18.1 The British Red Cross administered a Crisis Fund alongside other partner organisations. The funds were provided by the Office of the First Minister and Deputy First Minister (OFMDFM) and ran for two months in March and February 2015.¹⁹⁰ The Crisis Fund was intended "to help minority ethnic individuals with no other means of support through emergency situations, such as vulnerable migrants, refugees and asylum seekers and other vulnerable groups."¹⁹¹ For example, a BBC NI news report in 2014 highlighted the difficulties faced by asylum seekers, who have no permission to work and are reliant on charities for the most basic needs including clothing and food.¹⁹²

18.2 In the two months that the fund was administered in 2015, there were 980 interventions and the fund directly assisted 440 individuals, who between them had 480 dependents.¹⁹³ Fifty-four per cent of people received less than £50, while 78% received less than £100. 233 were female and 207 were male. The majority (60%) were aged between 21-40.¹⁹⁴ The main

reasons for accessing the fund were problems with benefit entitlements (25%), domestic violence (14%) and issues around seeking employment (14%).¹⁹⁵

18.3 A response from OFMDFM in relation to an NI Assembly question on the Crisis Fund stated that:¹⁹⁶

The process of tendering for the 2015-16 Crisis Fund will begin shortly. Past experience has shown that the Crisis Fund is most needed when the weather gets colder. It is, therefore, intended that it becomes operational then. There is a budget of £100,000 for the Fund.

18.4 The British Red Cross "hopes [the Crisis Fund] can become a permanent fixture."¹⁹⁷

The Committee may wish to ask the State party for an update on the OFMDFM tendering process 2015-16 Crisis Fund, when the fund will become available and what plans are there to continue the fund on a permanent basis in NI.

Asylum seekers and permission to work

19.1 In the 2009 concluding observations, the Committee encouraged the State party to ensure that asylum seekers are not restricted in their access to the labour market while their claims for asylum are being processed.¹⁹⁸

19.2 In the UK, asylum seekers are not allowed to work while awaiting a decision on their asylum application. However if it has taken longer than 12 months for a decision on asylum to be made, a person can request permission to work. The Secretary of State will only consider an application if, in the Secretary of State's opinion, any delay in reaching a decision at first instance cannot be attributed to the applicant.¹⁹⁹

19.3 The NIHRC notes that the Immigration rules restrict the types of employment asylum seekers can obtain to the UK's official shortage occupation list.²⁰⁰ The Law Centre NI in its submission to a Parliamentary inquiry on asylum support has expressed concerns that "the policy is so restrictive it is almost meaningless."²⁰¹

19.4 The NIHRC conducted research in 2009 entitled No Home from Home on homelessness for people with limited or no access to public funds. The NIHRC recommended that all asylum seekers should be allowed to work pending the outcome of their application.²⁰² Similar calls have been made in research in the UK by Still Human Still Here and by the British Red Cross who have called for asylum seekers to be granted permission to work after six months.²⁰³ A recent House of Commons research paper, outlined suggested advantages of extending asylum seekers right to work, including:²⁰⁴

- alleviat[ing] some of the difficulties that asylum seekers can face during the asylum determination process, such as social and economic exclusion, deskilling, low self-esteem, poor mental health, and improve asylum seekers integration and employment prospects in the event of a positive asylum decision; and,
- reduc[ing] asylum seekers vulnerability to exploitation through working illegally.

The Committee may wish to ask the State party what steps have been taken to ensure that asylum-seekers are not restricted in their access to the labour market while their claims for asylum are being processed.

Reductions in asylum financial support

20.1 People who claim asylum are not permitted to work while they are waiting on their claim being processed, but can access asylum support under section 95 of the Immigration and Asylum Act 1999. On the 16th July 2015, the government brought in regulations introducing a flat rate in asylum support to take effect from 10th August 2015. The standard rate is now £36.95 per week provided to each supported person of all ages.²⁰⁵ This cash amount is in addition to free accommodation and free medical care; dental care and free education for children from age 5 to age 17. Under the new system:²⁰⁶

- a single parent with 1 child will receive £73.90 as opposed to £96.90 in the previous system;
- a single parent with two children will receive £110.85 as opposed to £149.86 under the previous system;

- a couple with one child will receive £110.85 as opposed to £125.48 under the previous system; and
- a couple with two children will receive £147.80 as opposed to £178.44 under the previous system.

20.2 The Refugee Council called on the government to abandon the planned cuts until it had commissioned an independent review into the fairness of current support levels.²⁰⁷ The Children’s Society also highlight that the introduction of a flat rate will have a direct impact on children, pushing families further into poverty. They argue that in some cases, families on asylum support are getting just half of what they would get in the mainstream system and the cuts will push families onto rates 60% below the poverty line.²⁰⁸ The Children’s Society called for a reversal to proposed cuts to section 95 asylum support to ensure that children within the asylum support system are able to meet their essential living needs. The Society also called for the application of a cost of living rise to asylum support rates so that they reflect at least 70% of mainstream social security support rates and increase this in line with inflation annually. The NIHRC notes that these cuts raise issues about non-retrogression and adjustment to rights in times of crisis similar to those discussed in relation to social security reform and tackling poverty (see above).

20.3 The NIHRC further advises that the Home Office consulted on proposals to reform existing support to failed asylum seeker and other “illegal migrants” in August 2015. The proposals included:²⁰⁹

- Repealing section 4(1) of the Immigration and Asylum Act, which provides support to those on temporary admission, and those temporarily or otherwise released from immigration detention. Section 95 support will be available for those who are destitute;
- Closing off section 4(2) support for failed asylum seekers who make no effort to leave the UK at the point that their asylum claim is rejected. Support would continue to be available to those whose claim had finally been rejected but could not be expected to avoid destitution by leaving the UK because they had lodged with the Home Office further submissions that were outstanding;
- Change section 95 support arrangements so that those who have a dependent child or children with them when their asylum claim is refused and any appeal is finally rejected are no longer classed as “asylum seekers” for the purposes of eligibility for support;

- Transfer of onus from Home Office to those in receipt of state support to make the application before the 28 day grace period expired and to demonstrate why they could not leave the UK and that they would in their circumstances otherwise be destitute.

20.4 In response to the consultation, the NIHRIC advised the Home Office that the proposals are retrogressive concerning the enjoyment of the right to an adequate standard of living and the right to social security. The NIHRIC advised that given the strong presumption against retrogression, a full justification by reference to the totality of the rights provided for in the ICESCR and in the context of the full use of the maximum available resources should be given. The NIHRIC also advised the Home Office that removing section 95 support for failed asylum seekers with dependents and thereby putting the onus upon parents and guardians to demonstrate after a grace period, why they cannot leave the UK and would otherwise become destitute before support can be continued, is contrary to the best interests of the child principle. Furthermore, the NIHRIC advised that proposed safeguards to extend the grace period to 28 days and the possibility of an extension on application if there is a practical obstacle preventing the family's departure from the UK may not be sufficient to meet human rights requirements.²¹⁰

The Committee may wish to ask the State party;

- **how, given the reduction in cash amounts and arrangements for asylum support, is the State complying with the principle of non-retrogression and the requirements set out in the letter to State parties on adjustments to rights in times of economic crisis in 2012; and,**
- **how it will ensure that the proposed changes to the law concerning failed asylum seekers and irregular migrants do not as a consequence lead to individuals falling into destitution.**

Successful applicants for refugee status -the 28 day move-on period

21.1 There are problems for refugees following successful applications in moving from asylum to mainstream social security support. Currently, those on asylum support continue to receive it for 28 days. The British Red Cross have published a report which highlights that it can take much longer than

the 28 day period and that it can take up to 85 days from applying for benefits to receiving the first payment. The British Red Cross have recommended that the move-on period should be extended to 40 days to avoid a break in support. This would require a legislative change in amending section 94(3) of the Immigration and Asylum Act 1999. The British Red Cross have suggested that ideally, individuals receiving support should continue to do so until mainstream benefits are received.²¹¹

Given the gap in moving from asylum to mainstream support, the Committee may wish to ask the State party what it is doing to ensure that asylum seekers do not fall into destitution.

The Destitute Domestic Violence Rule

22.1 The “no recourse to public funds” rule prevents persons with insecure immigration status from accessing benefits such as refuge support. Non-nationals who are victims of domestic violence and on a spousal visa may be eligible for the Destitute Domestic Violence (DDV) concession from the effects of the no recourse rule.²¹² The DDV concession enables a person to receive temporary leave for three months, which allows them to apply for access to public funds (including jobseeker’s allowance, income support and housing benefit). During this three month period the person should make a separate application for indefinite leave to remain under the Domestic Violence Rule.²¹³ There are strict eligibility criteria for the concession and so there are some groups who may not benefit from the concession.²¹⁴

22.2 Whilst immigration is a reserved matter, this issue is of relevance in the NI context. For example, Women’s Aid Federation NI highlighted in its 2013-2014 Annual Report that the no recourse rule has denied women access to safe refuge, because refuges are dependent on government funding and these women are not entitled to benefits or housing assistance such as housing benefit whilst in a refuge. This situation often leaves many non-national women trapped, facing a choice between destitution and a life of violence and abuse.²¹⁵ In 2013-14, 27 women with no recourse to public funds presented to Women’s Aid refuges. Thirteen of these women had children and the number of children accommodated was 16. There was an increase of five women from 2012/13.²¹⁶

22.3 In February and March 2015, Women’s Aid was the second highest distributor of the Crisis Fund and domestic violence was second highest reason for access to the fund.²¹⁷ The Women’s Manifesto, launched in March 2015 called for politicians in NI to establish an emergency fund for female victims of domestic violence who have limited or no recourse to public funds so they can seek refuge from their abusers.²¹⁸

22.4 The concluding observations of the CEDAW Committee referred to this issue after the examination of the UK in 2013. The CEDAW Committee expressed concerns that “under the no recourse to public funds rule, women with insecure status continue to have no access to state support.” The CEDAW Committee noted that whilst the State party had announced a concession for women who are victims of domestic violence, concerns remained that the concession only applied to women who entered the State party on a spousal visa. This, according to the CEDAW Committee, had the potential to trap women in violent relationships.²¹⁹

The Committee may wish to ask the State party what steps have been taken to extend provision for victims of domestic violence to persons who enter the UK other than on a spousal visa.

[Right to the highest attainable standard of health \(Article 12\)](#)

Domestic violence and violence against women

23.1 In 2009, the Committee expressed concern that “domestic violence, and in particular VAW, is still a widespread problem” and recommended that the State party,

intensify its efforts to raise awareness of the gravity of this offence and the mechanisms available to victims of domestic violence, to improve training for police and law enforcement officials and judges in relation to rape cases, and to increase the support services for victims at the local level.²²⁰

23.2 A report by the Criminal Justice Inspection Northern Ireland (CJINI) in 2010 outlined improvements that had been made in the way the criminal justice deals with cases of domestic abuse. For example, improvements reported included: specialisation of investigators and prosecutors and the

rolling out of the Multi-Agency Risk Assessment Conference (MARAC). CJINI noted that criminal justice agencies involved in investigating and prosecuting domestic violence cases had developed procedures and policies for dealing with these types of cases.²²¹ Changes to legal aid were introduced by the Department of Justice (DoJ), to support victims of domestic violence such as removing the upper earnings and capital limits for people applying for the protection of Non-Molestation Orders, thus removing financial status as a factor in obtaining legal aid for such an order.²²² The NIHRC also notes a recent development as a result of the introduction of the Justice Act (NI) 2015. The 2015 Act includes a provision for domestic violence protection notices and orders aimed at ensuring the immediate protection of victims or potential victims of domestic violence.²²³

23.3 The Police Service for Northern Ireland (PSNI) statistics record 28,287 domestic abuse incidents and 13,426 domestic abuse crimes in 2014/15.²²⁴ These are the highest figures since the data was first collected in 2004/5.²²⁵ There were 12,367 domestic abuse crimes recorded in 2014/15 where there was a person victim with known age and gender details. Thirteen percent of this total were persons aged under 18 (1,575 offences), 62 per cent were females aged 18+ (7,685 offences) and 25 per cent were males aged 18+ (3,107 offences).²²⁶ In 2014/15, there were six murders with a domestic abuse motivation, accounting for 37.5 per cent of all murders recorded by the police (16 in total).²²⁷

23.4 The Women's Aid Federation NI annual report 2013-14 records that during 2013/14, 999 women and 747 children stayed in a Women's Aid refuge, an increase of 119 women and 201 children on 2012/13.²²⁸

23.5 Between January and April 2014, the Department of Justice for NI (DOJNI) and the Department of Health, Social Services and Public Safety for NI (DHSSPSNI) consulted on a draft 'Stopping Domestic and Sexual Violence and Abuse Strategy 2013-2020' for NI. The NIHRC responded to the consultation and identified that the final Strategy should, among others:

- ensure that responses to domestic and sexual violence and abuse are gender sensitive and age appropriate;
- recognise the structural and societal issues which cause the disproportionate impact of domestic and sexual violence and abuse on women, and include measures to address these;

- recognise that certain groups of persons, for example, persons with disabilities, persons in detention and migrant women, are at an increased risk of domestic and sexual violence and abuse, and outline provisions to be undertaken to address these vulnerabilities; and,
- provide a specific, time-bound commitment regarding the feasibility of the implementation of domestic violence specialist courts across NI.²²⁹

23.6 The final Strategy has not yet been published leaving NI without a policy framework for devolved matters relating to domestic and sexual violence and abuse. The NIHRC understands that the Strategy still needs to pass through the Committee for Justice, the Inter-Ministerial Group and the NI Executive. It is anticipated that the final Strategy will be published in the autumn 2015.

23.7 Finally, the NIHRC notes that the Special Rapporteur on VAW conducted a country visit to the UK in April 2014. The Rapporteur's report expressed concern among others, about a "shift from gender specificity to gender neutrality" in the Government's responses to VAW.²³⁰

The Committee may wish to ask the State party to ensure that the DOJNI and the DHSSPSNI have given due regard to the NIHRC's advice and any relevant comments of the Special Rapporteur on VAW within the final 'Stopping Domestic Violence and Sexual Abuse Strategy 2013-2020', and to prioritise its publication.

Termination of pregnancy

24.1 Both the Committee and the CEDAW Committee have recommended that the law concerning termination of pregnancy in NI is amended, having particular regard to cases of rape, incest and serious foetal abnormality.²³¹

24.2 Termination of pregnancy is currently available in NI if it is necessary to preserve the life of a woman, including where there is a risk of a serious and adverse effect on her physical or mental health which is either long term or permanent. The punishment is life imprisonment for anyone who unlawfully performs a termination.²³²

24.3 Between October 2014 and January 2015, the NI Department of Justice consulted on proposals to legalise termination of pregnancy in cases of 'fatal foetal abnormality'. The consultation also sought views on whether termination of pregnancy should be allowed for 'sexual crime'.²³³ Upon completion of the consultation responses review in April 2015, the NI Minister for Justice announced that he would proceed in seeking NI Executive support to bring forward legislation in the NI Assembly which permits terminations in cases of fatal foetal abnormality, but that he would not proceed in seeking a change to the law concerning sexual crime.²³⁴ During follow-up to the 2015 dialogue with the Human Rights Committee, the Ministry of Justice noted that "any change to the law on abortion in Northern Ireland will require cross party consent in the Assembly."²³⁵

24.4 In December 2014, the NIHRC initiated legal proceedings against the NI Department of Justice on the grounds that the law on termination of pregnancy in instances of rape, incest and serious foetal abnormality in NI is incompatible with articles 3 (prohibition on torture, inhuman and degrading treatment), 8 (right to privacy) and 14 (prohibition on discrimination) of the European Convention of Human Rights. The NIHRC was granted leave and the judicial review took place on 15-17 June 2015 in the Belfast High Court. Judgment was reserved and is expected in autumn 2015.

The Committee may wish to ask the State party what actions it is taking to ensure that NI criminal law meets international standards and provides access to termination of pregnancy in cases of rape, incest, lethal and serious foetal abnormality.

Access to healthcare for irregular migrants

25.1 As of 3 March 2015, new regulations on access to primary and secondary healthcare are in place.²³⁶ The new regulations provide significant improvements so, that in certain cases, no charge for health services will be imposed on a person not ordinarily resident in Northern Ireland, called 'visitors' in the regulations. Certain services are exempt from charge, and certain groups of visitors are exempt from charges. Services exempt from charge include accident and emergency services, family planning services, treatment for specified diseases, treatment of sexually transmitted diseases, and treatment under mental health powers.²³⁷ The regulations make provision for treatment in respect of infection for any Human

Immunodeficiency Virus. Officials informed the Committee for Health, Social Services and Public Safety that the policy intention is that the regulations provide an exemption from charge for full HIV treatment, bringing NI into line with the rest of the UK.²³⁸

25.2 Visitors not required to pay for their healthcare treatment include: visitors who have lawfully resided in the UK for the previous 12 months; students who are present for full time study that is substantially funded in the UK and is of at least six months duration; persons who are employed, self-employed or volunteering; visitors exercising EU rights; refugees, asylum seekers and children in care; victims of human trafficking; where treatment is required for exceptional humanitarian reasons; diplomats, NATO forces, long term visits by UK pensioners, war pensioners, missionaries, pensioners and detainees, employees on ships and family members of visitors.²³⁹

25.3 In order to reflect the changes to the new regulations, DHSSPS has also amended the General Medical Services Regulations so that any visitor exempt from charges is able to access GP services. The aim of the amendments is to ensure that a person not ordinarily resident accesses healthcare at the most appropriate setting.²⁴⁰

25.4 The NIHRC welcomes the changes in the regulations as a very positive development, as they ensure that asylum seekers and other vulnerable groups can access free healthcare in Northern Ireland. However we are concerned that there is still a potential gap in respect of undocumented or irregular migrants.²⁴¹

25.5 A briefing by Law Centre NI in 2013 noted that there was no provision in law for irregular migrants to access primary healthcare. The Law Centre NI in particular raised concerns that the regulations did not allow for the children of irregular migrants to access healthcare and recommended that the regulations specifically exempted irregular migrant children.²⁴² The NIHRC draws attention to its research paper in 2011 in which we recommended that an amendment or policy direction may be required to ensure that the full set of GP services, including access to a GP list (subject to discretion) is genuinely available to any persons.²⁴³

The Committee may wish to ask the State party what steps it is taking to ensure that irregular migrants, in particular children have access to primary healthcare in NI.

Mental capacity

26.1 Mental capacity legislation has been introduced in other parts of the UK. In NI, mental capacity issues in relation to health and welfare are largely governed by the common law.²⁴⁴ The Mental Capacity Bill was introduced in the NI Assembly on 8 June 2015 by DHSSPS and the Department of Justice (DoJ). The Bill emanates from a key recommendation made by the Bamford Review that there should be a single comprehensive legislative framework for the reform of mental health and for the introduction of capacity legislation in NI “which would be truly principles based and non discriminatory”.²⁴⁵ The legislation would be unique to the UK by bringing mental capacity and mental health legislation within a single piece of legislation.

26.2 During the consultation stage of the Bill, the NIHRC advised that the provisions were broadly compliant with the ECHR but highlighted a number of issues required refinement. The NIHRC advised that in continuing to make provision for substitute decision-making, the proposals were in breach of Article 12 UNCRPD.²⁴⁶ The NIHRC advised the Ad Hoc Committee responsible for scrutinising the Bill that currently there are a number of disparities and contradictions in the standards set down by the ECtHR and the standard set by the UNCRPD Committee.²⁴⁷

26.3 The NIHRC also called for a systemic review to be taken three years after the commencement of the legislation to take into account developments in international human rights standards and compliance with established practice.²⁴⁸ It should be noted that a similar review has taken place and a report was published in England and Wales in relation to mental capacity legislation in 2014.²⁴⁹

26.4 The Mental Capacity Bill introduces a presumption of capacity in persons aged over 16. The DoJ explained to an Assembly Committee that the Bill could not apply to under 16s as “it would undermine the role of parents and have a significant impact on the current legal framework, which is designed to protect children and to govern decision-making for them.”²⁵⁰

The DHSSPS proposed a separate project to consider the issue of emerging capacity of children in the next NI Assembly mandate.²⁵¹ However pending this report, the current powers in the Mental Health (NI) Order 1986 would continue to apply to children aged under 16. The NIHRC at the time advised that a plan with a clearly defined timetable for the separate project to consider a bespoke legal framework governing capacity in respect of children under 16 years of age should be developed and made publicly available. It appears a review of the Children (NI) Order 1995 and the separate project on children is not going to take place due to a lack of resources and time constraints.²⁵² The Minister for Health, Social Services and Public Safety also highlighted that even if there were the resources, there would be no definitive or clear outcome on how to proceed.²⁵³

The Committee may wish to ask the State party:

- **for an update on the Mental Capacity Bill in NI and when it will be enacted.**
- **what measures it will undertake to ensure the development of a legal framework governing decisions regarding mental capacity for children under 16.**

Mental health

27.1 The Committee's concluding observations in 2009 raised concerns regarding increasing suicide rates in NI. The Committee recommended that the State party intensify its efforts to address this issue by dealing with the causes of suicide and strengthening the provision of psychological counselling services, as well as professional training.²⁵⁴

27.2 The DHSSPS estimated that the prevalence figures for mental health in NI are 25% higher than in England.²⁵⁵ A DHSSPS health survey for 2013/14 found that 19% of 4,509 respondents showed possible signs of a psychiatric disorder. Of these respondents, 45% of females and 29% of males were taking medication for stress, anxiety and depression.²⁵⁶ In 2014, there were 268 suicides, a decrease from 303 in 2013. Just over three quarters (207) of these suicides were men.²⁵⁷ NI has seen a doubling in the number of deaths recorded as suicide since the late 1990s.²⁵⁸ The upward trend has been attributed to the legacy of the violent conflict and there is evidence that children and young people who experienced the worst of the violence in the

1970s are the cohort with the highest and increasing suicide rates in the decade after 1998.²⁵⁹ A report published by the Samaritans on suicides in the UK and Republic of Ireland in 2013 showed that suicides in Northern Ireland and Scotland were higher in general for all persons, both males and females, however rates are not necessarily directly comparable.²⁶⁰

27.3 In response, the DHSSPS published "Protect Life", Northern Ireland Suicide Prevention Strategy in 2006. The strategy was designed for a five year lifespan 2006-2011 and the strategy has been refreshed to the end of 2013/14.²⁶¹ DHSSPS published a pre-consultation engagement summary report on the development of a new strategy in April 2014.²⁶² In response to a NI Assembly question, DHSSPS has indicated it will consult on a single strategy document covering mental health promotion and suicide prevention later this year.²⁶³

The Committee may wish to ask the State party for an update on progress on the development of the new mental health promotion and suicide prevention strategy for NI and a timetable for its implementation.

Armed Forces Covenant

28.1 The Armed Forces Covenant exists to redress the disadvantage that members of the armed forces may face in comparison to other citizens. The covenant has two principles: that the armed forces should not face disadvantage compared to other citizens in the provision of public and commercial services; and special consideration may be appropriate in some cases.²⁶⁴ The principles of the Covenant were enshrined within the Armed Forces Act 2011.²⁶⁵

28.2 Concerns have been raised that the Armed Forces Covenant has not been implemented in NI as in the rest of the UK due to the different political and legal situation. The NI Affairs Committee at Westminster announced its inquiry into the implementation of the Covenant in NI in 2012. The Committee reported that it had received mixed evidence about the level of progress on implementing the Armed Forces Covenant in NI, compared to other parts of the UK.²⁶⁶ In particular, certain benefits were not available in NI, including improved access to IVF treatment, priority in accessing

healthcare, additional priority in accessing social housing and educational entitlements.²⁶⁷

28.3 In a recent documentary, there was a view expressed by some former members of the Armed Forces that the government was failing to implement the Armed Forces Covenant in NI. A BBC report on the documentary highlighted that critics and the Ministry of Defence agreed that the greatest shortfall in treatment in NI was for those suffering from post-traumatic stress disorder.²⁶⁸

28.4 The NIHRC submitted evidence to the Northern Ireland Affairs Committee's Inquiry. The NIHRC advised that international human rights law requires the UK Government and the NI Executive to guarantee protections to all persons on an equal basis without direct or indirect discrimination of any kind.²⁶⁹ The NIHRC drew attention to jurisprudence of the European Court of Human Rights (ECtHR) which emphasised that the Convention applied to members of the armed forces and not only civilians.²⁷⁰

28.5 The NIHRC further advised that the ECtHR has ruled that differential treatment of certain groups may be justified as long as it meets a legitimate aim and is proportionate.²⁷¹ The NIHRC reiterated that international human rights law permits states to make reasonable adjustments where an objective and reasonable justification exists.

28.6 The NIHRC noted that the Covenant aimed to ensure that the Armed Forces Community suffers "no disadvantage due to service" and aimed to achieve this by taking "positive measures to enable equality of outcome with other citizens" and "ensuring special treatment for the injured and bereaved." The NIHRC highlighted that the two approaches were demonstrated with respect to the right to health care protected by Article 12, ICESCR. For example, the NIHRC advised that serving armed forces personnel who are re-deployed should retain places on NHS waiting lists. The NIHRC noted that both serving armed forces personnel and veterans living in GB benefit from the Covenant, but those living in NI do not. This raised concerns about the principle of equivalency of rights throughout the UK, particularly with rights protected by the Human Rights Act 1998.²⁷²

28.7 The Northern Ireland Affairs Committee stated in its inquiry report that:

[w]e accept that the different political and legal situation in Northern Ireland, compared to Great Britain, makes issues relating to the Armed Forces delicate and potentially contentious. However, this should not mean that the Armed Forces Community in Northern Ireland should be disadvantaged either compared with other groups there, or when compared to that community elsewhere in the UK, beyond that variation which would be expected under normal devolution.²⁷³

28.8 The Commission notes that both Ulster University and Queen's University Belfast have obtained funding to conduct research in the area of support available to this group.²⁷⁴

The Committee may wish to ask the State party for what steps they have taken to address the needs of Armed Forces personnel in NI in the areas of health, housing and education to ensure, as is the case in the UK, that they do not suffer disadvantage compared to the rest of the population.

Healthcare in emergency departments

29.1 The large numbers of patients attending NI's emergency departments (EDs) has created sustained pressure on the healthcare system in recent years.²⁷⁵ These pressures culminated in the declaration of a 'major incident' at Belfast's Royal Victoria Hospital ED in January 2014.²⁷⁶

29.2 In June 2014, the NIHRC, pursuant to its investigatory powers under the Northern Ireland Act 1998, commenced a 'Human Rights Inquiry' into the 'Emergency Healthcare' situation in NI. The Inquiry was a significant undertaking for the NIHRC and involved initial evidence gathering by confidential Freephone, freepost and online methods, after which 12 public hearings were convened throughout NI in which officials, healthcare staff and members of the public gave evidence. The panel for the public hearings comprised NIHRC Commissioners as well as a former Committee member and UN Special Rapporteur on the right to health.²⁷⁷

29.3 The Inquiry considered the quality, accessibility and governance of healthcare provision in NI's EDs and made a number of recommendations based on a right to health analysis.

29.4 The Inquiry noted that the right to health is not recognised in law, and consequently, there is no direct legal remedy for right to health violations.²⁷⁸ While the core legislation and standards include important elements of a right to health, and the discourse of health officials included values and principles similar to those found within human rights, the language of human rights was rarely explicit.²⁷⁹ An exception to this trend was the commitment of the Belfast Health and Social Care Trust to develop a “human rights based approach” (HRBA).²⁸⁰ The NIHRC welcomes the request of the Belfast Health and Social Care Trust for it to join its working group on a HRBA and will work with the Trust to develop this initiative.²⁸¹

29.5 The Inquiry noted that unlike in other care environments, such as in nursing or residential homes, there are no dedicated minimum care standards for EDs that give people further detail on how to benchmark experience within the context of an ED.²⁸² The Inquiry also noted that there is an absence of a clear statutory provision requiring the routine inspection of acute hospitals,²⁸³ and the need for additional enforcement powers and commensurate resources for the regulatory body (the Regulation and Quality Improvement Authority (RQIA)).²⁸⁴

29.6 Taking into account General Comment 9 and the 2009 concluding observation on the domestic application of ICESCR,²⁸⁵ the Inquiry recommended that the NI Department for Health, Social Services and Public Safety (DHSSPS) should incorporate to a greater effect in domestic law the right to highest attainable standard of health, and develop dedicated ED minimum care standards rooted in human rights, which provide a benchmark for patient experience within EDs and serve as a measure to inspect against.²⁸⁶

29.7 In addition, the Inquiry received concerning evidence from persons belonging to particular groups of discriminatory attitudes and conditions within NI’s EDs. For example, the Inquiry heard how: some patients presenting with self-harm perceived ED to be a hostile environment; some patients with less common conditions perceived that they were not listened to or taken seriously; older patients appear to wait longest for treatment and some perceived that they were being deprioritised; staff could lack the time required to treat dementia patients appropriately; a lack of physical provision for blind or partially sighted persons made ED difficult to navigate

for some persons with sensory impairments; and, there is a lack of sign language interpreters across health and social care.²⁸⁷

29.8 Taking into account the immediate nature of the obligation to prohibit discrimination under ICECSR, Article 2(2), the Inquiry recommended that the advised minimum care standards should include criterion on, *inter alia*: staff behaviour and attitudes; ways to guarantee equality of access for particular groups; and participation by individuals, their family members and other carers in the care provided in the ED setting.²⁸⁸

29.9 Recalling the Committee's concern that health-care professionals do not receive sufficient training in relation to the care of persons suffering from dementia and Alzheimer's,²⁸⁹ the Inquiry observed that in general across the Trusts, work pressures on ED staff had on occasion prevented their attendance at equality and particular group training.²⁹⁰

The Committee may wish to ask the State party what steps the NI Department of Health, Social Services and Public Safety is taking to progress the implementation of the recommendations made by the NIHRC's 'Human Rights Inquiry: Emergency Care', in particular concerning:

- **the incorporation of the right to health into domestic law and standards;**
- **the introduction of dedicated ED minimum care standards rooted in human rights; and,**
- **ensuring that ED staff are trained on the right to health, including the prohibition on discrimination.**

Health and social care system

30.1 In June 2011 the Minister for Health, Social Services and Public Safety commissioned a review team to conduct a strategic assessment of health and social care in NI and bring forward recommendations for the future shape of services.²⁹¹ The review outcome, known as 'Transforming Your Care' (TYC), determined that the current model of care was "not fit for purpose as one looks to the future", largely due to increasing demand on the system caused by a growth in population age and chronic conditions.²⁹² TYC made 99 recommendations based on a new model which involves moving care as close to the home as practical, as well as the increased

personalisation of care.²⁹³ The then Minister adopted the TYC recommendations and there is general support for its strategic direction.²⁹⁴

30.2 In moving to the new model of care, TYC recommended transitional funding of £25 million be provided during the first two years of implementation and £20 million in the third year (£70 million in total). The review envisaged that after 2014/15 the new model would be self-financing.²⁹⁵ The levels of funding envisaged by TYC were not secured as evidenced in the NIHRC's Human Rights Inquiry.²⁹⁶ In December 2014, an expert review on the governance arrangements of health and social care, known as the 'Donaldson review', was published.²⁹⁷ The Donaldson review noted that "[TYC] contains many of the right ideas for developing high quality alternatives to hospital care but few believe it will ever be implemented or that the necessary funding will flow to it".²⁹⁸ Donaldson recommended that "a new costed, timetabled implementation plan for Transforming Your Care should be produced quickly."²⁹⁹

30.3 In June 2015, the Minister for Health, Social Services and Public Safety responded to an NI Assembly question on the amount of funding required to complete TYC, by stating "[t]o date, my Department has obtained £26.4m... I remain committed to securing the remaining funds necessary to implement the model of care described in [TYC]".³⁰⁰

The Committee may wish to ask the State party what steps the NI Executive and the NI Department for Health, Social Services and Public Safety are taking to implement 'Transforming Your Care'.

Eligibility to make blood donations

31.1 In NI, there is currently a lifetime ban on blood donations from men who have sex with other men. In 2011 the Advisory Committee on the safety of Blood, Tissues and Organs (SaBTO) completed a review of the Donor Selection Criteria which are used to ensure the safety of the blood stock for transfusion in the UK. This review considered the appropriate eligibility criteria for various donor types including men who have had anal or oral sex with another man (MSM), and sex workers in particular.³⁰¹ The outcome of this process was that it was recommended that the previous policy of permanent deferral applying to MSM donors be replaced by a temporary 12 month deferral period.

31.2 On September 2011, the UK Department of Health announced a permanent deferral will no longer apply to men who have sex with other men, who will be permitted to donate blood, should they wish, provided that they have not had male to male sexual relations during the 12 month period prior to such donation.³⁰² The policy, applying in England, Wales and Scotland, came into effect from 7 November 2011 and the decision to change those policies was taken by each of the Health Ministers acting on behalf of each of the jurisdictions.³⁰³ However NI did not adopt the same approach as the other jurisdictions and did not change its policy on the lifetime ban.³⁰⁴

31.3 In 2013, the High Court in NI ruled that the lifetime ban on blood donation for men who have sex with other men was irrational.³⁰⁵ The Court also ruled that UK Secretary for State for Health was responsible for the determination of appropriate deferral periods in Northern Ireland and whether or not to maintain the lifetime ban.³⁰⁶ The DHSSPS in NI and the UK Department of Health both appealed the decision. The UK Health Secretary is appealing the decision as its position is that blood donation is a matter for devolved government and ministers.³⁰⁷

31.4 The applicant in the case also appealed the finding that the Minister's decision was not influenced by his religious beliefs as the court originally determined it was not necessary to reach any conclusion on the ground of apparent bias.³⁰⁸ The Court of Appeal directed that the case had to be sent back to the High Court for a determination on the applicant's appeal before the court would consider the broader ground. In January 2015, the High Court further ruled that the Minister's decision to retain the lifetime ban was influenced by his religious beliefs and "infected by apparent bias."³⁰⁹ To date the lifetime ban remains in place. There is a new Health Minister in NI who has said he "will be guided by the science and medical evidence" in deciding whether to lift the ban on donations from men who have sex with other men.³¹⁰

31.5 A European Court of Justice (ECJ) case ruled in April 2015 that the permanent deferral from blood donation for men who have had sexual relations with another man, may be justified, having regard to the situation prevailing in the Member State concerned. It must be established whether those persons are at a high risk of acquiring severe infectious diseases, such

as HIV, and that there are no effective detection techniques or less onerous methods for ensuring a high level of health protection for recipients.³¹¹

The Committee may wish to ask the State party to set out the scientific basis for continuing the lifetime ban in NI, when it has been removed elsewhere in the UK.

Right to education (Article 13)

Education and Traveller children

32.1 The Committee expressed concern in the 2009 concluding observations on the significant disparities in terms of school performance and dropout rates that continue to exist between pupils belonging to ethnic, religious or national minorities, including Roma/Gypsies and Irish Travellers.³¹²

32.2 The Department for Education NI (DENI) established a Traveller Education Taskforce (the Taskforce) in 2008 which was a cross-sectoral body tasked with assisting the DENI to develop an action plan on Traveller education. The terms of reference included a commitment to “ensure that recommendations for improvements are underpinned by the Convention on the Rights of the Child (UNCRC) and other relevant equality and human rights legislation.”³¹³ The Taskforce report published in December 2011 recommended a broad range of measures, including legislative, to improve engagement with Traveller families and promote attendance, attainment and inclusion of Traveller children in education.

32.3 The DENI’s response to the Taskforce recommendations came in November 2013 when it published the Traveller Child in Education Action Framework. Central to the DENI’s response was the establishment of the Traveller Education Support Service (TESS) which was identified as the vehicle by which many of the Taskforce recommendations would be implemented. The TESS has produced two annual delivery plans setting targets for the provision of “advice, guidance and focused support to schools and to parents and pupils from the Traveller community”³¹⁴.

32.4 The NIHRC has asked the DENI to provide more information on how the work of the TESS will be monitored to assess the impact on the right to education for traveller children. The NIHRC has also requested an update on an outstanding recommendation of the Taskforce requiring legislative change which the DENI has committed to examine. This is the '100 day rule' in Schedule 13 of the Education and Libraries (Northern Ireland) Order 1986 which creates a school attendance exemption where a child's parents are travelling for occupational reasons.

The Committee may wish to ask the State party:

- **what measures have been put in place to monitor the impact of the Traveller Education Action Framework on the right to education, including the effectiveness of the Traveller Education Support Service (TESS); and,**
- **what action it has taken to review Schedule 13 of the Education and Libraries Order with a view to supporting the attendance in school of Traveller children.**

Segregated education

Integrated education

33.1 In its 2002 concluding observations, the Committee reiterated its ongoing concern that "the educational structure in [NI] continues to be heavily segregated on the basis of religion, despite the increased demand for integrated schools."³¹⁵ The Committee recommended that the State party "consider appropriate measures in Northern Ireland to facilitate the establishment of additional integrated schools in areas where a significant number of parents have indicated their desire to have their children enrolled in such schools."³¹⁶ The CRC Committee made similar comments in 2002 and 2008.³¹⁷

33.2 There exists a statutory obligation upon the Department for Education NI (DENI) to "encourage and facilitate the development of integrated education" (the Article 64 duty).³¹⁸ There has however, been relatively slow growth in the integrated sector with no new integrated schools established since 2008. In 2014/15, only 7% of pupils in NI attended an integrated school.³¹⁹

33.3 The most common approach to achieving integrated status is now the transformation of existing schools. A recent judicial review highlighted that the DENI's planning policy may create a barrier to growth of the integrated sector. In the 2014 case of *Drumragh*, an integrated school argued that the DENI's 'area-based' approach to planning, which restricts growth for schools located near schools in other sectors that are struggling to fill all their available places, denied them the opportunity to expand in order to meet the high demand from parents for integrated places. The judgement found that the DENI must reconcile the need to strategically plan for the most appropriate growth of the schools' estate as a whole with their obligation under Article 64 to facilitate the growth of the integrated sector. The court stated,

[u]sing an analytical tool to plan for an area is of course acceptable and necessary, however the inflexibility of the projections used will have the effect of making it difficult to accommodate the A64 duty in future day to day decisions. The department need to be alive to the A64 duty at all levels, including the strategic level.³²⁰

Shared education

33.4 In recent years, the NI Executive has also pursued a commitment to shared education as an approach to addressing segregation in education.³²¹ Shared education encompasses a continuum of practice from children attending classes in other schools, to shared campuses and even shared management. The School of Education at Queen's University Belfast began piloting shared education programmes in 2007.³²² DENI commissioned a report from an independent Ministerial Advisory Group on Advancing Shared Education which was published in April 2013. The report highlighted the need for significant financial investment to support the delivery of shared education programmes by teachers and youth workers and in the schools estate to enable schools to share facilities. The Minister welcomed all 20 of the report's recommendations, accepting some in full and deferring others for further debate by the NI Assembly.³²³ The NI Executive's 'Together: Building a United Community Strategy' published in May 2013 contains a further commitment to shared education with a concrete target of establishing 10 new shared education campuses within 5 years.³²⁴ This led to the development of the Shared Education Campuses Programme, jointly

funded by OFMDFM, DENI and the Atlantic Philanthropies Fund, which has now undertaken two rounds of applications from interested schools.³²⁵

To ensure the 'acceptability' and 'adaptability' of education in NI in line with General Comment 13,³²⁶ the Committee may wish to ask the State party:

- **what action it will take to review the schools planning policy in NI so as to increase access to integrated schools in order to meet the demand of a significant number of parents; and,**
- **what mechanisms it will put in place to evaluate the effectiveness of recent developments in shared education in NI.**

Special educational needs and legislation

34.1 The Department of Education NI initiated a review of the Special Educational Needs (SEN) and Inclusion Framework in 2010. This review included the publication of a consultation document entitled "Every School a Good School: The Way Forward for Special Educational Needs and Inclusion" which generated a high level of response to some of the Department of Education NI's (DENI) proposed changes. Some proposals raised concerns amongst parents, children's NGOs and disabled persons' organisations that there would be a reduction in legally enforceable rights to individualised support and that fewer children would meet the criteria for the provision of a package of support.

34.2 The DENI published a set of revised policy proposals in May 2012 and the Minister stated his intention to bring legislative proposals before the Assembly in order to implement changes to the SEN framework. Work on the Special Educational Needs and Disability Bill (the Bill) experienced significant delay but was eventually introduced to the Assembly in March 2015. The Bill does not address the areas of concern raised during the consultation as these will be dealt with in statutory regulations and a revised statutory Code of Practice which have yet to be released. The NIHRC has advised that the DENI should ensure that "there will be no retrogression in the level of SEN provision as a result of this Bill and subordinate legislation."³²⁷ Since the majority of the detail of how individualised support will be delivered to children with SEN and disabilities is to be contained within the regulations and Code of Practice, the NIHRC has also recommended that the statutory

rules must be approved by the Assembly before becoming law so as to provide full scrutiny of the human rights implications of the revised SEN and inclusion framework as a whole before the Code of Practice can come into effect.³²⁸ The NIHRC is also mindful of the fact that the proposed changes to the provision of educational support for children with SEN and disabilities comes in the midst of further reductions proposed to education spending under the Budget Bill currently before the Northern Ireland Assembly.

34.3 Included within the Bill are a number of provisions intended to increase the participation rights of children, in accordance with article 12 of the CRC and the CRC Committee's recommendation in 2008 that the State party should "[e]nsure that children who are able to express their views have ...the right, in particular for those in alternative care, to appeal to special educational needs tribunals."³²⁹ As has already been implemented in England and Wales, the DENI proposes to introduce the right to request a statutory assessment, to appeal a SEN tribunal or to make a disability discrimination claim for all children over the age of 16. The Bill also creates a power enabling the DENI to establish a pilot scheme through which children under 16 can exercise their appeal rights. The pilot could be established at any time in the 10 years following the Bill's passing and the legislation would also enable follow up arrangements to be made once the pilot has been completed.

34.4 The NIHRC has advised that since it is now 7 years since the CRC Committee made its recommendation on children's appeal rights in special educational needs tribunals, "an additional period of up to 10 years is not an appropriate length of time to allow for the establishment of the pilot scheme. In the event that the initiation of the pilot scheme could take 10 years from the date of the bill receiving Royal Assent, this could result in a total delay of 17 years in the implementation of the CRC Committee's 2008 recommendation."³³⁰ The NIHRC has also advised that the NI Assembly scrutinise the statutory regulations for the pilot scheme, which have yet to be introduced, as these will govern how determinations will be made regarding a child's capacity to exercise their right to appeal and how children will be supported in order to effectively access this appeal mechanism.³³¹

The Committee may wish to ask the State party how it will ensure that the proposed changes to the Special Educational Needs and Disability framework will not lead to any retrogression in access to

individualised support for children with SEN and disabilities towards their enjoyment of the right to education.

Education of children in custody

35.1 In NI responsibility for the provision of education to children in custody remains with the Youth Justice Agency NI and not the Department of Education NI. Elsewhere in the UK, the Home Office Youth Crime Action Plan 2008 reallocated responsibility for delivery of education to children in detention from the prison service to the Department for Children, Schools and Families, in compliance with the recommendations of the CRC Committee's last two examinations of the UK.³³² In NI, the Minister of Justice and the Minister of Education have expressed agreement that responsibility for the education of child offenders should be transferred to the Department of Education. A cross-departmental working group was established to develop an options paper for delivering on this commitment which was to be completed in early 2014. The NIHRC welcomed this development but notes that the Committee's recommendation has still not been implemented. The NIHRC has also raised this issue with the Human Rights Council during the UK's UPR mid-term review.³³³

The Committee may wish to ask the State Party to provide for a statutory right to education for all children deprived of their liberty³³⁴ in NI and provide a timeframe for implementation.

[Right to take part in cultural life \(Article 15\)](#)

Regional and minority languages

36.1 The Committee expressed concern in the 2009 concluding observations that there was still no protection for the Irish language in NI, whereas the Welsh and the Gaelic languages are protected by the Welsh Language Act 1993 and the Gaelic Language (Scotland) Act 2005. The Committee recommended that the State Party, or the devolved administration in NI, adopt an Irish Language Act, with a view to preserving and promoting minority languages and cultural heritage and invited the State party to provide detailed information in its next periodic report.³³⁵

36.2 In addition to Article 15 of the Covenant, the UK has made a number of binding commitments in relation to the protection and promotion of minority languages. These include the ICCPR,³³⁶ the European Charter for Regional and Minority Languages, and the Framework Convention for the Protection of National Minorities.³³⁷ The Belfast (Good Friday) Agreement 1998 stated:³³⁸

All participants recognise the importance of respect, understanding and tolerance in relation to linguistic diversity, including in Northern Ireland, the Irish Language, Ulster Scots and the languages of the various ethnic communities, all of which are part of the cultural wealth of the island of Ireland.

36.3 The St Andrews Agreement 2006 committed the Government to introduce an Irish Language Act, reflecting on the experience of Wales and Ireland and work with the incoming Executive to enhance and protect the development of the Irish language.³³⁹ The Northern Ireland (St Andrew's Agreement) Act 2006 required the Executive Committee to adopt strategies relating to the Irish language and Ulster Scots.³⁴⁰ The NIHRC has consistently highlighted the need to ensure adequate legal protection in respect of the Irish Language and Ulster-Scots.³⁴¹ The NIHRC recommended in its advice on a Bill of Rights that provisions relating to language rights should be included in a Bill of Rights for NI.³⁴²

36.4 Since the last ICESCR examination in 2009, the Department of Culture, Arts and Leisure (DCAL) in NI published two strategies: one on enhancing and protecting the development of the Irish language; the other on developing the Ulster-Scots language, culture and heritage. The Irish language strategy sets out a roadmap for the Irish language over the next 20 years in areas such as education, public services, the community and the media. Plans included the introduction of an Irish Language Bill and a Bill to repeal the Administration of Justice (Language) Act (Ireland) 1737 at the earliest possible opportunity.³⁴³ The strategy published on Ulster-Scots language, culture and heritage sets out, across a 20 year time frame, a number of key areas for action including education, media, Ulster-Scots language, public services, culture research and development.³⁴⁴

36.5 DCAL published its proposals on an Irish Language Bill in February 2015,³⁴⁵ containing provisions: on the official status of the Irish language;

on Irish in the courts and the Assembly; the creation of an Irish Language Commissioner; the inclusion of provisions for public bodies to promote the Irish language and produce schemes on how Irish language services will be provided. The Bill also includes provisions on Gaeltacht (Irish language speaking) areas, place names and education.³⁴⁶ The NIHRC, in its response to the consultation, welcomed the proposals to place the protection of the Irish language on a statutory footing.³⁴⁷ The NIHRC also welcomed proposals to repeal the Administration of Justice (Language) Act (Ireland) 1737 as a means to remove restrictions on the use of Irish in the courts but noted that the repeal of the legislation was within the scope of the Department of Justice (DoJ).³⁴⁸ The NIHRC therefore recommended that the nature of cross departmental commitment to delivery in the process is made clear in the next stage of the process.³⁴⁹

36.6 An absence of consensus between the political parties in NI could stymie further progress on this issue.³⁵⁰ In 2011, the Advisory Committee of the FCNM expressed concern about the failure to adopt Irish language legislation due to a lack of political consensus in NI. The Advisory Committee recommended that:³⁵¹

...the responsible authorities at all levels to take resolute measures to protect and implement more effectively the language rights of persons belonging to the Irish speaking community. To this effect they should develop new comprehensive legislation in line with commitments taken in the St Andrew's Agreement and their obligations under the Framework Convention.

36.7 In 2014, the Committee of Ministers of the Council of Europe made recommendations relating to the compliance of the UK with the European Charter for Regional and Minority Languages in response to an evaluation by the Committee of Experts (COMEX). COMEX recommended that the UK Government take account of all the observations and recommendations of the Committee of Experts as a matter of priority. COMEX noted with regret that the NI Executive had not contributed to the State Report. The Committee further stated that:³⁵²

[t]he devolution settlement in NI presents obstacles to the promotion and the protection of regional and minority languages to the extent that there is no political consensus on the contribution to be made by

the NI Government. The responsibility of competence with regard to regional or minority languages was devolved to the NI Assembly. Nevertheless, no legislation promoting the Irish language has been adopted. The Committee of Experts was informed this was because of the need to obtain consensus within the power sharing administration.

36.8 The Committee of Ministers recommended that the UK Authorities adopt and implement a comprehensive Irish language policy, preferably through the adoption of legislation, providing statutory rights for Irish speakers. The Stormont House Agreement (SHA) stated:

The UK and Irish governments, recalling commitments from previous Agreements, and recognising the importance of understanding, tolerance and respect in relation to linguistic diversity, endorse the need for respect for and recognition of the Irish language in Northern Ireland, consistent with the Council of Europe Charter on Regional or Minority Languages".³⁵³

36.9 Unionist politicians indicated after the launch of the consultation on the Irish Language Bill that they would oppose the introduction of an Irish Language Act.³⁵⁴ The Bill has not been introduced at the Assembly at the time of writing. The consultation period for the proposals on an Irish Language Bill ended on 5 May 2015.

The Committee may wish to ask the State party:

- **for an update on proposals for an Irish Language Act for NI given that the consultation on the proposed Bill has closed;**
- **how the State party will fulfil its obligations to legislate to protect and promote the Irish language, in absence of political consensus in NI; and,**
- **for an update on the implementation of key areas for action contained in the Ulster Scots Strategy.**

Stormont House Agreement and cultural rights

37.1 There are a number of other areas in the Stormont House Agreement (SHA) in 2014 that engage cultural rights as set out in ICESCR. The parties to the SHA agreed that powers to take responsibility for parades and related protests should, in principle, be devolved to the NI Assembly.³⁵⁵ The SHA

also agreed that the Office of Legislative Counsel, working in conjunction with OFMDFM, will provide a range of options on how the remaining key issues which include the Code of Conduct, criteria and accountability could be addressed in legislation. OFMDFM will bring forward proposals to the Executive by June 2015.³⁵⁶

37.2 The NIHRC notes the comments made by the UN Special Rapporteur on Peaceful Assembly, Parades and Association in his report to the UN Human Rights Council in 2013 on his country visit to the UK. The Special Rapporteur called for “political resolution of the issues – such as parades, flags and emblems – that still make the enjoyment of freedom of peaceful assembly problematic in Northern Ireland”.³⁵⁷ While a large number of parades pass off peacefully, there remain a small number of contentious parades, mainly in Belfast. For example in 2015, there were disturbances in the Woodvale and Crumlin Road in North Belfast, as the police enforced a Parades Commission determination which restricted an Orange Order parade on 13 July 2015.³⁵⁸ A high profile protest at Twadell Avenue, related to a Parades Commission determination restricting an Orange Order parade, continued throughout 2015.³⁵⁹ There were also disturbances in North Belfast following an anti-internment parade in August 2015.³⁶⁰

37.3 The participants to the SHA agreed that a Commission on Flags, Identity, Culture and Tradition would be established by June 2015 and to report within 18 months of being established.³⁶¹ The SHA also provides that the Executive will, by 2016, establish an Oral History Archive to provide a central place for people from all backgrounds (and from throughout the UK and Ireland) to share experiences and narratives related to the Troubles. As well as collecting new material, this archive will attempt to draw together and work with existing oral history projects.³⁶² The NIHRC advises the Committee that the detail of these and other provisions are being developed and a consultation is likely to be published in autumn 2015. At present, the SHA is subject to further discussions between the main political parties and the two governments as part of a wider talks process to deal with an outstanding political impasse.

The Committee may wish to ask the State Party for an update on the implementation of the SHA, including those aspects relating to the regulation of parades, protests, flags, symbols, emblems and the Oral History Archive.

-
- ¹ UN Principles relating to the Status of National Institutions ([Paris Principles](#)). Adopted by General Assembly resolution 48/134 of 20 December 1993.
- ² UK Government, *UN UPR: Mid-term Report of the UK* (July 2014), Response to recommendation 110.1 (pp9-10).
- ³ In July 2015, the Human Rights Committee urged the UK Government to “reconsider its position about acceding to the Optional Protocol to the Covenant providing for an individual complaint mechanism with a view to strengthening the protection of Covenant rights domestically and internationally.” See, HRC, ‘Concluding observations on the UK’, (advance version July 2015), para 6.
- ⁴ CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5 (12 June 2009), para 2.
- ⁵ The [Belfast \(Good Friday\) Agreement 1998](#), para 18.
- ⁶ MOJ, ‘Stakeholder event covering the UK Universal Periodic Review (UPR) mid-term report, and the periodic report under the United Nations International Covenant on Economic Social and Cultural Rights (ICESCR)’ held 16 December 2013 at the Malmaison Hotel, Belfast.
- ⁷ HM Treasury [Budget 2015](#) HC 1093. More recently, see HM Treasury, [‘A country that lives within its means: Spending Review 2015’](#) Cm9112 (July 2015).
- ⁸ In July 2015, the Human Rights Committee expressed concern at the NIHRC’s reduction in budget. See, HRC, ‘Concluding observations on the UK’, (advance version July 2015), para 7.
- ⁹ CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 13.
- ¹⁰ *Ibid* para 10.
- ¹¹ CESCR ‘Sixth Periodic Report of the United Kingdom for Great Britain and Northern Ireland’ UN Doc. E/C.12/GBR/6 (25 September 2014), para 11.
- ¹² CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 13; and, CESCR, General Comment 9: The domestic application of the Covenant, UN Doc. E/C.12/1998/24 (3 December 1998), para 8.
- ¹³ For example, the ECHR, Article 8 right to private life incorporates a duty to respect and protect an individual’s “physical and psychological integrity”. This has been considered in the context of care planning, including a case involving continence support in which the ECtHR stated that human dignity was “engaged when someone who could control her bodily functions was obliged to behave as if she could not.” See *McDonald v UK*, ECtHR, Application no. 4241/12 (20 May 2014).
- ¹⁴ *Stec v UK*, Admissibility decision Application Nos 65731/01 65900/01 (6 July 2005)
- ¹⁵ The [Queen's Speech](#) (27 May 2015), p75.
- ¹⁶ *Ibid*.
- ¹⁷ Both Commissions briefings are available on the Joint Oireachtas Committee’s [website](#).
- ¹⁸ The [Belfast \(Good Friday\) Agreement 1998](#), Annex 1.
- ¹⁹ [St Andrew's Agreement 2006](#), para 3.
- ²⁰ The [Stormont House Agreement 2014](#), states that: any legislation on parades will have “proper regard for fundamental rights protected by the ECHR” (para 19); and, that “the Executive will take appropriate steps to improve the way the legacy inquest function is conducted to comply with ECHR Article 2 requirements.” (para 31).
- ²¹ NIHRC (Chief Commissioner), [‘Northern Ireland Human Rights Commission briefing on the proposal to repeal the United Kingdom Human Rights Act 1998 and its potential effect on the Good Friday Agreement’](#) (June 2015).
- ²² Section 69 (7) of the Northern Ireland Act 1998 and paragraph 4 in the Rights, Safeguards and Equality of Opportunity section of the Belfast (Good Friday) Agreement.
- ²³ Human Rights Committee ‘Replies of the United Kingdom of Great Britain and Northern Ireland to the List of Issues’ UN Doc. CCPR/C/GBR/Q/7/Add.1 (28 April 2015), para 11. NB. In July 2015, the Human Rights Committee called upon the State to “expedite the process of [] adoption” for an NI Bill of Rights (para 5(b)).
- ²⁴ [Joint Declaration by the British and Irish Governments \(April 2003\)](#), Annex 3, para 2.
- ²⁵ CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 13.
- ²⁶ The Equality Act 2010 applies to England and Wales, with a majority also applying to Scotland. Its application to NI is limited. See Section 217.

²⁷ CESCR, 'Concluding observations on the UK', UN Doc. E/C.12/GBR/CO/5 (12 June 2009), para 16; CERD, 'Concluding observations on the UK' UN Doc. CERD/C/GBR/CO/18-20 (14 September 2011), para 19; CEDAW, 'Concluding observations on the UK' UN Doc. CEDAW/C/GBR/CO/7 (26 July 2013) para 18.

²⁸ See, Employment Equality (Age) Regulations (NI) 2006; Disability Discrimination Act 1995; Special Educational Needs & Disability (NI) Order 2005; Equal Pay Act (NI) 1970; Sex Discrimination (NI) Order 1976; Race Relations (NI) Order 1997; Fair Employment & Treatment (NI) Order 1998; Employment Equality (Sexual Orientation) Regulations (NI) 2003; Equality Act (Sexual Orientation) Regulations (NI) 2006; and, Northern Ireland Act 1998.

²⁹ See for example, comments to the CEDAW Committee: "In Northern Ireland, the Office of the First Minister and deputy First Minister (OFMDFM) are undertaking a scoping of equality legislation to identify gaps in provision and how existing legislation could be harmonised, simplified and streamlined, without any loss of the protections in law already available. It will consider legislation relating to discrimination on grounds of gender including ...". See, CEDAW, 'Reply of the UK to the List of Issues', UN Doc. CEDAW/C/GBR/Q/7/Add.1 (5 February 2013), para 17. See also comments in the draft Racial Equality Strategy: "There are a range of views on legislation. A key stakeholder is the Equality Commission, which has written that legislation here does not provide the same level of protection as that provided in GB." Consultations questions included,

"Do you think that reform of Race Relations (Northern Ireland) Order 1997 is a priority?;

Do you agree with the Equality Commission's proposals?;

Do you think that there are any areas of Race Relations law which require reform, additional to those identified by the Equality Commission?" See, [OFMDFM, 'A Sense of Belonging: Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014 – 2024'](#) (pp38 and 40), consultation period August – October 2014.

³⁰ The NIHRC notes that in a number of areas, the ECNI has also recommended the strengthening of NI equality law beyond the protections available in GB.

³¹ The relevant legislation is the Sex Discrimination Order (NI) 1976. See, [ECNI, 'Shadow report to the Committee on the Elimination of Discrimination Against Women'](#) (June 2013), paras 3.5-3.7. Contrast with the 'public sector equality duty' applicable in GB, see Equality Act 2010, Section 149.

³² [ECNI, 'Strengthening protection against racial discrimination: Recommendations for law reform \(full report\)'](#) (August 2014), paras 3.1-3.14.

³³ Ibid paras 3.15-3.37.

³⁴ Ibid paras 3.38-3.61.

³⁵ *Mayor and Burgesses of the London Borough of Lewisham v Malcolm* [2008] UKHL 43.

³⁶ [ECNI, 'Strengthening protection for disabled people: Proposals for reform \(full report\)'](#) (March 2012), pp 7-8.

³⁷ Ibid p22 (Note that on the publication date of the ECNI report, such provisions were not yet in place in GB, but are now).

³⁸ [NICCY 'Don't exclude us! Strengthening Protection for Children and Young People when Accessing Goods, Facilities and Services'](#) (2013); Northern Ireland NGO Alternative Report 'Submission to the UNCRC Committee for consideration during the Committee's examination of the UK Government's report' (coordinated by Children's Law Centre & Save the Children) (May 2015), p 14.

³⁹ Committee for the Office of the First Minister and Deputy First Minister, OFFICIAL REPORT (Hansard) '[Age Discrimination Legislation: OFMDFM Junior Ministers and Officials'](#) (15 April 2015), p4.

⁴⁰ 'Intersectional discrimination' refers to a discriminatory experience based on two or more grounds taken together, but where each ground could not prove the discrimination if taken individually.

⁴¹ [ECNI, 'Strengthening protection against racial discrimination: Recommendations for law reform \(full report\)'](#) (August 2014), p 35 (see pp33-38).

⁴² Ibid.

⁴³ The Equality Act 2010, Section 14 (applicable in GB only) includes provision for dual discrimination cases limited to direct discrimination claims only but this provision has never been brought into force.

⁴⁴ CESCR, 'Concluding observations on the UK', UN Doc. E/C.12/GBR/CO/5 (12 June 2009), para 18.

⁴⁵ OFMDFM/NISRA Gender Equality Statistics (2015 update) note that in July 2015, women constitute 20.4% of MLAs in NI. It also notes that, "[i]n May 2014 local elections took place for the 11 new local Councils in Northern Ireland and 25% of those elected were female.⁶ This represents a slight increase on the 23% recorded in 2011 when elections were last held for the previous 26 District Council system. Of the current 11 local councils in

Northern Ireland, four had a female Mayor/Chair and a further three had a female Deputy Mayor/Chair elected for the civic year 2015/16, representing 31.8% of posts overall. For 2014/15, under the previous 26 district council system, 26.9% of such posts were held by females." See, [OFMDFM Statistics & Research Branch, Gender Equality Statistics: 2015 Update](#) (July 2015).

⁴⁶ Ulster University/OFMDFM (Ballantine, B. et al.), '[An Investigation of Gender Equality Issues at the Executive Level in Northern Ireland Public Sector Organisations](#): Determining baseline data and reporting on the findings from a survey of current and aspiring executives attitudes' (October 2014), p 34. Figure includes both executive director positions and non-executive positions.

⁴⁷ NIJAC '[The Judiciary in Northern Ireland 2014: Equity Monitoring Report](#)' (figures as at 1 April 2014), p i.

⁴⁸ HRC, 'Concluding observations on the UK', (advance version July 2015), para 12. See also, CEDAW Committee 'Concluding observations on the UK' (30 July 2013), paras 42 and 43(a).

⁴⁹ Ulster University/OFMDFM (Ballantine, B. et al.), '[An Investigation of Gender Equality Issues at the Executive Level in Northern Ireland Public Sector Organisations](#): Determining baseline data and reporting on the findings from a survey of current and aspiring executives attitudes' (October 2014), p 18.

⁵⁰ OFMDFM/NISRA, '[Gender Equality Strategy, 2006-2016, Review](#)' (April 2013), para 2.2 (see also para 2.1).

⁵¹ Ibid para 2.6.

⁵² Ibid para 4.16.

⁵³ For example, 'Working Tax Credit'.

⁵⁴ For example, the Childcare Bill introduced into the Westminster Parliament in June 2015 places a duty on the Secretary of State for Education to ensure 30 hours of free childcare is provided to 3 and 4 year olds of working families during term time. This Bill applies to England and Wales only and doubles the current provision.

⁵⁵ See, NICVA, Centre for Economic Empowerment, '[Universal Childcare in Northern Ireland: A Cost-benefit analysis \(Report prepared by PwC\)](#)', (February 2015), p 3. The median gross weekly earnings for both full-time and part-time employees in NI in April 2013 were £367 (p3).

⁵⁶ Ibid. See also, '[Employers for Childcare's Northern Ireland Childcare Cost Survey 2014](#)' (December 2014), p 18 (table 4), which reported that childcare in NI costs 44% of median net weekly earnings in 2014.

⁵⁷ See Sections 22 and 26 of the Childcare Act 2006 and Section 47 of the Children and Young People (Scotland) Act 2014

⁵⁸ The ECNI report states, 'elements of responsibility sit with different government departments, but no single department is responsible for ensuring that the totality of provision is adequate'. [ECNI, Childcare: Maximising the Economic Participation of Women](#) (February 2013), pp 65-66.

⁵⁹ Ibid p 67.

⁶⁰ '[Employers for Childcare's Northern Ireland Childcare Cost Survey 2014](#)' (December 2014), p x.

⁶¹ NI Executive, '[Programme for Government 2011-2015: building a better future](#)', p 10.

⁶² NI Executive, '[The NI Executive's Programme for Affordable and Integrated Childcare Strategic Framework and Key First Actions](#)'.

⁶³ NI Executive, '[Delivering Social Change Through Childcare: A Ten Year Strategy for Affordable and Integrated Childcare, 2015-2025](#)' consultation.

⁶⁴ CESCR, 'Concluding observations on the UK', UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 18.

⁶⁵ [OFMDFM Statistics & Research Branch, Gender Equality Statistics: 2015 Update](#) (July 2015), Section 3: Pay & Earnings, Indicators 3.6 and 3.9 note that:

- the female median full-time gross hourly earnings was 103.2% of the male median (+);
- the female mean full-time
- hourly earnings was 97.5% of the male mean (+);
- the female median part-time gross hourly earnings was 105.3% of the male median (-); and,
- the female mean part-time gross hourly earnings was 104.7% of the male mean (+).

All quoted statistics exclude overtime. The (+) or (-) indicates whether this is an increase or decrease since 2013.

⁶⁶ CRC (Paul Nolan), '[NI Peace Monitoring Report: Number Three](#)' (March 2014), p 90.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ [DFPNI, Equality Statistics for the Northern Ireland Civil Service](#), (10 December 2014), pp 4-6. The report is based

on staff in post as of 1 January 2013, and the economically active comparator is based on the 2011 census.

⁷⁰ Northern Ireland Executive "[Programme for Government 2011-2015: Building a Better Future](#)" p24

⁷¹ Equality Act 2010, Section 77.

⁷² Equality Act 2010 (Equal Pay Audits) Regulations 2014 introduced pursuant to the Equality Act 2010, Sections 139A and 207(1) and (4).

⁷³ CESCR, 'Concluding observations on the UK', UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 20.

⁷⁴ DFP '[LFS Quarterly Supplement: January-March 2015](#)' p 23.

⁷⁵ Ibid.

⁷⁶ Ibid p 24.

⁷⁷ OFMDFM, 'A Strategy to improve the lives of people with disabilities 2012 – 2015', pp 22-23.

⁷⁸ OFMDFM Press release, '[Junior Ministers Jennifer McCann and Michelle McIlveen have announced the Executive's Disability Strategy will be extended until the end of March 2017](#)' (12 May 2015).

⁷⁹ NI Executive '[A Strategy to improve the lives of people with disabilities 2012-2015: Annual report 2013/14](#)', para 42-44.

⁸⁰ <http://www.ofmdfmi.gov.uk/index/equality-and-strategy/equality-human-rights-social-change/disability/disability-strategy-indicators.htm>

⁸¹ OFMDFM '[Strategy to Improve the Lives of People with Disabilities 2012 – 2015: Annual Indicator Consultation 2014](#)' (November 2014).

⁸² DEL/DETI 'Enabling Success-Supporting the Transition from Economic Inactivity to employment: A Strategy to tackle Economic Inactivity in Northern Ireland', (April 2015).

⁸³ DEL/DETI 'Enabling Success-Supporting the Transition from Economic Inactivity to employment: A Strategy to tackle Economic Inactivity in Northern Ireland', (April 2015), p 15.

⁸⁴ ibid p 4.

⁸⁵ CESCR, 'Concluding observations on the UK', UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 41.

⁸⁶ CESCR 'Sixth Periodic Report of the United Kingdom for Great Britain and Northern Ireland' UN Doc. E/C.12/GBR/6 (25 September 2014), para 93. See also, HM Government, [National Minimum Age Rates](#).

⁸⁷ UK Government, [Budget 2015: key announcements](#).

⁸⁸ CESCR. General Comment 20, para 13.

⁸⁹ CESCR, 'Concluding observations on the UK', UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 24; CESCR 'Concluding observations on the UK' (5 June 2002), para 36.

⁹⁰ See, CRC Committee, 'Concluding observations on the UK' (20 October 2008), para 42(a); HRC, 'Concluding observations on the UK', (advance version July 2015), para 20; CEDAW Committee 'Concluding observations on the UK' (30 July 2013), para 35(e) and (10 July 2008), para 281; and CAT Committee, 'Concluding observations on the UK' (24 June 2013), para 29.

⁹¹ 'Fifth Periodic Report to the UN Committee on the Rights of the Child, United Kingdom' UN Doc. CRC/C/GBR/5 (May 2014), p 21

⁹² CESCR, General Comment 19: the right to social security (art. 9) (4 February 2008), paras 1 and 3.

⁹³ Letter dated 16 May 2012 addressed by the Chairperson of the Committee on Economic, Social and Cultural Rights to State parties to the International Covenant on Economic, Social and Cultural Rights

⁹⁴ HM Treasury 'Funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly: Statement of Funding Policy' October 2010.

⁹⁵ NIHRC "[Response on the Welfare Reform Bill 2012](#)".

⁹⁶ Ibid para 26.

⁹⁷ The [Stormont House Agreement 2014](#), para 6.

⁹⁸ Ibid para 7.

⁹⁹ Sinn Fein, the SDLP and the Green Party members of the Assembly signed a Petition of Concern which meant that the Bill did not get the necessary cross community support.

¹⁰⁰ See, BBC News '[Northern Ireland Welfare Reform Dispute: Westminster could take over powers](#)' (27 May 2015).

¹⁰¹ Gov.UK '[Theresa Villiers provides the UK government perspective on the current state of politics in Northern Ireland](#)' (5 September 2015).

¹⁰² BBC News 'Q&A: Northern Ireland Executive Crisis' (7 September 2015,)

-
- ¹⁰³ HM Treasury '[Summer Budget 2015](#)', p 40.
- ¹⁰⁴ Ibid pp41; clause 13 and 14 of the Reform and Work Bill 2015-2016.
- ¹⁰⁵ HM Treasury '[Summer Budget 2015](#)' (July 2015) pp37-38.
- ¹⁰⁶ See UK Government, '[Summer Budget 2015: key announcements](#)'
- ¹⁰⁷ [The Stormont House Agreement](#), (23 December 2014) para 8
- ¹⁰⁸ The Corporation Tax (Northern Ireland) Act 2015
- ¹⁰⁹ Huffington Post '[UN Special Rapporteur finds Austerity, Food Banks and Working Poor extremely worrying in the UK](#)' (19 February 2013).
- ¹¹⁰ Advice NI reported in November 2014 that food banks increased from two in 2011 to at least 14 in 2014. Furthermore, 11,000 emergency food parcels were given out, representing a 489% increase on the previous year. BBC News, '[Rapid Rise in demand for emergency food parcels, says Advice NI](#)' (28 November 2014).
- ¹¹¹ NIHRC '[The Human Rights of Carers in Northern Ireland](#)', (November 2014) pp 36- 38.
- ¹¹² Ibid p38
- ¹¹³ CESCR, 'Concluding observations on the UK', UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 28
- ¹¹⁴ Department of Social Development NI, '[The Northern Ireland Poverty Bulletin 2013/14 is released](#)' (25 June 2015). Note the press release states the figures are presented in a Before Housing Costs basis as used within the Child Poverty Act 2010.
- ¹¹⁵ Institute for Fiscal Studies '[Child Poverty and Working age poverty in Northern Ireland over the next decade: an update](#)' IFS Briefing Note BN154, (September 2014).
- ¹¹⁶ Institute for Fiscal Studies '[Low-income working age households and the very richest have lost the most from tax and benefit changes, with pensioners and upper-middle income groups largely protected](#)'
- ¹¹⁷ NIHRC, 'Poverty and Human Rights' (March 2014), p 166.
- ¹¹⁸ Ibid.
- ¹¹⁹ Section 28E of the Northern Ireland Act 1998 inserted by section 16 of the Northern Ireland (St Andrew's Agreement) Act 2006
- ¹²⁰ NICTS Press release '[Court Finds Executive Failed to Adopt Strategy on Poverty and Social Exclusion: Summary of Judgment](#)' (30 June 2015).
- ¹²¹ See <http://www.ofmdfmi.gov.uk/child-poverty>
- ¹²² Official Report of the Committee of the Office for First and Deputy First Minister '[Child Poverty: OFMDFM Officials](#)' (21 January 2015).
- ¹²³ [Ibid..](#)
- ¹²⁴ The Welfare Reform and Work Bill amends the Child Poverty Act to become the Life Chances Act. New legislation to amend the Child Poverty Act 2010 will use: the proportion of children living in workless household as well as long-term workless household; and the educational attainment of all pupils and the most disadvantaged pupils at age 16, see HM Government Press Release '[Government to strengthen child poverty measure](#)' (1 July 2015).
- ¹²⁵ See for example, NIHRC 'Poverty and Human Rights' (March 2014), p 169 and Paddy Hillyard Comment in '[View: Scandal of our Times](#)', Issue 31, 2015, p 18.
- ¹²⁶ <https://www.gov.uk/government/news/summer-budget-2015-key-announcements>
- ¹²⁷ The Guardian '[George Osborne Introduces new "living wage" but cuts working age benefits](#)' (8 July 2015).
- ¹²⁸ Institute for Fiscal Studies, '[Living Standards, poverty and inequality in the UK: 2015](#)' (16 July 2015) p 63.
- ¹²⁹ Joseph Rowntree Foundation '[Will the 2015 Summer Budget improve living standards in 2020?](#)' Donald Hirsch, (7 September 2015)
- ¹³⁰ See UN General Assembly 'Report of the Special Rapporteur on extreme poverty and human rights , Magdalena Sepulveda Carmona' (22 May 2014), UN Doc. A/HRC/26/28; Special Rapporteur on Extreme Poverty Philip Alston 'Report of the Special Rapporteur on extreme poverty and human rights, Philip Alston, on extreme inequality and human rights' (2015) UN Doc. A/HRC/29/31; Center for Economic and Social Rights website, '[Human Rights in Tax Policy](#)' page. Ignacio Saiz also points out that human rights concerns are particularly likely to occur where a country's tax structures and policies undermine these resourcing, distributive and accountability functions; see Saiz I., 'Resourcing Rights' in Nolan A, O'Connell R and Harvey C. 'Human Rights and Public Finance: Budgets and Promotion of Economic and Social Rights' Hart Publishing, Oregon, 2013, p 83.

-
- ¹³¹ UN General Assembly ‘Report of the Special Rapporteur on extreme poverty and human rights, Magdalena, Sepulveda Carmona’ (22 May 2014) UN Doc. A/HRC/26/28.
- ¹³² Ibid p 20.
- ¹³³ For a full list of measures see Ibid pp 20-22.
- ¹³⁴ UN General Assembly ‘Report of the Special Rapporteur on extreme poverty and human rights, Magdalena, Sepulveda Carmona’ (22 May 2014) UN Doc. A/HRC/26/28, see pp 20-22.
- ¹³⁵ International Bar Association [‘Tax Abuses, Poverty and Human Rights’](#) A Report of the International Bar Association’s Human Rights Institute Task Force on Illicit Financial Flows, Poverty and Human Rights, (October 2013) p 148.
- ¹³⁶ The Tax Dodging Bill Campaign [‘The Tax Dodging Bill: what it is and why we need it’](#) (January 2015), p 8.
- ¹³⁷ [Conservative Party Manifesto 2015](#)
- ¹³⁸ HM Government [‘Summer Budget 2015’](#) (8 July 2015)
- ¹³⁹ HM Treasury [‘Summer Budget 2015’](#), p 43.
- ¹⁴⁰ Ibid p 35.
- ¹⁴¹ CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 30.
- ¹⁴² The UN Special Rapporteur visited London, Glasgow, Edinburgh, Belfast and Manchester between 29 August to 11 September 2013.
- ¹⁴³ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context on her mission to the United Kingdom of Great Britain and Northern Ireland (29 August–11 September 2013). A/HRC/25/54/Add.2, para 69.
- ¹⁴⁴ Equality Commission for Northern Ireland [‘Shadow Report to the UN Committee on the Elimination of Racial Discrimination \(CERD\) on the UK Government’s 18th periodic report’](#), (2011) para 50.
- ¹⁴⁵ Equality Commission for Northern Ireland “Racial Equality Policy: Priorities and Recommendations” May 2014, p 25.
- ¹⁴⁶ Scullion G and Rogers S [‘Traveller Voices for Change’](#), (November 2014), p 28.
- ¹⁴⁷ NIHE [‘Traveller Accommodation Needs Assessment 2014’](#) p 29.
- ¹⁴⁸ Ibid.
- ¹⁴⁹ CESCR ‘Consideration of reports submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: United Kingdom of Great Britain and Northern Ireland’ , para 58 E/C.12/GBR/6
- ¹⁵⁰ NIHRC ‘Written evidence to the Committee for Social Development on the Caravans Bill’ (May 2010), para 22.
- ¹⁵¹ DSDNI [‘Guide to the Unauthorised Encampments \(NI\) Order 2005’](#) (30 June 2006) .
- ¹⁵² NIHE [‘Our co-operation policy for Travellers’](#) (updated 12 September 2015).
- ¹⁵³ NIHRC “Written evidence to the Committee for Social Development on the Caravans Bill” (May 2010), para 25
- ¹⁵⁴ See correspondence between DSD and the Committee for Social Development , dated 7 September 2010, available in Official Report of the Committee for Social Development [Report on the Caravans Bill’](#) (November 2010)
- ¹⁵⁵ Official Report of the Committee for Social Development [‘Report on the Caravans Bill’](#) (November 2010).
- ¹⁵⁶ BBC News [‘Planning appeal bid over travellers' site close to historic Rathenraw Fort’](#) 21 July 2015
- ¹⁵⁷ [Antrim and Newtownabbey Borough Council Planning Report](#), (18 May 2015)
- ¹⁵⁸ Council of Europe “Advisory Committee on the Framework Convention for the Protection of National Minorities: Third Opinion on the United Kingdom for the Protection of National Minorities”, para 88 ACFC/OP/III (2011)006
- ¹⁵⁹ NIHRC “Parallel Report to the Advisory Committee on the Framework Convention on National Minorities” February 2011
- ¹⁶⁰ Schedule 1, paragraph 11 of the Caravans Act (Northern Ireland)1963 provided that a site licence shall not be required for the use as a caravan site of land occupied by a district council
- ¹⁶¹ The power was transferred from local councils to the Northern Ireland Housing Executive under Section 125 and Schedule 2 of the Housing (NI) Order 2003, inserting Article 28A to the Housing (NI) Order 1981
- ¹⁶² NIHRC “Written evidence to the Committee for Social Development on the Caravans Bill” May 2010, para 21

-
- ¹⁶³ An amendment was tabled to the Caravans Bill to amend the Caravans Act however a Petition of concern was tabled, ensuring that the amendment was defeated, see NI Assembly ‘Caravans Bill: Notice of Table of Amendments (22 November 2010)
- ¹⁶⁴ Council of Europe ‘Advisory Committee on the Framework Convention for the Protection of National Minorities: Third Opinion on the United Kingdom for the Protection of National Minorities’, para 94 ACFC/OP/III (2011)006
- ¹⁶⁵ CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 29.
- ¹⁶⁶ Ibid para 31.
- ¹⁶⁷ ‘Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context’, UN Doc. A/HRC/25/54/Add.2, (30 December 2013), para 80(i).
- ¹⁶⁸ Housing (NI) Order 1981, Articles 6, 22, 31, 87 and 88.
- ¹⁶⁹ See, for example, Housing (NI) Order 1981, Articles 10 and 30. See also, Housing Executive, ‘DSD Management Statement and Financial Memorandum Dossier of Controls’ (April 2014), generally Part 1, and specifically, paras 1.2.1 and 1.4.1. See also, <http://www.dsdni.gov.uk/index/hsdiv-housing/nihe.htm>.
- ¹⁷⁰ Participation and Practice of Rights Project ‘[Equality Can’t Wait](#)’ (22 August 2013) p 9.
- ¹⁷¹ NIHE ‘[Mapping Segregation in Northern Ireland: Northern Ireland Housing Executive Estates outside Belfast](#)’ by I Shuttleworth and C Lloyd, (2009) p 4. See also Chartered Institute of Housing ‘[Religious segregation and allocations in Northern Ireland’s social housing](#)’ (10 March 2015).
- ¹⁷² P Nolan ‘[Northern Ireland Peace Monitoring Report 2014; No 3](#)’, pp 12, 135 discussing results from the 2012 Northern Ireland Life and Times Survey.
- ¹⁷³ See, NIHE, Belfast: District Housing & local Housing Strategy 2014/2015, p 59.
- ¹⁷⁴ Belfast Telegraph ‘[Graffiti threatens Belfast Protestants with being 'bombed out'](#)” (17 August 2015), available at
- ¹⁷⁵ P Nolan ‘[Northern Ireland Peace Monitoring Report 2014; No 3](#)’ p 125
- ¹⁷⁶ CESCR ‘Sixth Periodic Report of the United Kingdom for Great Britain and Northern Ireland’ UN Doc. E/C.12/GBR/6 (25 September 2014), para 59.
- ¹⁷⁷ Differences include whether or not the data should reflect the North Belfast Parliamentary constituency or the North Belfast housing district area (the NIHE uses the latter), and whether or not the data should present religious background based on self-reported identity only or include an assessment of perceived identity. See, NI Assembly AQO 6188/11-15 and NI Assembly Hansard, 27 May 2014 (Mr Hamilton). See also, *ibid.*, PPR ‘Equality Can’t Wait’ report, Chapter 3.
- ¹⁷⁸ PPR, ‘[Surrounded by land but "no space" for housing?](#)’ (2015). ‘SHDP’ refers to the Social Housing Development Programme.
- ¹⁷⁹ *Ibid.*
- ¹⁸⁰ PPR, ‘[Surrounded by land but "no space" for housing?](#)’ (2015).
- ¹⁸¹ CAJ, Submission no. S426 ‘[CAJ's request to ECNI for Para 11 Investigation into Department of Social Development \(DSD\) Strategic Housing Policy](#)’ (October 2013).
- ¹⁸² See, DSDNI, ‘[Facing the Future: Housing Strategy for Northern Ireland' consultation](#)’, p 51.
- ¹⁸³ See, CAJ, Submission no. S426 ‘[CAJ's request to ECNI for Para 11 Investigation into Department of Social Development \(DSD\) Strategic Housing Policy](#)’ (October 2013).
- ¹⁸⁴ *Ibid.*
- ¹⁸⁵ For information, see DSDNI website, ‘[Social Housing Reform Programme](#)’ section.
- ¹⁸⁶ For information, see DSDNI website, ‘[Building Successful Communities](#)’ section.
- ¹⁸⁷ Sinn Féin, ‘Sinn Féin Submission to the Human Rights Commission, Re: Allocation of Social Housing’ (June 2014). See also, F. McCann, ‘[DSD housing complaint lodged with Human Rights Commission](#)’ (11 June 2014).
- ¹⁸⁸ NIHRC, ‘[Northern Ireland Human Rights Commission submission to the Equality Commission for Northern Ireland's investigation into the Department for Social Development's compliance with the approved Equality Scheme](#)’ (2014).
- ¹⁸⁹ *Ibid.*
- ¹⁹⁰ The Crisis Fund opened on 4 February and closed on 31 March, see AQW 40200/11-15, Ms Anna Lo.
- ¹⁹¹ NI Executive ‘[Junior Ministers Jennifer McCann and Jonathan Bell today outlined the benefits of the new Crisis Fund for vulnerable minority ethnic people](#)’ (4 February 2015).

-
- ¹⁹² BBC Radio Ulster [‘Nowhere to go’](#) (2014).
- ¹⁹³ From February 2015 until July 2015, see Scope NI [‘Crisis Fund: can a little go a very long way’](#) (31 July 2015).
- ¹⁹⁴ Ibid.
- ¹⁹⁵ Ibid.
- ¹⁹⁶ See [AQW 40200/11-15](#). The question was answered on 02/07/15.
- ¹⁹⁷ Scope NI [‘Crisis Fund: can a little go a very long way’](#) (31 July 2015).
- ¹⁹⁸ CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 27.
- ¹⁹⁹ See Rule 360 of the [Immigration Rules, Part 11B](#).
- ²⁰⁰ Rule 360A of the [Immigration Rules, Part 11B](#).
- ²⁰¹ Law Centre NI [‘Inquiry into asylum support for children and young people’](#) (14 November 2012). See also, HM Government, [Tier 2 Shortage Occupation List](#).
- ²⁰² NIHRC) [‘No Home from Home: Homelessness for People with No or Limited Access to Public Funds’](#) (2009) p 147.
- ²⁰³ Still Human Still Here ‘At the end of the Line: restoring the integrity of the UK’s Asylum System’ (2010) and British Red Cross [‘Those who seek sanctuary in Northern Ireland should not be left destitute’](#) See also Red Cross website, [‘Ending destitution’](#) page.
- ²⁰⁴ House of Commons Library Research Paper, Number 1908 [‘Should Asylum Seekers have unrestricted rights to work in the UK?’](#) (10 June 2015), p 3.
- ²⁰⁵ See Regulation 2 of The Asylum Support (Amendment No.3) Regulations 2015.
- ²⁰⁶ See Explanatory Memorandum to The Asylum Support (Amendment No.3) Regulations 2015.
- ²⁰⁷ Refugee Council [‘Families’ asylum support drastically cut’](#) (16 July 2015).
- ²⁰⁸ The Children’s Society [‘Government threatens children fleeing persecution with vital cuts to support’](#) (June 2015).
- ²⁰⁹ Home Office, [‘Reforming support for failed asylum seekers and other illegal migrants’ consultation](#) (August 2015) para 20.
- ²¹⁰ NIHRC response to Home Office Consultation on Reforming Support for Failed Asylum Seekers and other illegal Migrants, (8 September 2015).
- ²¹¹ British Red Cross [‘The Move-on Period: an Ordeal for New Refugees’](#) (2014), pp 8 and 51.
- ²¹² R Dudley ‘Domestic Abuse and Women with No Recourse to Public Funds: Where Human Rights do not reach’, Executive Summary; Women’s Resource Centre, [‘Destitute Domestic Violence Concession’](#) (October 2012).
- ²¹³ NRP Network [‘The Destitute Domestic Violence \(DDV\) Concession’](#)
- ²¹⁴ *ibid.* In order to be eligible to apply, the person must have entered the UK or been given indefinite leave to remain as the spouse, civil partner, unmarried or same sex partner of a British citizen or someone settled in the UK, or as the partner of a member of HM Forces who has served for at least 4 years; have had a relationship break down due to domestic violence; be destitute and in need of financial help and intend to apply to stay in the UK permanently under the domestic violence rule. Spouses of EEA nationals do not fall within the scope of the concession. See also Gov.UK ‘Apply to settle in the UK’ <https://www.gov.uk/settle-in-the-uk/y/you-re-the-family-member-of-a-british-citizen/no/on-a-work-visa/tier-5>
- ²¹⁵ Women’s Aid Federation NI “Annual report 2013-14”, p 30.
- ²¹⁶ *Ibid* p 55.
- ²¹⁷ Information obtained in a meeting with representatives from Women’s aid Federation, 11/08/15, see also ScopeNI which states that domestic violence was the second highest reason for access to the fund, accounting for 14%. Scope NI [‘Crisis Fund: can a little go a very long way’](#) (31 July 2015).
- ²¹⁸ WRDA [‘Women’s Manifesto: Working at the Heart of the Community’](#) (March 2015).
- ²¹⁹ CEDAW Committee “Concluding Observations on the Seventh Periodic Report of the United Kingdom of Great Britain and Northern Ireland” 30 July 2013, UN Doc. CEDAW/C/GBR/CO/7, para 56.
- ²²⁰ CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 24.
- ²²¹ CJINI [‘Domestic Violence and Abuse’](#) (December 2010).
- ²²² DoJ Press Release [‘Ford announces changes to help victims of domestic violence’](#) (December 2010)
- ²²³ Section 97 and schedule 7 of the Justice Act (NI) 2015

-
- ²²⁴ PSNI, '[Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2014/15](#)' (6 August 2015), p 7.
- ²²⁵ Ibid p 6.
- ²²⁶ Ibid p 15.
- ²²⁷ Ibid p 10.
- ²²⁸ Women's Aid Federation Northern Ireland, '[Annual Report 2013-14](#)' (2014), p49. Women's Aid is the largest provider of women's refuge services in NI.
- ²²⁹ NIHRC, '[Response to the public consultation on the Draft Strategy on Stopping Domestic and Sexual Violence and Abuse in Northern Ireland, 2013-2020](#)' (2014).
- ²³⁰ UN Doc. A/HRC/29/27/Add.2, 'Report of the Special Rapporteur on violence against women, its cause and consequences, Rashida Manjoo: Addendum, Mission to the United Kingdom of Great Britain and Northern Ireland' (19 May 2015) para 81.
- ²³¹ CESCR, 'Concluding observations on the UK', UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 25; CEDAW, 'Concluding observations on the UK' (30 July 2013), para 51.
- ²³² The current legislative framework in NI is governed by the Offences Against the Person Act 1861, Sections 58 and 59, Criminal Justice Act (Northern Ireland) 1945, Section 25 and *R v Bourne* [1939] 1KB 687.
- ²³³ DOJNI, '[The Criminal Law on Abortion: Lethal foetal abnormality and sexual crime](#)' (2014) (a consultation on amending the law by the DOJ).
- ²³⁴ DOJNI, Media Centre '[Justice Minister David Ford has said there is a substantial body of support to make limited changes to the law on abortion](#)' (16 April 2015).
- ²³⁵ [Letter](#) from Scott McPherson, Director of Law, Rights and International, MOJ, to Fabián Omar Salvioli, Chairperson, Human Rights Committee (6 July 2015).
- ²³⁶ The regulations were adopted in February 2015 but there was a short window in which they could be challenged, see <http://www.lawcentreni.org/news/recent-news/1-news/1172-new-rules-on-access-to-healthcare-for-migrants-in-northern-ireland.html>. The [regulations](#) revoke a number of regulations including: Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2005; Provision of Health Services to Persons not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2008; Regulation 3 of The Charges for Drugs and Appliances and Provision of Health Services to Persons not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2009 and Provision of Health Services to Persons not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2013 .
- ²³⁷ See regulation 4 of the Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2015
- ²³⁸ Official Report of the Committee for Health, Social Services and Public Safety, '[Implementation of EU cross border health directive and overseas visitors policy](#)', (27 November 2013).
- ²³⁹ See regulations 5-22 and 24 of the Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2015.
- ²⁴⁰ The Health and Personal Social Services (General Medical Services Contracts) (Amendment) Regulations (Northern Ireland) 2015 amend the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004, the GMS Contract Regulations.
- ²⁴¹ The 2015 regulations specifies that general health services under Part 3 include General health services include primary medical services, general dental services, general ophthalmic services and pharmaceutical services, see Regulation 2 (1).
- ²⁴² Law Centre NI '[Accessing healthcare for migrants: problems and solutions](#)' (June 2013).
- ²⁴³ See NIHRC '[Access Denied or Paying When You Shouldn't. Access to publicly funded medical care, residency, visitors and non-British/Irish Citizens](#)' (2011) p 49.
- ²⁴⁴ [Explanatory Memorandum](#) to the Mental Capacity Bill.
- ²⁴⁵ The Bamford Review of Mental Health and Learning Disability (Northern Ireland), '[A Comprehensive Legislative Framework](#)' (August 2007) p 36.
- ²⁴⁶ NIHRC, '[Advice on the Mental Capacity \(NI\) Bill](#)' (2014).
- ²⁴⁷ NIHRC, '[Submission to the Ad Hoc Committee on the Mental Capacity Bill](#)' (July 2015).

-
- ²⁴⁸ *ibid.* See also IMNI, [‘Response from IMNI to the Consultation on proposal for Mental Capacity legislation in Northern Ireland’](#) (2014).
- ²⁴⁹ Lords Select Committee on the Mental Capacity Act 2005 [reported on its inquiry in March 2014](#).
- ²⁵⁰ Official Report of the Justice Committee [‘Mental Capacity Bill: DoJ Briefing’](#) (February 2014).
- ²⁵¹ *Ibid.*
- ²⁵² See Simon Hamilton MLA, Minister for Health, Social Services and Public Safety during the Second Stage [debate of the Mental Capacity Bill \(16 June 2015\)](#) The Bill makes amendments to the Mental Health (Northern Ireland) Order 1995 in respect of children. Provisions require hospital managers to ensure that children under 16 are accommodated for treatment in an environment suitable for their age. Furthermore the Bill amends the 1995 Order to make provision for independent advocates and that decision makers have a child’s best interests as their primary consideration..
- ²⁵³ *Ibid.*
- ²⁵⁴ CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 35.
- ²⁵⁵ Bamford Review of Mental Health and Learning Disability Northern Ireland [‘Mental Health Improvement and Wellbeing: A Personal Public and Political Issue’](#) May 2006, p (i).
- ²⁵⁶ DHSSPSNI [‘Health Survey Northern Ireland: First Results 2013/14’](#) (November 2014).
- ²⁵⁷ NISRA website, [‘Suicide Deaths’ page](#).
- ²⁵⁸ DHSSPS [‘Protect Life: A Shared Vision, The Northern Ireland Suicide Prevention Strategy 2012- March 2014’](#) (Refreshed 2012).
- ²⁵⁹ M Tomlinson [‘Dealing with suicide: How does research help’](#) (11 April 2013), presentation given at Knowledge Exchange Seminar Series, Northern Ireland Assembly.
- ²⁶⁰ The Samaritans, [‘Suicide statistics: Report 2015’](#).
- ²⁶¹ DHSSPS [‘Protect Life: A Shared Vision, The Northern Ireland Suicide Prevention Strategy 2012- March 2014’](#) (Refreshed 2012), p 7.
- ²⁶² DHSSPS, [‘Development of a new suicide prevention strategy for NI: Pre-consultation engagement summary report’](#) (April 2014).
- ²⁶³ See AQW 45651/11-15, Mr Fearghal Mc Kinney MLA, (SDLP),
- ²⁶⁴ MOD Policy Paper, [‘2010-2015 government policy: armed forces covenant’](#).
- ²⁶⁵ [Armed Forces Act 2011](#).
- ²⁶⁶ Northern Ireland Affairs Committee [‘Implementation of the Armed Forces Covenant in Northern Ireland’](#), First Report of session 2013/14, p 7.
- ²⁶⁷ *Ibid* p 3. The Northern Ireland Affairs Committee also received evidence that a family can apply for a school place on receipt of a married quarter but a supernumerary place cannot be applied for by the school until the child is resident this can lead to a gap in education and does not instill a seamless transfer, see EV100 of the report which contains evidence from the Northern Ireland Veterans and Pensions Advisory Committee
- ²⁶⁸ [BBC Spotlight NI \(26/05/15\)](#). See also BBC News, [‘Captain Doug Beattie accuses government of ‘abandoning’ Northern Ireland military veterans’](#) (26 May 2015).
- ²⁶⁹ NIHRC [‘Submission to the Northern Ireland Affairs Committee on the Implementation of the Armed Forces Covenant’](#), (2013) para 6.
- ²⁷⁰ *Ibid* .
- ²⁷¹ *Ibid* para 7.
- ²⁷² *Ibid* para 19.
- ²⁷³ Northern Ireland Affairs Committee “Implementation of the Armed Forces Covenant in Northern Ireland”, First Report of session 2013/14, p 9.
- ²⁷⁴ [Ulster University have secured over £355,000 to review support services available to veterans in NI](#) and [QUB have been awarded over £96,000 to explore the experiences of military personnel involved in counterinsurgency operations and their transition back into civilian life](#).
- ²⁷⁵ DHSSPS, Emergency Care Waiting Statistics show 727, 466 attendances in 2013/14 (a decrease of 0.1 per cent from 2009/10). See, [DHSSPS/NISRA, ‘Northern Ireland Hospital Statistics: Emergency Care’ \(26 June 2014\)](#) key points. Between April and June 2015, monthly attendances at all emergency care departments increased by 2,426 (4.0%), from 60,772 to 63,198. During this period, attendances increased by 1,545 (3.0%) at Type 1 departments,

108 (3.1%) at Type 2 departments and 773 (12.2%) at Type 3 departments (Table 2). Between April and June 2015, 236 attendances waited longer than 12 hours to be treated and discharged home, or admitted. See, DHSSPS, [‘Emergency Care Waiting Time Statistics’ \(April - June 2015\)](#), key points.

²⁷⁶ See BBC News [‘Royal Victoria Hospital: Major Incident at Belfast A&E’](#) (9 January 2015).

²⁷⁷ Professor Paul Hunt, University of Essex.

²⁷⁸ NIHRC, [‘Human Rights Inquiry: Emergency Health Care’ \(May 2015\)](#), pp79-80 and 93.

²⁷⁹ Ibid pp 21-26, 93-96.

²⁸⁰ Ibid pp 95-96.

²⁸¹ Letter to NIHRC from BHSCT, Director of Human Resources and Organisational Development (14 May 2015).

²⁸² NIHRC, [‘Human Rights Inquiry: Emergency Health Care’ \(May 2015\)](#), pp 21, 26 -27.

²⁸³ Ibid pp 90-91, 93-94.

²⁸⁴ Ibid pp 93, 112, 125 and 128.

²⁸⁵ CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 13 (see also para 10).

²⁸⁶ NIHRC, [‘Human Rights Inquiry: Emergency Health Care’ \(May 2015\)](#), p 128 (for all Inquiry recommendations) (see also, pp 21, 26 -27).

²⁸⁷ Ibid pp 62-63 (see pp 54-62 for detail and case studies).

²⁸⁸ Ibid p 128.

²⁸⁹ CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 34.

²⁹⁰ Ibid pp 42-43 and 71-72.

²⁹¹ ‘Transforming Your Care: A Review of Health and Social Care in Northern Ireland’ (December 2011), p 3.

²⁹² Ibid p 18.

²⁹³ Ibid pp 7, 135-142.

²⁹⁴ [‘Oral Statement to the Assembly by the Minister for Health, Social Services and Public Safety: Update on Transforming Your Care’](#) (19 March 2013).

²⁹⁵ ‘Transforming Your Care: A Review of Health and Social Care in Northern Ireland’ (December 2011), p126.

²⁹⁶ NIHRC, [‘Human Rights Inquiry: Emergency Health Care’ \(May 2015\)](#), pp 105-106.

²⁹⁷ [‘The Right Time, the Right Place: An expert examination of the application of health and social care governance arrangements for ensuring the quality of care provision in Northern Ireland’](#) (December 2014).

²⁹⁸ Ibid p 44.

²⁹⁹ Ibid.

³⁰⁰ NI Assembly question, AQW 46906/11-15 (9 June 2015).

³⁰¹ [JR65’s Application \[2013\] NIQB 101](#), para 6.

³⁰² Ibid para 5

³⁰³ Ibid para 7

³⁰⁴ Ibid para 6

³⁰⁵ Ibid para 151

³⁰⁶ Ibid para 151

³⁰⁷ BBC News NI [‘Gay men's blood: Jeremy Hunt says donation is "devolved matter"'](#) (7 April 2014).

³⁰⁸ [JR65’s Application \[2013\] NIQB 101](#), para 142.

³⁰⁹ [JR65’s Application \[2015\] NIQB 1](#), para 13.

³¹⁰ Belfast Telegraph [‘Gay blood ban: New health minister Simon Hamilton vows to be "guided by science"'](#) (18 May 2015).

³¹¹ *Leger v Ministre des Affaires sociales, de la Santé* Case C-528/13.

³¹² CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 36.

³¹³ DENI, Traveller Taskforce on Education, [Terms of Reference](#).

³¹⁴ See <http://www.selb.org/schools/traveller-education-support-service/>

³¹⁵ CESCR, ‘Concluding observations on the UK’ (5 June 2002), para 23.

³¹⁶ Ibid para 42.

-
- ³¹⁷ For example, the CRC Committee has expressed concern at “the problem of segregation of education” in NI and recommending that the State party, “[i]ncrease the budget for and take appropriate measures and incentives to facilitate the establishment of additional integrated schools in [NI] to meet the demand of a significant number of parents”. See, UNCRC Committee, ‘Concluding Observations on the UK’ UN Doc. CRC/C/GBR/CO/4 (2008), para 66, and UNCRC Committee, ‘Concluding Observations on the UK’ UN Doc. CRC/C/15/Add.188 (2002), para 48.
- ³¹⁸ Education Reform Order (NI) 1989, art. 64.
- ³¹⁹ See DENI website, [‘Integrated Education’](#).
- ³²⁰ See [Drumraugh Integrated College’s Application \[2014\] NIQB 69](#) (15 May 2014).
- ³²¹ The NI Executive, [Programme for Government 2011-2015: building a better future](#), contained four key commitments to shared education, the most ambitious of which was to “[e]nsure that all children have the opportunity to participate in shared education programmes by 2015”.
- ³²² The [‘Shared Education Programme’ website](#) sets out the various stages of programme development.
- ³²³ Ministerial Statement, [‘Advanced Shared Education’](#) (22 October 2013).
- ³²⁴ OFMDFM, [‘Together: Building a United Community’](#).
- ³²⁵ DENI website, [‘Shared Education Campuses Programme’](#).
- ³²⁶ CESCR, General Comment 13: The right to education, UN Doc. E/C.12/1999/10 (8 December 1999), para 6.
- ³²⁷ NIHRC, [‘Response of the Northern Ireland Human Rights Commission to the Consultation on the Special Educational Needs and Disability \(SEND\) Bill’](#) (2015).
- ³²⁸ Ibid.
- ³²⁹ UNCRC Committee, ‘Concluding Observations on the UK’ UN Doc. CRC/C/GBR/CO/4 (2008), para 67(h).
- ³³⁰ NIHRC, [‘Response of the Northern Ireland Human Rights Commission to the Consultation on the Special Educational Needs and Disability \(SEND\) Bill’](#) (2015), para 46.
- ³³¹ Ibid para 41.
- ³³² See Professor Laura Lundy, Ms Lesley Emerson, Dr Katrina Lloyd, Dr Bronagh Byrne and Mr Jamie Yohanis [‘Education Reform in NI A Human Rights Review’](#) (NIHRC, Belfast, 2013) Chapter 3.
- ³³³ NIHRC [‘Submission by the NIHRC to the UN Human Rights Council’s Universal Periodic Review of the United Kingdom, Mid-term Report’](#) (September 2014), para 21.
- ³³⁴ UNCRC Committee, ‘Concluding Observations on the UK’ UN Doc. CRC/C/GBR/CO/4 (2008), para 78.
- ³³⁵ CESCR, ‘Concluding observations on the UK’, UN Doc. E/C.12/GBR/CO/5, (12 June 2009), para 37.
- ³³⁶ Article 27 of the ICCPR provides that persons belonging to minorities shall not be denied the right to use their own language.
- ³³⁷ Article 5 of the Framework Convention for the Protection of National Minorities provides that the parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.
- ³³⁸ The [Belfast \(Good Friday\) Agreement 1998](#), Rights, Safeguards and Equality of Opportunity, para 3.
- ³³⁹ The [St Andrews Agreement 2006](#).
- ³⁴⁰ The Northern Ireland (St Andrews Agreement) Act 2006, Section 15.
- ³⁴¹ NIHRC [‘Annual Statement 2014: Human Rights in Northern Ireland’](#), p 55.
- ³⁴² The Commission recommended a number of provision should be drafted and included in a Bill of Rights for Northern Ireland, relating to the right of linguistic minorities to be education through their minority language where there are a substantial number of users and sufficient demand, everyone has a right of access to services essential to life in a language or medium they understand and public authorities must act compatibly with obligations undertaken by the UK Government under the European Charter for Regional and Minority languages in respect of development of the Irish Language and Ulster Scots. See NIHRC, [‘A Bill of Rights for Northern Ireland: Advice to the Secretary of State for Northern Ireland’](#) p 42.
- ³⁴³ DCAL [‘Strategy to Enhance and Protect the Development of the Irish language 2015-2035’](#). The 1737 Act only applies in Northern Ireland and prohibits the use of languages other than English in court proceedings.
- ³⁴⁴ DCAL [‘Strategy to develop the Ulster-Scots language, culture and heritage 2015-2035’](#).
- ³⁴⁵ DCAL [‘Proposals for an Irish Language Bill’](#) (February 2015), see pp 60 and 61.
- ³⁴⁶ Ibid.

-
- ³⁴⁷ NIHRC [‘Response on the proposals for an Irish Language Bill’](#), (May 2015), para 28.
- ³⁴⁸ Ibid para 34.
- ³⁴⁹ Ibid paras 34 and 35.
- ³⁵⁰ Pobal commented that although the institutions in Northern Ireland have been re-established, the danger of gridlock within the Northern Ireland Executive, particularly in relation to matters relating to the Irish language continues to be high. See Pobal (2012) “The Irish Language Act NI” 2nd issue, pg 42.
- ³⁵¹ [Advisory Committee on the Framework Convention for the Protection of National Minorities](#) ACFC/OP/III(2011)006, para 149, (22 December 2011).
- ³⁵² COMEX, [‘European Charter for Regional and Minority Languages: Application of the Charter in the United Kingdom’](#) ECRML (2014)1, para 13.
- ³⁵³ The [Stormont House Agreement 2014](#), para 68.
- ³⁵⁴ DUP [‘Language Act Proposals Going Nowhere: Campbell’](#) (10 February 2015) . See also TUV [“Sinn Fein’s Irish Wish List be Rejected”](#) statement by TUV Leader Jim Allister, (10 February 2015) and UUP [“Proposals for an Irish Language Act are an act of bad faith by Sinn Fein”](#) (14 January 2015).
- ³⁵⁵ The [Stormont House Agreement 2014](#), para 17.
- ³⁵⁶ Ibid para 18.
- ³⁵⁷ [‘Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, on his mission to the United Kingdom’](#), UN Doc. A/HRC/23/39/Add.1, (14-23 January 2013), para 96.
- ³⁵⁸ BBC News NI [‘Nine officers hurt at Belfast Parade Flashpoint’](#) (14 July 2015)
- ³⁵⁹ A camp was set up in Twadell Avenue in July 2013 by Loyalists protesting against a Parades Commission determination which stopped an Orange Order Parade taking place on a stretch of the adjoining Crumlin Road. See Belfast Telegraph [‘Twaddell protest camp policing bill now stands at £330k a month’](#) (15 June 2015).
- ³⁶⁰ BBC News [‘Arrests following anti-internment parade violence in Belfast’](#) (10 August 2015).
- ³⁶¹ The [Stormont House Agreement 2014](#), para 15.
- ³⁶² Ibid para 22.