

# **United Nations Convention on the Rights of Persons with Disabilities**

## **Jurisdictional ‘Parallel’ Report on Implementation in Northern Ireland**

**WORKING PAPER (August 2017)**

**This working paper has been drafted jointly by the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission in furtherance of their role as the “Independent Mechanism” in Northern Ireland to promote, protect and monitor the implementation of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).**



## **Executive Summary**

### *Purpose*

The information summarised in this working paper has been used to shape the input of the the Independent Mechanism for Northern Ireland (IMNI) to the creation of a UKIM 'List of Issues' submission to the UN Committee on the Rights of Persons with Disabilities and the subsequent UKIM 'Shadow Report' in support of the UN Committee's examination of the UK State party.

We hope that publication of this working document, containing Northern Ireland specific detail, will raise awareness of key issues in Northern Ireland and drive action by Government and others to address identified shortfalls, thereby advancing the full implementation of the UNCRPD in Northern Ireland.

### *Development*

Our working assessment of key issues is based on extensive engagement with key stakeholders and, in particular, disabled people and Disabled People's Organisations (DPOs). Our assessment is also based on our engagement with Government and our analyses of the UK Initial State Party Report, the Northern Ireland Executive contribution to the UK State Party Report, the Northern Ireland Disability Strategy and the draft delivery plan for Programme for Government Indicator 42, 'average life satisfaction score of people with disabilities'.

### *Summary of Key Gaps in the implementation of the UNCRPD in Northern Ireland*

Whilst the main report provides a wide-ranging overview of the implementation of the UNCRPD in Northern Ireland, we would draw

attention, in particular, to key gaps aligned to the following UNCRPD articles:

- Equality and non-discrimination (Article 5);
- Awareness-raising (Article 8);
- Equal recognition before the law (Article 12);
- Living independently and being included in the community (Article 19);
- Education (Article 24);
- Health (Article 25);
- Adequate standard of living and social protection (Article 28);
- Participation in public and Political Life (Article 29);
- Access to Information and Statistics and Data Collection (Articles 9, 21 and 31).

The main report sets out further detail on the shortcomings of implementation of policies and programmes in Northern Ireland relevant to these articles, as well as highlighting key issues for further consideration and/or action.

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## Introduction

### *The Independent Mechanism for Northern Ireland*

The Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission jointly perform the role, under Article 33 (2) of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), of 'Independent Mechanism' in Northern Ireland (IMNI) to promote, protect and monitor the implementation of the Convention. Together with the Equality and Human Rights Commission (EHRC) and the Scottish Human Rights Commission (SHRC), we are designated as the United Kingdom Independent Mechanism (UKIM).

IMNI has contributed to the development of a UKIM submission to the UNCRPD Committee regarding a 'List of Issues' in respect of the Initial United Kingdom (UK) State Report. We have also contributed to the preparation of a parallel report to the Committee for consideration alongside the UK Initial State Report in August 2017.

### *Purpose of this Report*

The information summarised in this working paper has been used to shape our input to the creation of a UKIM 'List of Issues' submission to the UNCRPD Committee and has also formed the basis of our input to a subsequent UKIM 'Parallel Report' in support of the Committee's examination of the UK State Party.

This report is intended to:

- (i) raise awareness amongst stakeholders, including disabled people, Disabled People's Organisations (DPOs), Non-Governmental Organisations (NGOs), public authorities, the Northern Ireland Executive and the UK Government of our working assessment of

- gaps in compliance in Northern Ireland relative to the requirements of Convention articles;
- (ii) provide information which can be used by DPOs, NGOs, disabled people or other interested individuals, or coalitions of these, to inform the development of their own parallel/shadow reports to the United Nations Committee on the Rights of Persons with Disabilities.

We hope that this working document, the UN ‘List of Issues’ and associated response from the UK State party and the eventual concluding remarks of the UN Committee (following formal examination of the UK State Party Report) will engender further debate and action by Government and others to address identified shortfalls, and advance the full implementation of the Convention in Northern Ireland<sup>1</sup>.

### *Scope and Structure of the report*

This report covers matters which are the responsibility of the UK Government as well as those which have been devolved to the Northern Ireland Assembly. The report is largely structured to reflect that adopted by the UK in its Initial Report on UNCRPD.

This working paper includes our assessment of key gaps in the implementation of the Convention in Northern Ireland and an analysis of the implementation of those UNCRPD articles about which available information suggests that there are significant concerns .

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<sup>1</sup> IMNI’s contribution to the UNCRPD reporting process complements our other ongoing work to promote, protect and monitor the Convention. For example, in 2015 IMNI organised training for Members of the Legislative Assembly and Departmental officials leading on the Northern Ireland Disability Strategy outlining the Convention and the essential elements of an effective Disability Strategy. The training was delivered by experts from the Office of the United Nations High Commissioner for Human Rights and the Centre for Disability Law and Policy at the University of Ireland at Galway. Further details of some of IMNI’s other activities are provided on pages 3 and 4 below.



We have included key themes for further attention by key stakeholders, including the Government, the Northern Ireland Executive and relevant public authorities, the UNCRPD Committee and disabled people and their representative organisations.

### *Information and Engagement: Developing this Report*

This report is based on our analyses of the UK Initial State Party Report<sup>2</sup>, the Northern Ireland Executive contribution to the UK State Party Report<sup>3</sup>, the Northern Ireland Disability Strategy<sup>4</sup> and the draft delivery plan for Programme for Government Indicator 42, 'average life satisfaction score of people with disabilities'<sup>5</sup>.

This report also draws on the significant work undertaken in relation to the Convention by each of the Commissions since 2010:

- IMNI has been actively involved in engaging civil society, and in particular disabled people and disabled people's organisations (DPOs) in Northern Ireland within the monitoring process since the UK ratified the UNCRPD. For example, IMNI has held a number of evidence gathering workshops with stakeholders on particular CRPD

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<sup>2</sup> CRPD/C/GBR/1 (2011): 'Consideration of Reports Submitted by States Parties under Article 35 of the Convention: Initial Reports of State Parties Due in 2011 – United Kingdom of Great Britain and Northern Ireland'. Available at:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fGBR%2f1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fGBR%2f1&Lang=en).

<sup>3</sup> Northern Ireland Executive (2012): 'The Northern Ireland Executive's contribution to the UK Government Report to the UN Committee'. Available at:

<http://www.equalityni.org/ECNI/media/ECNI/Publications/Corporate/IMNI%20meetings/2011/CRPD11-1-2-NIE-Contribution-to-UK-Initial-State-Report-4Mar11.pdf>.

<sup>4</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of people with disabilities 2012-2015' (Belfast OFMdfM). Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc)

<sup>5</sup> The Northern Ireland Executive (2016): 'Draft Delivery Plan for Programme for Government Indicator 42, Average life satisfaction score of people with disabilities'. Available at:

<https://www.northernireland.gov.uk/publications/programme-government-delivery-plans>

Articles e.g. Article 27 Work and employment. IMNI also facilitated Ms Marianne Schulze, Chairperson of the Austrian Monitoring Framework, to meet with representatives of DPOs to discuss the examination process and how DPOs could best engage in this;

- IMNI also held a series of events throughout Northern Ireland with disabled people and DPOs to identify and refine the key issues for inclusion within the UKIM submission;
- in 2010 and 2013, IMNI commissioned independent research<sup>6</sup> on the implementation of the UNCRPD in Northern Ireland which has been used to inform this report;
- in addition, this report draws on our legal casework, treaty monitoring, research, responses to government consultations and policy work;
- we have also taken into account reports from Disabled Persons' Organisations (DPOs), Non-Governmental Organisations (NGOs), academic sources and regulators.

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<sup>6</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): 'Disability programmes and policies: How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities in Northern Ireland', (Belfast: Equality Commission NI). Available at:

<http://www.equalityni.org/Publications?subject=Disability&type=Reports&year=2012>

Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD' (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

## *Summary of Key Gaps in the implementation of the CRPD in Northern Ireland*

Whilst this report provides a wide-ranging overview of the implementation of the UNCRPD in Northern Ireland, it is important to highlight a number of key gaps aligned to the following UNCRPD articles:

- Equality and non-discrimination (Article 5);
- Awareness-raising (Article 8);
- Equal recognition before the law (Article 12);
- Living independently and being included in the community (Article 19);
- Education (Article 24);
- Health (Article 25);
- Adequate standard of living and social protection (Article 28);
- Participation in public and Political Life (Article 29);
- Access to Information and Statistics and Data Collection (Articles 9, 21 and 31).

Information on the shortcomings of implementation of policies and programmes in Northern Ireland relevant to these articles, and consideration of the fulfillment of rights under other articles, is set out below.

# Implementation of the UNCRPD in Northern Ireland

## Article 5: Equality and non-discrimination

### *Law reform*

The Northern Ireland Disability Strategy<sup>7</sup> was silent on legislative reform.

As a result of the implementation of the Equality Act 2010<sup>8</sup>, the disability equality legislation in Great Britain (GB) has been harmonised and strengthened providing a greater level of protection for disabled people in England, Scotland and Wales<sup>9</sup> than is available in Northern Ireland.

The Equality Commission for Northern Ireland (ECNI) has called on the Northern Ireland Executive through the Office of the First and Deputy First Minister (the designated focal point for the implementation of the Convention in Northern Ireland) to make changes<sup>10</sup> to disability equality legislation in Northern Ireland so as to, at minimum, keep pace with positive legislative changes in Great Britain<sup>11</sup>. In addition to issuing ‘Strengthening Protection for Disabled People Proposals for Reform’<sup>12</sup>, ECNI has also

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<sup>7</sup> Office of the First Minister and the deputy First Minister (2013): Op Cit.

<sup>8</sup> The Equality Act 2010 brings together equality legislation across a range of equality grounds which forms the basis of anti-discrimination law in Great Britain, including the Equal Pay Act 1970, the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995 and three statutory instruments protecting against discrimination in employment on grounds of religion or belief, sexual orientation and age. The Act simplifies, harmonises and strengthens equality legislation in Great Britain and provides a range of additional protections for disabled people.

Available at: [http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga\\_20100015\\_en.pdf](http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf)

Under s.217, with limited exceptions, the Act does not apply to Northern Ireland (see:

<http://www.legislation.gov.uk/ukpga/2010/15/section/217>)

<sup>9</sup> United Kingdom (UK) refers to Great Britain (England, Scotland and Wales) and Northern Ireland

<sup>10</sup> See: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Law-reform/Research-investigations>

<sup>11</sup> These include remedies against perceived and associative discrimination and indirect discrimination.

<sup>12</sup> Equality Commission for Northern Ireland (2012): ‘Strengthening Protection for Disabled People Proposals for Reform’, (Belfast: Equality Commission NI). Available at:

published an expert legal briefing<sup>13</sup> on the impact of the House of Lords decision in the Malcolm Case. The briefing concludes that the decision has had a significant negative effect on disabled people and disability law in Northern Ireland (NI)<sup>14</sup>.

There is no evidence in the public domain that progress is being made to realise the commitment to consider limited legislative reform by September 2017 outlined by the Northern Ireland Executive<sup>15</sup>.

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[http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Strengthening\\_protection\\_for\\_disabled\\_people0312.pd](http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Strengthening_protection_for_disabled_people0312.pd)

The proposed amendments seek to:

- simplify and bring consistency to the disability equality legislation (at present UK wide public authorities, employers and service providers have to deal with the burden of complying with often complex differences between disability equality law in GB and Northern Ireland).
- amend the definition of disability by removing the list of capacities thereby making it easier for disabled people to fall within the definition and avail of the protections of disability equality law;
- improve protection against direct and indirect discrimination, taking account of developments in GB case law;
- provide protection for carers of disabled people and those perceived as being disabled;
- provide protection against harassment in accessing goods, facilities and services;
- prohibit pre-employment disability questions, except in specific circumstances;
- extend the duty on further and higher education providers to provide auxiliary aids and services to schools;
- provide additional reasonable protections for disabled tenants.

According to the report by the Office of the First Minister and the Deputy First Minister on the consultation about the Northern Ireland Executive's Disability Strategy 2012-2015, 82% of consultees supported the Equality Commission's call for legislative reform of disability equality legislation. To date no action has been taken by the Northern Ireland Executive. Source: Office of the First Minister and the Deputy First Minister (2013): 'Analysis of responses to the consultation on 'A Strategy to improve the lives of people with disabilities 2012 –2015'', page 33.

<sup>13</sup> Casserley, C. (June 2013): 'The impact of Malcolm v London Borough of Lewisham and Northern Ireland equality legislation', (Independent legal briefing for Equality Commission NI). Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Law-reform/Research-investigations/Legal-briefing-on-Malcolm-case-full-text>

<sup>14</sup> See also: Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD', pages 51-57. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>15</sup> The Northern Ireland Executive (2016): 'Draft Delivery Plan for Programme for Government Indicator 42, Average life satisfaction score of people with disabilities', Available at: <https://www.northernireland.gov.uk/publications/programme-government-delivery-plans>

**Issues to consider: What measures have been taken to address legislative gaps in protection, including gaps that exist between disability equality law in Northern Ireland and Great Britain, to guarantee disabled people effective legal protection against discrimination?**

*Damages for disability discrimination in school education*

In Northern Ireland, discrimination cases in the provision of school education which do not involve disability are dealt with in the County Court; which is empowered to award all remedies available in the High Court, including damages for any loss and compensation for injury to feelings.

However, disability cases go to the Special Educational Needs Tribunal (SENDIST), which is not empowered to make compensation for discrimination or harassment.

This means that there can be situations where one child could be harassed because of race and one because of disability and the first child can seek compensation<sup>16</sup>, whilst the second child cannot<sup>17</sup>.

**Issues to consider: What measures have been taken to monitor and remedy the different treatment and disadvantage experienced by disabled children in Northern Ireland seeking redress against discrimination in schools with regard to access to compensation?**

The issues above are also relevant to Article 13, access to justice.

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<sup>16</sup> See paragraphs 18-20 and 54 of the Race Relations (Northern Ireland Order) 1997. Available at: <http://www.legislation.gov.uk/nisi/1997/869/contents/made>

<sup>17</sup> See paragraph 22 (4) of the Special Educational Needs and Disability Order 2005. Available at: <http://www.legislation.gov.uk/nisi/2005/1117/article/22/made>

## Article 6: Women with disabilities

Although the Northern Ireland Disability Strategy made reference to Article 6 with regard to the theme 'Children, Young People and Family'<sup>18</sup>, no associated actions were listed<sup>19</sup>.

### *Access to sexual health and maternity services*

Research in Northern Ireland has identified areas of concern in respect to access for disabled women to sexual health and maternity services<sup>20</sup> with recommendations that consideration be given to the specific needs of disabled women with respect to the latter and that awareness training for health service staff was needed in respect of the sexual health and well-being of people with disabilities (including learning disabilities).

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<sup>18</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of people with disabilities 2012-2015' (Belfast OFMdfM), pages 20. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>19</sup> Ibid.

<sup>20</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): 'Disability programmes and policies: How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities in Northern Ireland', paragraph 5.2.4.1, page 60 (Belfast: Equality Commission NI). Available at:

<http://www.equalityni.org/Publications?subject=Disability&type=Reports&year=2012>

See also:

Department of Health, Social Services and Public Safety (2012): 'Equality Action Plan for the Department of Health, Social Services and Public Safety' v1.1, April 2012, (Belfast: DHSSPS). Available at:

<https://www.health-ni.gov.uk/publications/equality-action-plan-doh>

Department of Health, Social Services and Public Safety (2004): 'Equalities and Inequalities in Health and Social Care – A Statistical Overview Report', (Belfast: DHSSPS). Available at:

<http://www.dhsspsni.gov.uk/stats-inequalities>

Equality Commission for Northern Ireland (2003): 'Disabled Women in Northern Ireland: Situation, Experiences and Identity' (Belfast: Equality Commission NI). Available at: <http://wwda.org.au/wp-content/uploads/2013/12/diswomni2003.pdf>

Simpson, A., Lafferty, A. and McConkey, R. (2006): 'Out of the Shadows: Our voices aren't going into the dark anymore: A report of the sexual health and wellbeing of people with learning disabilities in Northern Ireland', (FPA Newnorth Print, Bedfordshire).

**Issues to consider: What specific measures have and will be taken to ensure that women with disabilities in Northern Ireland have appropriate access to maternity services and that health service staff providing sexual health services have received disability rights and awareness training?**

### *Data on women and girls*

More information is needed on the circumstances of women and girls with disabilities in Northern Ireland<sup>21</sup> (see Article 31 below).

## **Article 7: Children with Disabilities; and Article 23: Respect for home and the family**

### *Strategies to address the disadvantage experienced by disabled children*

Whilst the Northern Ireland Disability Strategy referred to the development of plans through the Delivering Social Change Framework to ensure the rights of children with disabilities<sup>22</sup>, no specific actions or targets were established<sup>23</sup>.

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<sup>21</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD', page 60 (Belfast: Equality Commission). Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>22</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of people with disabilities 2012-2015' (Belfast: OFMdfM), pages 26. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>23</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD', pages 62-63 (Belfast: Equality Commission). Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

It should also be noted that the Northern Ireland Human Rights Commission has expressed its disappointment at the lack of reference to young children with disabilities in the consultation (2014) by the Office of the First Minister and the Deputy First Minister on 'Delivering Social Change for Children and Young People'. NIHRC (2014): 'Delivering Social Change for Children and Young People', page 1. Available at: [http://www.nihrc.org/uploads/publications/Delivering\\_Social\\_Change\\_for\\_Children\\_YP.pdf](http://www.nihrc.org/uploads/publications/Delivering_Social_Change_for_Children_YP.pdf).



Furthermore, concern was expressed at the lack of connection between the Disability Strategy and the mainstream 'Delivering Social Change for Children and Young People' strategy<sup>24</sup>.

**Issues to consider: What strategies have been adopted to eliminate the disadvantages experienced by disabled children in Northern Ireland and what evidence is there of the success of these strategies?**

*Poverty*

Research suggests that 57% of disabled children in Northern Ireland are living in poverty compared to 37% of those without disabilities<sup>25</sup>.

Moreover, in Northern Ireland 27% of children are living in households where someone is disabled with less than 60% median household income (before housing costs are taken into account) compared to 23% in the United Kingdom as a whole<sup>26</sup>.

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<sup>24</sup> Children in Northern Ireland (2014): 'Briefing Paper and Response to Delivering Social Change for children and Young People consultation document', page 22. Available at: <http://www.ci-ni.org.uk/consultation-responses>

<sup>25</sup> Children with Disabilities Strategic Alliance (2010): 'CDSA Manifesto', page 31 (Belfast: CSDA). Available at: <http://www.disabilityaction.org/fs/doc/publications/children-with-disabilities-strategic-alliance-manifesto.pdf>. Figures are based on deprivation measure: McLaughlin, E. and Monteith, M. (2006): 'Child and Family Poverty in Northern Ireland' (Belfast: Equality and Social Need Division, Office of the First Minister and the deputy First Minister). Available at: [http://www.sportni.net/sportni/wp-content/uploads/2013/03/Child\\_and\\_family\\_poverty\\_in\\_Northern\\_Ireland.pdf](http://www.sportni.net/sportni/wp-content/uploads/2013/03/Child_and_family_poverty_in_Northern_Ireland.pdf). Families with disabled children are more likely to face extra costs associated with aspects such as transportation; higher heating bills; home adaptations; higher food bills; increased laundry bills; higher childcare costs; and learning aids. Source: Children with Disabilities Strategic Alliance (2012): 'CDSA Manifesto', page 46 (Belfast: CSDA). Available at: <http://www.ci-ni.org.uk/children-with-disabilities-strategic-alliance>

<sup>26</sup> Byrne, B. (2014): 'Child Poverty and Disability' in Child Poverty Alliance (2014) *Beneath the Surface – Child Poverty in Northern Ireland*, Table 5: Comparing child poverty rates for NI and the UK, page 44. The figures cited relate to the Households Below Average Income element of the Family Resources Survey carried out by the Northern Ireland Statistics and Research Agency and reflect income with disability-related costs removed. Available at: <http://www.ci-ni.org.uk/child-poverty-alliance>

Research carried out by Contact a Family<sup>27</sup> has shown that 85% of families with disabled children in Northern Ireland had gone without because of a lack of money, including:

- Food - 21% of families with disabled children in Northern Ireland compared to the overall UK figure for families with disabled children of 17%;
- Heating - 42% of families with disabled children in Northern Ireland compared to the overall UK figure for families of disabled children of 21%.

**Issues to consider: What initiatives have been taken to reduce the number of disabled children living in poverty in Northern Ireland and what is the impact these initiatives have had?**

### *Childcare*

There is currently no strategy in Northern Ireland to ensure the availability of affordable childcare<sup>28</sup>. Research in Northern Ireland carried out by Employers for Childcare in 2011 revealed that parents of disabled children find it difficult to identify appropriate childcare facilities for their child that ensures the child's development. As a result many parents rely on informal sources of care or are unable to take up employment<sup>29</sup>.

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<sup>27</sup> Contact a Family (May 2012): 'Counting the Costs 2012 – The financial reality for families with disabled children in Northern Ireland'. Available at:

[http://www.cafamily.org.uk/media/391038/counting\\_the\\_costs\\_ni\\_insert.pdf](http://www.cafamily.org.uk/media/391038/counting_the_costs_ni_insert.pdf).

Contact a Family (2012): 'Counting the Costs 2012 - The financial reality for families with disabled children across the UK'. Available at:

[http://www.cafamily.org.uk/media/381221/counting\\_the\\_costs\\_2012\\_full\\_report.pdf](http://www.cafamily.org.uk/media/381221/counting_the_costs_2012_full_report.pdf).

<sup>28</sup> Whilst the NI Executive has published a 'Programme for Affordable and Integrated Childcare Strategic Framework and Key First Actions', (available at: <https://www.northernireland.gov.uk/publications/bright-start-ni-executives-programme-affordable-and-integrated-childcare>), a finalised Strategy has not yet been published.

<sup>29</sup> Employers for Childcare (September 2011): 'Childcare for All? Consulting Families of Children with Disabilities and/or Special Needs about Childcare and Employment Report', pages 69 – 71. Available at: <http://vouchers.employersforchildcare.org/media/Childcare%20for%20All%20-%20Website%20Copy%20-%20Oct.pdf>

**Issues to consider: What measures have been taken in Northern Ireland to ensure that children with disabilities and their parents have access to affordable childcare provision that nurtures the child's development, including how, if at all, this will be taken forward via the Childcare and/or Disability Strategies?**

*Right to express views*

Children with disabilities in Northern Ireland are generally excluded from the decision-making processes concerned with delivering government measures policies and programmes concerned with their health, economic and social wellbeing<sup>30</sup>.

Consequently, children with disabilities face a range of barriers when accessing services including the benefit of age appropriate services, within areas such as education, health and social care<sup>31</sup>.

The Northern Ireland Executive's Disability Strategy<sup>32</sup>, which the Office of the First Minister and the Deputy First Minister advised would provide a mechanism for future reporting on the Government's obligations under the Convention, did not include a commitment to involve children and young

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<sup>30</sup> Northern Ireland Commissioner for Children and Young People (2011): 'Barriers to Effective Government Delivery for Children in Northern Ireland', paragraph 1, page 62. Available at: [http://dera.ioe.ac.uk/12210/2/QUB%20Barriers%20Report%20%203%20Nov%2011%20\(body%20pages\).pdf](http://dera.ioe.ac.uk/12210/2/QUB%20Barriers%20Report%20%203%20Nov%2011%20(body%20pages).pdf). See also: Children with Disabilities Strategic Alliance (2012): 'CDSA Manifesto', pages 14-16 (Belfast: CSDA). Available at: <http://www.ci-ni.org.uk/children-with-disabilities-strategic-alliance>

<sup>31</sup> Equality Commission for Northern Ireland and the Northern Ireland Commissioner for Children and Young People (April 2012): 'Strengthening Protection for Children and Young People – Legislative Reform', (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/AgeGFSIawproposalsfullreport2013.pdf>.

<sup>32</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', page 6. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

people with disabilities in the development, monitoring or implementation of the strategy.

Consultation with disabled children with respect to the development of the delivery plan for Programme for Government Indicator 42, 'Average Life Satisfaction Score of People with Disabilities'<sup>33</sup> has yet to take place.

### *Data on children and young people*

Research is needed on the needs and circumstances of children and young people with disabilities<sup>34</sup> (see Article 31 below).

**Issues to consider: What measures have been taken to include disabled children and young people in Northern Ireland in the development of Government policy initiatives, such as the Disability Strategy?**

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<sup>33</sup> The Northern Ireland Executive (2016): 'Draft Delivery Plan for Programme for Government Indicator 42, Average life satisfaction score of people with disabilities', Available at:

<https://www.northernireland.gov.uk/publications/programme-government-delivery-plans>

<sup>34</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCPRD', page 65, (Belfast: Equality Commission NI). Available at: [http://www.equalityni.org/Delivering-Equality/Addressing-](http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCPRD-Disability)

[inequality/UNCPRD-Disability](http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCPRD-Disability)

## Article 8: Awareness Raising

### *Prejudice and negative attitudes*

Despite concerning levels of negative attitudes towards disabled people in Northern Ireland<sup>35</sup>, no systematic strategy has been developed by the Northern Ireland Executive to seek to reduce these. Although the Disability Strategy identified awareness raising as one of its themes under two strategic priorities<sup>36</sup>, there were no targets set for these and it is unclear how these would be met<sup>37</sup> whilst it should also be noted that resources were not unequivocally allocated to this or any of the other six disability specific work streams in the strategy<sup>38</sup>.

A survey of public attitudes in Northern Ireland conducted by the Equality Commission in 2011 found that in terms of the three types of disability considered, mental ill-health evoked the greatest number of negative responses, with 26% saying they would mind (a little or a lot) having a person with mental ill-health as a work colleague, while 24% and 37%

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<sup>35</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): 'Disability programmes and policies: How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities in Northern Ireland', pages 73-75, (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/UNCRPDmonitoringimplementationFullReport0112.pdf?ext=.pdf>

<sup>36</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of people with disabilities 2012-2015', page 16 (Belfast: OFMdfM). Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>37</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD', pages 66-67. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>38</sup> Lead Departments were required to engage in a tendering process to bid for resources to be allocated to the work stream for which they are responsible. Departmental bids to the Delivering Social Change Fund for any of the 7 disability work streams were to be set against other Programme for Government priorities and concerned with social disadvantage, poverty and inequality as set out in Annex 1 accompanying the Strategy.

respectively would mind having this person as a neighbour or as an in-law<sup>39</sup>.

Responses to a survey exploring public attitudes and knowledge of dementia suggest paternalistic views of the person as shown by results that significant numbers of respondents considered that people with dementia need to be kept clean and safe, that they are perceived as being child-like, or in need of electronic tags<sup>40</sup>.

Furthermore, a survey of public attitudes in Northern Ireland in 2009 found that 45% of respondents thought that attempts to give equal rights to disabled people had gone too far or were about right<sup>41</sup>.

The reference to awareness raising in the Northern Ireland Disability Strategy<sup>42</sup> did not fulfil the requirements of Article 8 to raise awareness 'throughout society', assuming that this would require the development of systematic interventions to raise awareness in society through engaging with a wide range of sectors e.g. the media, the education system, the business and trade union sectors, faith groups and political parties.

The draft delivery plan for Programme for Government Indicator 42, 'Average Life Satisfaction Score of People with Disabilities', includes a commitment to develop public awareness raising initiatives designed to

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<sup>39</sup> Equality Commission for Northern Ireland (2011): 'Do You Mean Me? Discrimination, attitudes and experience in Northern Ireland', page ii, (Belfast: Equality Commission NI). In the 2008 survey the findings were 17%, 16% and 25% respectively. Available at: <http://www.doyoumeanme.org/2011-survey/>

<sup>40</sup> McManus, M. and Devine, P. (2010): 'Dementia – Public knowledge and attitudes', Ark Northern Ireland (Belfast: Economic and Social Research Council). Available at: <http://www.ark.ac.uk/nilt/results/disabres.html>

<sup>41</sup> ARK (2009): 'Northern Ireland Life and Times Survey'. Available at: [http://www.ark.ac.uk/nilt/2009/Attitudes\\_to\\_Disability/DISRIGHT.html](http://www.ark.ac.uk/nilt/2009/Attitudes_to_Disability/DISRIGHT.html)

<sup>42</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of people with disabilities 2012-2015', page 16 (Belfast: OFMdfM). Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

counter negative attitudes in partnership with people with a disability<sup>43</sup>. However, in the absence of a functioning Northern Ireland Executive, a final plan is yet to be approved.

**Issues to consider: What proposals have been developed and resourced regarding comprehensive and effective awareness raising measures with a view to creating more positive attitudes towards people with disabilities in Northern Ireland?**

### *Statutory Duty to promote positive attitudes*

In Northern Ireland, public authorities are required, under Section 49 of the Disability Discrimination (NI) Order 2006, to submit disability action plans to the Equality Commission showing how they propose to fulfil the disability duties - to have due regard to the need to promote positive attitudes towards disabled people and to promote their participation in public life (together referred to as the 'positive disability duties' - in relation to their functions)<sup>44</sup>.

Although the majority of public authorities have now published disability action plans, it was previously noted in an Equality Commission report<sup>45</sup> that there was a lack of focus on monitoring and evaluation of disability action plans. None of the 21 public authorities assessed in research in

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<sup>43</sup> The Northern Ireland Executive (2016): 'Draft Delivery Plan for Programme for Government Indicator 42, Average life satisfaction score of people with disabilities', Available at:

<https://www.northernireland.gov.uk/publications/programme-government-delivery-plans>

<sup>44</sup> Further details are available in: Equality Commission for Northern Ireland (2007): 'A Guide for Public Authorities – Promoting Positive Attitudes towards disabled people and encouraging the participation of disabled people in public life', (Belfast: Equality Commission NI). Available at:

<http://www.equalityni.org/Publications?subject=Disability&type=Guides&year=2007>

<sup>45</sup> Equality Commission for Northern Ireland (2009): 'Effectiveness of the Disability Duties, Review Report', (Belfast: Equality Commission NI). Available at:

<http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/EffectivenessofDisabilityDutiesReviewreport2010.pdf?ext=.pdf>

Northern Ireland<sup>46</sup> reported having systems in place to monitor and evaluate their disability action plan as a whole.

## **Issues to consider: What measures will be taken to ensure that public authorities in Northern Ireland effectively implement the positive disability duties?**

### **Article 9: Accessibility**

Whilst the Northern Ireland Disability Strategy referred to Article 9 in Strategic Priority 5, which aimed to ‘Eliminate barriers in the physical environment, goods and services so that disabled people can participate fully in all areas of life’<sup>47</sup>, no specific actions or targets were identified in support of this priority<sup>48</sup>. Likewise, the Physical and Sensory Disability Strategy<sup>49</sup> and the Bamford Action Plan 2012-2015<sup>50</sup> referred to the need to improve accessibility but did not provide further details as to how this would be achieved<sup>51</sup>.

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<sup>46</sup> McIlwhan, R., Rogers, S. and Bridge, S. (2009): ‘Evaluating the Effectiveness of the Disability Duties’, page 19, (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/Publications/Delivering-Equality/Effectiveness-of-Disability-duties-Review-report?ID=849>

<sup>47</sup> Office of the First Minister and the deputy First Minister (2013): ‘A Strategy to improve the lives of disabled people 2012-2015’, page 17. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>48</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): ‘Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD’, page 71. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>49</sup> Department of Health, Social Services and Public Safety (2012): ‘Physical and Sensory Disability Strategy and Action Plan 2011-2015’, page 86 (Belfast: DHSSPS). Available at: <https://www.health-ni.gov.uk/publications/physical-and-sensory-disability-strategy-and-action-plan>

<sup>50</sup> Department of Health, Social Services and Public Safety (2012): ‘Delivering the Bamford Vision – The Response of the Northern Ireland Executive to the Bamford Review of Mental Health and Learning Disability Action Plan 2012-2015’, page 46 (Belfast: DHSSPS).

<sup>51</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): ‘Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD’, page 73. <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>



Statistics or information in relation to complaints about accessibility are not centrally available as fulfilment of the legal duties relating to accessibility is not solely inspected by any one body in Northern Ireland<sup>52</sup>.

### *Physical Access*

The 2011 census found that 207,173 people in Northern Ireland have problems with mobility or dexterity; 93,091 have deafness or partial hearing loss and 30,862 have blindness or partial sight loss<sup>53</sup>.

A 2016 survey of provision for people with mobility, hearing and vision issues, including staff training, information provision and seating availability found that of 40 venues across Northern Ireland that responded:

- One quarter of venues said that all levels, floors and areas were not accessible to wheelchair users without assistance;
- Nearly half of the venues (17) said front facing staff had not received disability training in the last three years;
- Half of the 40 venues said printed material was not available in larger format, while 27 said printed material was not available in Braille. A number said such material was available on request;
- Although 39 of the venues had disabled toilet facilities, just six had a Changing Places bathroom which has extra features, like a changing bench and hoist, and more space to meet the needs of disabled people;

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<sup>52</sup>Disabled people have a number of other ways to complain including to the service provider directly, through a solicitor, a service regulator or ombudsman, or to an advocacy, advice or voluntary group. Records are sometimes maintained by such groups although there is no consistent system of recording and few published figures.

<sup>53</sup> Northern Ireland Statistics and Research Agency (December 2011): 'Census 2011 Key Statistics for Northern Ireland', Table KS302NI: Type of long-term condition, page 20. Available at: [http://www.nisra.gov.uk/Census/key\\_report\\_2011.pdf](http://www.nisra.gov.uk/Census/key_report_2011.pdf).

- A total of 29 venues said front facing staff had no training in British or Irish sign language;
- Twelve venues did not have an audio loop system for hearing aid users whilst half have audio-visual or captioning services.<sup>54</sup>

A baseline audit of accessibility to services in Northern Ireland for people with a disability (2013) which examined three aspects of access - Physical, Customer Service and Information - across five cities and towns, found that the benchmark score was 2.43 on a scale of 1 to 4 (where 3 is good or satisfactory). The reasons given by disabled people for avoiding or not using services were physical barriers (53%), customer service (33%) and information provision (25%)<sup>55</sup>.

Accessibility audits of seven towns across Northern Ireland by the Inclusive Mobility Transport Committee<sup>56</sup> have highlighted the persistence of a number of unnecessary physical barriers<sup>57</sup>

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<sup>54</sup> See: <https://www.thedetail.tv/articles/access-denied-shortfalls-revealed-in-disability-provision-at-venues-across-northern-ireland>

<sup>55</sup> Adapt NI with BMKent Consulting (April 2013): 'ABC audit benchmark change – State of disability access report 2013', page 10 (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Audit-Benchmark-Final-Reportssubmit20June13.pdf>.

<sup>56</sup> IMTAC (2015): 'Valuing Pedestrian Journeys -Lessons learned from "walking audits" undertaken by Imtac in town and city centres in Northern Ireland', page 4. Available at: <http://imtac.org.uk/publications.php?pid=288>

<sup>57</sup> Barriers included:

- Poor quality pavements and uneven walking surfaces;
- Clutter on the pavement including street furniture, advertising boards, bins and shop displays;
- Problems caused by parking on pavements and across crossings;
- The absence of essential infrastructure for an accessible pedestrian environment including an absence of crossing opportunities, dropped kerbs and tactile paving;
- New infrastructure not complying with design standards.

## *Internet based information*

The Internet Access Quarterly Update 2017, a UK-wide report, found that groups of adults who were more likely to have never used the Internet included people over 65 and people with a disability.

Although the report found that 22% of disabled adults had never used the Internet and that across all age groups, the proportion of adults who were recent internet users was lower for those that were disabled, compared with those that were not.

The region where people were least likely to have used the Internet recently was Northern Ireland, where 16 per cent had not done so<sup>58</sup>. Research on the effectiveness of the disability duties in December 2009 highlighted a lack of accessible formats not just in relation to disability action plans, but more widely and that this creates barriers to participation<sup>59</sup>.

A focus group of representatives from voluntary organisations and disabled people, organised as part of a research project commissioned by the Equality Commission for Northern Ireland, reported that they had found some government websites inaccessible<sup>60</sup>.

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<sup>58</sup> Office for National Statistics (19 May 2017): 'Internet Users in the UK 2017'. Available at: <https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2017>

<sup>59</sup> Equality Commission for Northern Ireland (2009): 'Effectiveness of the Disability Duties, Review Report', (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/EffectivenessofDisabilityDutiesReviewreport2010.pdf?ext=.pdf>

<sup>60</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): 'Disability programmes and policies: How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities in Northern Ireland' (Belfast: Equality Commission NI). Problems were reported with the inability to change fonts, broken or incorrect links, no search boxes, and the inability to change colours. Focus group participants also reported that some websites did not work with the technologies used by disabled people, while other reported the absence of text phone numbers on a number of sites. Participants commented that accessibility requirements varied with the disability of the person. Form filling online was reported as a problem by

In relation to the work stream on digital inclusion identified in the Disability Strategy<sup>61</sup> it should be noted that resources were not unequivocally allocated to this or any of the other six disability specific work streams. Although the draft delivery plan for Programme for Government Indicator 42, 'Average Life Satisfaction Score of People with Disabilities', includes a commitment to develop a Northern Ireland standard for accessible communications, a final plan is yet to be approved in the absence of a functioning Northern Ireland Executive.

### *Attitudes*

Research commissioned by the Equality Commission for Northern Ireland has found that 'Disabled people experience barriers to accessing everyday services such as transport. These barriers are not just about physical access to buildings and vehicles. For many people poor service and the attitudes of staff providing services can be a major deterrent to using services'<sup>62</sup>.

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participants as they could not resize forms. It was also highlighted that signposting was poor on many websites and that there was little logic in their layout. It was further reported that incorrect information was given in websites, for example incorrect phone numbers. Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/UNCRPDmonitoringimplementationFullReport0112.pdf?ext=.pdf>

<sup>61</sup> The Northern Ireland Disability Strategy committed the Department of Finance and Personnel (at page 27) to produce a plan with specific actions to promote digital inclusion for people with disabilities based on the Nidirect Assisted Digital Strategy. According to the Strategy, this may also include the development of a Delivering Social Change Signature Programme on Digital Inclusion. However, the most recent progress report on Disability Strategy did not include reference to such a Signature Programme. Source: 'A Strategy to improve the lives of people with disabilities 2012-2015 – Annual Report 2013-2014'.

Available at: <https://www.executiveoffice-ni.gov.uk/publications/disability-strategy-2013-14-annual-report>

<sup>62</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): 'Disability programmes and policies: How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities in Northern Ireland', (Belfast: Equality Commission NI). Available at:

<http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/UNCRPDmonitoringimplementationFullReport0112.pdf?ext=.pdf>

Reports by the Inclusive Mobility Transport Advisory Committee (IMTAC) have concluded that, in relation to transport, that whilst physical access to transport in Northern Ireland is improving, the attitudes of those providing services remains a key barrier<sup>63</sup>.

There is little publically available and/or accessible information in relation to the training service provider staff receive, or evaluations of its effectiveness<sup>64</sup>.

Whilst it is reported that in the majority of Public Sector Disability Action Plans, Disability Awareness training is ongoing, there is little monitoring of the outcomes<sup>65</sup>. This makes it difficult to assess the effectiveness of the training provided by Government departments and agencies in Northern Ireland.

In response to an attitude survey, three in ten (30%) respondents with a disability stated that difficulties getting on or off vehicles made it difficult or prevented them from using public transport while this factor was stated by 4% of those without a disability<sup>66</sup>.

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<sup>63</sup> Inclusive Mobility Transport Advisory Committee (2009): 'Improving the provision of Disability Equality and disability awareness training – Good practice guidelines for transport providers'. Available at: [http://www.disabilityaction.org/fs/doc/website/Developing\\_effective\\_training\\_-\\_revised\\_\(final\\_version\).doc](http://www.disabilityaction.org/fs/doc/website/Developing_effective_training_-_revised_(final_version).doc).

<sup>64</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): 'Disability programmes and policies: How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities in Northern Ireland', paragraph 5.5.4.4, page 106, (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/UNCRPDmonitoringimplementationFullReport0112.pdf?ext=.pdf>

<sup>65</sup> McIlwhan, R., Rogers S. And Bridge, S. (2009): 'Evaluating the effectiveness of the Disability Discrimination (NI) Order 2006 Duties', (Belfast: Equality Commission NI). Available at: <http://oro.open.ac.uk/40551/>

<sup>66</sup> Department for Regional Development (2015): 'Attitudes of Disabled and Older People towards Public Transport November 2014 – January 2015', Table 3, page 40. Available at: <https://www.infrastructure-ni.gov.uk/publications/attitudes-disabled-and-older-people-public-transport-november-2014-january-2015>

Furthermore, over four tenths (43%) of respondents with a disability and 13% of those without a disability said that 'More priority seating for elderly / disabled (including space for wheelchair users)' would encourage them to use public transport more frequently<sup>67</sup>.

According to the Inclusive Mobility Transport Committee<sup>68</sup>, the survey shows that disabled people are 7 times more likely to have difficulty getting on and off vehicles than non-disabled people, 3 times more likely to have difficulty getting to public transport and twice as likely to have difficulty accessing information<sup>69</sup>.

### *Printed information*

A number of studies have highlighted that access to information is an area of concern to disabled people<sup>70</sup>. The most recent report, a review of an investigation into the accessibility of health information for people with a learning disability in Northern Ireland (2013), found that a strategic and standardised approach to the development of such information, including accessible appointment letters, had not been realised<sup>71</sup>.

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<sup>67</sup> Ibid, pages 4-5.

<sup>68</sup> IMTAC is a committee comprised of disabled people and older people and key transport professionals

<sup>69</sup> IMTAC (May 2015): 'Comments on the DRD report of the results from the Attitudes of Disabled and Older People to Public Transport Survey'. Available at: <http://imtac.org.uk/publications.php?pid=299>

<sup>70</sup> Royal National Institute for the Deaf and the British Deaf Association (2009): 'Access to Public Services for Deaf Language users'.

Equality Commission for Northern Ireland (2008): 'Formal Investigation under the Disability Discrimination legislation to evaluate the accessibility of Health Information in Northern Ireland for people with a Learning Disability, June 2006 to December 2007, (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/Delivering-Equality/Investigations.aspx>

Equality Commission for Northern Ireland (June 2013): 'Review of the Formal Investigation into the Accessibility of Health Information for people with a Learning Disability in Northern Ireland – Summary', (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/ReviewofinvestigationAccessibilityofhealthinfosummary2013.pdf>

<sup>71</sup> Equality Commission for Northern Ireland (June 2013): 'Review of the Formal Investigation into the Accessibility of Health Information for people with a Learning Disability in Northern Ireland – Summary', page 5, (Belfast: Equality Commission NI). Available at:

Although guidelines<sup>72</sup> to ensure that the specific communication needs of individuals are met within hospital settings have been produced, organisations representing people with a learning disability have expressed concerns about their effectiveness in practical terms. It is thought that there is a lack of awareness amongst both service users and health care staff and that a lack of resources is limiting progress in its implementation in Northern Ireland<sup>73</sup>.

**Issues to consider: What concrete measures will be taken to ensure accessibility for disabled people in Northern Ireland and what steps will be taken to evaluate the effectiveness of these measures?**

## **Article 10: Right to Life**

The Northern Ireland Disability Strategy did not include any specific reference to Article 10.0

### *Suicides*

According to the latest Northern Ireland Health Survey around one in five adults in Northern Ireland shows signs of a mental illness<sup>74</sup>.

The suicide rate in Northern Ireland is significantly higher than elsewhere in the UK, with an estimated 18.0 deaths by suicide per 100,000 population in

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<http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/ReviewofInvestigationAccessibilityofHealthInfoSummary2013.pdf>

<sup>72</sup> Guidelines and Audit Implementation Network (June 2010): 'Guidelines on Caring for People with a Learning Disability in General Hospital Settings'. Available at: [http://www.gain-ni.org/flowcharts/downloads/gain\\_learning.pdf](http://www.gain-ni.org/flowcharts/downloads/gain_learning.pdf)

<sup>73</sup> Equality Commission for Northern Ireland (June 2013): Op Cit.

<sup>74</sup> Information Analysis Directorate, Department of Health, Social Services, and Public Safety (November 2016): *Health Survey Northern Ireland: First Results 2015/16*. Belfast: Department of Health, Social Services, and Public Safety. Available at: <https://www.health-ni.gov.uk/publications/health-survey-northern-ireland-first-results-201415>

2013 compared to 9.6 deaths per 100,000 population in England, 11.1 per 100,000 in Wales and 14.6 per 100,000 in Scotland<sup>75</sup>

One factor, which is broadly accepted to have contributed to the prevalence of mental health problems amongst the general population in Northern Ireland, is the history of violent conflict<sup>76</sup>. Research shows that individuals who experienced a conflict-related traumatic event relating to the “Troubles” are more likely to have a mental illness at some point in their lives<sup>77</sup>.

The most recent Suicide Prevention Strategy for Northern Ireland ran from 2012 to 2014. IMNI is aware that the Department of Health has recently consulted on a revised Strategy, *Protect Life 2*, which will work in tandem with the Regional Mental Health Care Pathway<sup>78</sup>. The consultation report acknowledges the multi-factorial nature of the drivers for suicide noting that the success of *Protect Life* will depend on the success of a range of other Executive strategies to address these. Although the focus of *Protect Life* is on crisis intervention, a positive mental health action plan is also under development<sup>79</sup>.

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<sup>75</sup> The National Confidential Inquiry into Suicide and Homicide by people with Mental Illness (2016): *Annual Report: England, Northern Ireland, Scotland and Wales*. University of Manchester, table 77, page 87. Available at: <http://research.bmh.manchester.ac.uk/cmhs/research/centreforsuicideprevention/nci/>.

<sup>76</sup> Oral Statement by Chief Constable of the PSNI to the Northern Ireland Affairs Committee of the House of Commons. See Hansard Script 24 January 2012 HC 877-i.

<sup>77</sup> Bamford Centre for Health & Wellbeing at the University of Ulster and the Northern Ireland Centre for Trauma & Transformation and Compass (2011): ‘Troubled consequences: A report on the mental health impact of the civil conflict in Northern Ireland’, (Belfast: Commission for Victims and Survivors). Available at: <http://icrt.org.uk/wp-content/uploads/2012/11/2012-Dec-Troubled-Consequences.pdf>

<sup>78</sup> Health and Social Care Board (October 2014): ‘You in mind – Promoting Hope, Opportunity and Personal Control’. Available at: [http://www.northerntrust.hscni.net/pdf/Care\\_pathway\\_for\\_people\\_who\\_require\\_mental\\_health\\_care\\_and\\_support.pdf](http://www.northerntrust.hscni.net/pdf/Care_pathway_for_people_who_require_mental_health_care_and_support.pdf).

<sup>79</sup> Department of Health (February 2017): ‘Protect Life 2: a draft strategy for suicide prevention in the north of Ireland – consultation analysis report’. Available at: <https://www.health-ni.gov.uk/publications/protect-life-2-draft-strategy-suicide-prevention-north-ireland-consultation-analysis>



However, a final strategy is yet to be approved in the absence of a functioning Northern Ireland Executive.

**Issues to consider: How will the Northern Ireland Executive ensure a joined up approach to addressing the multi-factorial nature of the drivers for suicide?**

## **Article 11: Situations of risk and humanitarian emergencies**

The Northern Ireland Executive's contribution to the UK Government Report did not refer to Article 11 nor did the UK Initial State Party Report specifically mention Northern Ireland in the section dealing with its obligations under this article<sup>80</sup>. The Northern Ireland Disability Strategy referenced two Programme for Government (PfG) targets against Article 11, namely:

- Improving community safety by tackling anti-social behaviour; and
- Introduce a package of measures aimed at improving safeguarding outcomes for Children and Vulnerable Adults<sup>81</sup>.

However, it is unclear how these related to planning for situations of risk including situations of armed conflict, humanitarian emergencies and the occurrences of natural disasters, which are the focus of Article 11.

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<sup>80</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD', pages 80-81. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>81</sup> Office of the First Minister and the Deputy First Minister (2013): 'A Strategy to improve the lives of people with disabilities 2012-2015', pages 45 and 50 (Belfast: OFMDFM). Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

The Emergency Planning Standard 2013<sup>82</sup> acknowledged that emergency plans should take into account Section 75 of the Northern Ireland Act 1998, the Human Rights Act 1998 and the Disability Discrimination Act 1995 to make arrangements for persons with disabilities. However, it also stated that it might be necessary for health and social care organisations to ‘prioritise actions and resources which will provide the most benefit for the greatest number of people’<sup>83</sup>. This caveat poses a potential conflict with the requirement of Article 11 to take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk.

**Issues to consider: What measures have been taken by Government Departments in Northern Ireland, including consultation with persons with disabilities and disabled people’s organisations, to ensure that needs of disabled people have been addressed in planning for situations of risk and humanitarian emergencies?**

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<sup>82</sup> Department of Health, Social Services & Public Safety (2013) ‘Emergency Planning Standard’, (Belfast: DHSSPS).

<sup>83</sup> Likewise the Northern Ireland Civil Contingencies Framework (available at: <https://www.health-ni.gov.uk/publications/emergency-plans-and-response-information-and-guidance>) states (at paragraph 122, page 54) that ‘In an emergency situation, when time is limited and resources stretched, it may be necessary to prioritise actions which provide the greatest benefit for the greatest number of people, and it will not always be possible to give the level of consideration to Section 75 and other groups as would be the case in delivering day-to-day services’.

## **Article 12: Equal recognition before the law**

### *Mental Capacity Bill*

The Department for Health and the Department for Justice have introduced a single legislative framework for mental health and mental capacity which separates incapacity from identifies disability. It is important that when the Mental Capacity (NI) Act 2016<sup>84</sup> is commenced, that the provisions for supported decision making contained within the Act are effective and accessible.

**Issues to consider: What further actions will be undertaken to ensure that new legislative provisions in Northern Ireland:**

- **adequately respect the will and preferences of all persons with a disability and tackle paternalistic approaches;**
- **develop and promote models of support for decision making together with associated support services;**
- **put in place sufficient safeguards to avoid financial and physical abuse;**
- **are accompanied by a robust implementation policy, including training for all state actors, to ensure that disabled people have full access to their rights?**

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<sup>84</sup> Mental Capacity Act (Northern Ireland) 2016. Available at: <http://www.legislation.gov.uk/nia/2016/18/contents/enacted>

## **Article 13: Access to justice**

The Northern Ireland Disability Strategy linked Article 13 to Strategic Priority 17, to ‘Ensure that disabled people are treated equally by the law, have access to justice and can live safely in their own community’<sup>85</sup>.

The Criminal Evidence (Northern Ireland) Order 1999 makes provision for the examination of a witness through an intermediary to assist vulnerable witnesses to give their best possible evidence in criminal proceedings. The Justice Act (Northern Ireland) 2011 provides for the examination of a vulnerable defendant through an intermediary so that they can participate effectively in criminal proceedings. Whilst the 1999 Order has been in place for 15 years, intermediaries are still not widely available throughout the justice system<sup>86</sup>.

### **Issues to consider: What measures have been taken to ensure availability of intermediaries throughout the justice system in Northern Ireland?**

The Northern Ireland Court of Appeal has recognised a need for lower courts to understand the challenges faced by disabled people seeking to access justice. The Court identified a need to develop awareness of the Equal Treatment Bench Book, which inter alia, sets out adjustments to court or trial procedures that may be required to accommodate the needs of disabled people<sup>87</sup>.

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<sup>85</sup> Office of the First Minister and the deputy First Minister (2013): ‘A Strategy to improve the lives of disabled people 2012-2015’, pages 23-24. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc)

<sup>86</sup> Further information is available at: <https://www.justice-ni.gov.uk/articles/northern-ireland-registered-intermediary-scheme>

<sup>87</sup> *Galo v Bombardier Aerospace UK* [2016] NICA 25.

## Article 14: Liberty and security of person

The Northern Ireland Disability Strategy referenced Article 14 in respect of a PfG commitment to ‘Tackle crime against older and vulnerable people by more effective and appropriate sentences and other measures’<sup>88</sup>, thereby addressing the ‘security’ rather than the ‘liberty’ of the person aspect of the Article<sup>89</sup>.

### *Disabled prisoners: monitoring and provision of support*

A root and branch review of the prison system in Northern Ireland reported in 2011 that recording of disability amongst prisoners was poor. Whilst a survey of prisoners at HMP Maghaberry, Northern Ireland’s largest prison holding in and around 1,700 inmates, found that 1 in 4 prisoners considered themselves to be disabled, official records indicated only 18 prisoners having a disability<sup>90</sup>.

**Issues to consider: What arrangements are in place for the effective recording of prisoners with disabilities and what measures have been taken by the Northern Ireland Prison Service to ensure prisoners with disabilities are able to participate in prison life and to avail of rehabilitation services?**

A significant number of prisoners in Northern Ireland suffer from mental health problems, 64% of sentenced male prisoners and 50% of sentenced

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<sup>88</sup> Office of the First Minister and the deputy First Minister (2013): ‘A Strategy to improve the lives of disabled people 2012-2015’, page 44. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>89</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): ‘Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD’, page 94. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>90</sup> Prison Review Team (October 2011): ‘Review of the NI Prison Service: ‘Conditions, management and oversight of all prisons’, page 38. Available at: [http://cain.ulst.ac.uk/issues/prison/docs/2011-10-24\\_Owers.pdf](http://cain.ulst.ac.uk/issues/prison/docs/2011-10-24_Owers.pdf).

female prisoners are personality disordered<sup>91</sup>. Many prisoners suffer from pre-existing conditions which have influenced their offending behaviour and which are often exacerbated in the prison context. Reports have identified significant problems with respect to how the prison service supports prisoners with mental health problems<sup>92</sup>.

In October 2013 the National Preventative Mechanism (NPM), designated under the Optional Protocol to the Convention against Torture issued a report on an announced inspection of Ash House, Hydebank Wood Women's Prison<sup>93</sup>. The NPM raised concerns regarding procedures in place to support prisoners at risk of suicide and self-harm. The NPM recommended that procedures should be improved with an emphasis on individualised care plans, regular staff engagement, less use of observation cells and greater involvement in activity, including a peer support scheme and input from mental health workers<sup>94</sup>.

The NPM raised specific concerns with respect to women prisoners and in particular recommended that women prisoners should no longer be co-located with male prisoners at Hydebank Wood<sup>95</sup>. The Minister for Justice

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<sup>91</sup> Office of the Deputy Prime Minister (July 2002): 'Reducing Re-offending by Ex- Prisoners. Report by the Social Exclusion Unit'. Available at: [http://webarchive.nationalarchives.gov.uk/+/http://www.cabinetoffice.gov.uk/media/cabinetoffice/social\\_exclusion\\_task\\_force/assets/publications\\_1997\\_to\\_2006/reducing\\_summary.pdf](http://webarchive.nationalarchives.gov.uk/+/http://www.cabinetoffice.gov.uk/media/cabinetoffice/social_exclusion_task_force/assets/publications_1997_to_2006/reducing_summary.pdf).

<sup>92</sup> Criminal Justice Inspectorate NI (March 2010): 'Not a Marginal Issue Mental Health and the criminal justice system in Northern Ireland', (Belfast: CJINI). Available at: <http://www.cjini.org/CJINI/files/24/24d6cd45-20bb-4f81-9e34-81ea59594650.pdf>

Criminal Justice Inspectorate NI (March 2012): 'Not a Marginal Issue Mental Health and the criminal justice system in Northern Ireland – A follow-up inspection', (Belfast: CJINI). Available at: <http://www.dojni.gov.uk/index/ni-prison-service/nips-publications/nips-cjini-inspection-reports/nips-cjini-report-mental-health-and-the-criminal-justice-system-in-northern-ireland-a-follow-up-review.htm>

<sup>93</sup> National Preventative Mechanism (17 December 2012): 'Report on an announced inspection of Maghaberry Prison 19-23 March 2012'. Available at: <https://www.justice-ni.gov.uk/publications/report-announced-inspection-maghaberry-prison-19-23-march-2012>

<sup>94</sup> Ibid.

<sup>95</sup> Ibid.

in Northern Ireland has committed to the construction of a separate custodial facility for women prisoners in Northern Ireland<sup>96</sup>.

The Mental Capacity Act (NI) 2016 makes provision for a capacity-based approach to care, treatment and personal welfare in respect of persons subject to the criminal justice system. However, the NIHRC has advised that the approach must be accompanied by a culture change within the prison system, with the focus placed on supporting prisoners with mental health problems to attain and maintain maximum independence.

**Issues to consider: What measures have been taken to improve procedures to support prisoners at risk of suicide in Northern Ireland and what mechanisms have been put in place to monitor their effectiveness? How will the requirements of the forthcoming Mental Capacity Bill be effectively applied in the Northern Ireland criminal justice system? What progress has been made on the development of a separate custodial facility for women prisoners in Northern Ireland?**

### *Deprivation of Liberty Safeguards (DOLS)*

Although Deprivation of Liberty Safeguards (DOLS)<sup>97</sup> have been introduced in England and Wales to protect people in hospitals or care homes who lack capacity to consent to their care or treatment, this provision does not apply in Northern Ireland.

**Issues to consider: What measures have been taken to ensure that patients receiving treatment in psychiatric hospitals in Northern**

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<sup>96</sup> Minister of Justice David Ford MLA Statement to the Assembly 'Northern Ireland Prison Service Estate Strategy' Tuesday 19th March 2013. See: Northern Ireland Assembly: Official Report (Hansard) Tuesday 19 March 2013, Volume 83, No. 3, page 18. Available at: <http://www.niassembly.gov.uk/assembly-business/official-report/reports-12-13/>

<sup>97</sup> Schedule A1 of the Mental Capacity Act 2005.

**Ireland consent to both their stay and treatment? What monitoring mechanisms have been put in place?**

## **Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment**

Although the Northern Ireland Disability Strategy linked Article 15 to a PfG commitment to ‘Tackle crime against older and vulnerable people by more effective and appropriate sentences and other measures’<sup>98</sup>, it was not clear how the obligations arising from the article had been considered with respect to these measures<sup>99</sup>.

### *Treatment of disabled people in nursing homes*

In 2012, the NI Human Rights Commission (NIHRC) reported on its investigation of the human rights of older persons in nursing homes<sup>100</sup>. Many older persons living in care homes have acquired disabilities. As a result of the investigation, the NIHRC developed concerns regarding the quality of life, personal care, eating and drinking, the use of restraint, and medication and health care provision in nursing homes. On publication of the Report the (then) Department of Health, Social Services and Public Safety undertook to review the Nursing Homes Minimum Standards (2008)

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<sup>98</sup> Office of the First Minister and the deputy First Minister (2013): ‘A Strategy to improve the lives of disabled people 2012-2015’, page 44. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>99</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): ‘Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD – Draft Final Report 11 March 2014’, page 97. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>100</sup> NI Human Rights Commission (2012): ‘In Defence of Dignity: The Human Rights of Older People in Nursing Homes’, (Belfast: NI Human Rights Commission). Available at: <http://www.nihrc.org/documents/research-and-investigations/older-people/in-defence-of-dignity-investigation-report-March-2012.pdf>



and commissioned *A Review of Minimum Standards in Nursing Homes*<sup>101</sup>, issued in 2014. Revised *Minimum Standards in Nursing Homes* were published by the Department of Health in 2015.

**Issues to consider: What arrangements will be put in place to monitor the implementation new standards and to ensure improved social interactions, everyday activity and respect for choice, independence and dignity, particularly in the provision of intimate personal care for residents living in nursing homes to ensure compliance with UNCRPD Article 15 and 16?**

The NIHRC report (2012) into nursing homes identified that in certain circumstances the excessive use of restraints, routinely used in care homes, can amount and indeed had amounted to individuals being treated in an inhuman and degrading manner<sup>102</sup>. Instances of abuse had occurred as a result of the excessive application of restraints, both physical and chemical. The NIHRC identified that the absence of a statutory definition of restraint had contributed to a lack of coherent guidance on the acceptable use of restraint<sup>103</sup>.

The NIHRC is aware that the mental capacity legislation makes provision for a statutory definition of restraint where an individual is considered to lack capacity. The NIHRC considers that there is a need for broader awareness of the potential for the application of restraint in health and social care settings to impact adversely on the right to freedom from torture, or cruel, inhuman or degrading treatment.

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<sup>101</sup> Available at: <http://www.ageuk.org.uk/northern-ireland/for-professionals/research/review-of-minimum-standards-in-nursing-homes/>

<sup>102</sup> NI Human Rights Commission (2012): Op.Cit.

<sup>103</sup> Ibid.

In addition, the Mental Capacity Bill makes provision for a new offence of ill treatment or wilful neglect of adults, who lack capacity, by persons with caring responsibilities. The NIHRC considers that to protect persons with a disability in the health and social care setting this offence should be of general application regardless of the capacity of the individual.

**Issues to consider: What measures have been taken to ensure that the application of restraint in health and social care settings is only ever used in a manner consistent with Article 15 of the UNCRPD? What measures have been taken to effectively address abuses in health and social care settings throughout Northern Ireland, including those being taken to ensure individuals or organisations guilty of ill treatment or wilful neglect of persons with disabilities are brought to account?**

## **Article 16: Freedom from exploitation, violence and abuse**

The Northern Ireland Disability Strategy links Article 16 to a PfG commitment to ‘reduce the level of serious crime’<sup>104</sup> but does not clearly relate this to addressing the experiences of disabled people.

Disability-related hate crime

In 2016/17 there were 112 disability-related hate incidents and 56 hate crimes recorded to the Police Service of Northern Ireland (PSNI)<sup>105</sup>. The

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<sup>104</sup>Office of the First Minister and the deputy First Minister (2013): ‘A Strategy to improve the lives of disabled people 2012-2015’, page 42. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>105</sup> Police Service for Northern Ireland (May 2017): ‘Incidents and crimes with a hate motivation recorded by the police in Northern Ireland: Quarterly update to 31 March 2017’, page 16. Available at: <https://www.psni.police.uk/inside-psni/Statistics/hate-motivation-statistics/>

charity MENCAP report that 9 in 10 persons with a learning disability have experienced a hate crime incident or bullying<sup>106</sup>.

Leonard Cheshire Disability have highlighted that ‘reporting of disability hate crime remains alarmingly low’ citing a range of reasons including communication barriers, access issues, fear, and previous poor experiences<sup>107</sup>.

**Issues to consider: What assessment has been undertaken regarding the reasons for the apparent low reporting of disability hate crimes in Northern Ireland and how successful have measures taken to address this been?**

### *Domestic and sexual violence and violence against disabled women*

Disabled women experience disproportionate levels of all forms of violence and abuse<sup>108</sup>. IMNI notes that the UK Government has yet to ratify the Istanbul Convention<sup>109</sup>.

IMNI acknowledges the publication of a strategy on domestic and sexual violence was in March 2016.<sup>110</sup> Strand 2 on ‘prevention and early intervention’ recognises that disabled people are at risk of such offences, although the strategy provides no disability-specific programmes.

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<sup>106</sup> See: <https://www.mencap.org.uk/blog/four-things-you-probably-didnt-know-about-disability-hate-crime>

<sup>107</sup> BBC News (14 September 2014): ‘Campaign to highlight disability hate crime in Northern Ireland’. Available at: <http://www.bbc.co.uk/news/uk-northern-ireland-29182488>

<sup>108</sup> UK Independent Mechanism (2017): ‘Disability Rights in the UK’, pages 45-46.

<sup>109</sup> Council of Europe: ‘Chart of signatures and ratifications of Treaty 210 Council of Europe Convention on preventing and combating violence against women and domestic violence - Status as of 14/08/2017’ Available at: <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures>

<sup>110</sup> Department of Health, Social Services and Public Safety (2014): ‘Stopping Domestic and Sexual Violence and Abuse in Northern Ireland 2013-2020’. Available at: <http://www.dhsspsni.gov.uk/showconsultations?txtid=65665>

IMNI notes the concerns raised in 2013 with respect to the issue of child sexual abuse in Northern Ireland<sup>111</sup>. The Northern Ireland Executive instituted a thematic review to identify key learning points and opportunities for improvement. A subsequent independent public inquiry, reporting in 2014, expressed concern about the potential under-reporting of incidents of sexual abuse against children with a disability and highlighted the need for greater awareness by key personnel of the links between disability and child sexual exploitation<sup>112</sup>.

**Issues to consider: What arrangements have been put in place to assess the extent to which the Northern Ireland response to domestic and sexual violence makes effective provision to assist victims with a disability in Northern Ireland?**

## **Article 19: Living independently and being included in the community**

The Northern Ireland Disability Strategy linked Article 19 to Strategic Priority 8 to 'Increase the level of choice, control and freedom that people with disabilities have in their daily lives'<sup>113</sup>, but did not provide any clarity as to how this will be achieved<sup>114</sup>.

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<sup>111</sup> Northern Ireland Policing Board (2013): 'Human Rights Annual Report 2013', page 11. Available at: <https://www.nipolicingboard.org.uk/annual-reports-0>

<sup>112</sup> Marshall, K. (2014): 'Child Sexual Exploitation in Northern Ireland – Report of the Independent Inquiry'

<sup>113</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', page 18. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>114</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD', page 105. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

### *People with learning disabilities in residential care settings*

The Department of Health, Social Services and Public Safety made a commitment to ensure that *“by 2015, anyone with a learning disability is promptly and suitably treated in the community and no one remains unnecessarily in hospital”*<sup>115</sup>. However, the Regulation and Quality Improvement Authority (RQIA), the body responsible for the reviewing health and social care provision in Northern Ireland, has raised concerns regarding the availability and accessibility of services for individuals with a learning disability living in the community<sup>116</sup>.

People with learning disabilities in long-stay hospitals in Northern Ireland have experienced lengthy delays regarding resettlement in the community due to lack of resources<sup>117</sup>.

**Issues to consider: What measures have been taken to ensure that persons with a learning disability in Northern Ireland are able to live inclusively in the community? How have the concerns raised by the RQIA been addressed?**

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<sup>115</sup> Department of Health, Social Services and Public Safety (2011): 'Transforming Your Care (A Review of Health and Social Care in Northern Ireland)', (Belfast: DHSSPS). Available at: <https://www.health-ni.gov.uk/topics/health-policy/transforming-your-care>

<sup>116</sup> Regulation and Quality Improvement Authority (2013): 'A Baseline Assessment and Review of Community Services for Adults with a Learning Disability', page 13. Available at: [http://www.rqia.org.uk/cms\\_resources/Community%20Services%20for%20Adults%20with%20a%20Learning%20Disability.pdf](http://www.rqia.org.uk/cms_resources/Community%20Services%20for%20Adults%20with%20a%20Learning%20Disability.pdf)

<sup>117</sup> Department of Health, Social Services and Public Safety (2012): 'Delivering the Bamford Vision: The Response of the Northern Ireland Executive to the Bamford Review of Mental Health and Learning Disability Action Plan 2012-2015', paragraph 6.6, page 25 (Belfast: DHSSPS). Available at: [Bamford review action plan - Department of Health](#). The Plan has committed £6.4 million to the resettlement by 2015 of approximately 200 long stay patients in learning disability hospitals that do not require treatment. Targets previously set to complete resettlement by 2002 and 2013 were missed due to a lack of resources'.

The Department of Health is in the process of implementing a policy of rationalisation of state run nursing homes in Northern Ireland, which will result in a significant number of closures<sup>118</sup>. A number of Health and Social Care Trusts announced in 2013 the closure of care homes within their respective areas, having had little or no consultation with persons living in or impacted by the proposed closures<sup>119</sup>. This resulted in significant distress amongst residents, many of whom were elderly people with acquired disabilities<sup>120</sup>. The NIHRC, inter alia, raised concerns and the Minister for DHSSPS undertook to coordinate a regional approach to closures that will ensure greater consultation<sup>121</sup>.

**Issues to consider: What measures have been taken to ensure that persons with disabilities in Northern Ireland, including elderly persons with acquired disabilities, have access to a range of in-home, residential and other community support services?**

### *Transport barriers*

Problems with transportation have been identified as a persistent issue limiting disabled people's ability to live independently (and are also relevant to Article 20). Barriers include the unaccommodating hours of the door-to-door transport service, the lack of physical access to public transport, prohibitive costs of private transport (particularly taxis and mini buses) and

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<sup>118</sup> Department of Health, Social Services and Public Safety (2013): 'Who Cares? The Future of Adult Care and Support in Northern Ireland – Consultation'. Available at: <https://www.health-ni.gov.uk/articles/reform-adult-care-and-support#toc-1>

<sup>119</sup> BBC News (26 April 2013): 'Southern trust to shut all its NHS residential care homes'. Available at: <http://www.bbc.co.uk/news/uk-northern-ireland-22308193>

<sup>120</sup> NI Human Rights Commission (3 May 2013): Press Release 'Commission Voices Concern For Residents Of Care Homes'. Available at: <http://www.nihrc.org/index.php/news/item/706-commission-voices-concern-for-residents-of-care-homes>

<sup>121</sup> Official Report (Hansard) Tuesday 7 May 2013 Volume 84, No 7 Ministerial Statement: Residential Care for Older People, pages 1-2. Available at: <http://www.niassembly.gov.uk/globalassets/documents/official-reports/plenary/2012-13/revised.pdf>.

the lack of understanding and awareness of disability by many people who work for transport companies<sup>122</sup>.

**Issues to consider: What measures have been taken to address access to transportation for people with disabilities in Northern Ireland and what is the assessment of the effectiveness of these measures?**

### *Independent Living Fund*

On 19 May 2015, the Health Minister in the Northern Ireland Executive announced that the administration of the Independent Living Fund (ILF)<sup>123</sup> in Northern Ireland would be undertaken by the Scottish Government<sup>124</sup>. This followed a decision by the Department of Work and Pensions that the ILF would be closed in England and Wales with continued support of ILF users devolved to Local Authorities in England and to the Devolved Administrations from 1 July 2015<sup>125</sup>. However, whilst the ILF is open to new users in Scotland, its operation in Northern Ireland is restricted to existing users only<sup>126</sup>.

Thus, delivery of independent living resources is time bound and will lead to the eventual de facto closure of the ILF, whilst there is currently no clear

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<sup>122</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD', pages 108 and 111.

Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>123</sup> The Independent Living Fund (ILF) was an Executive Non-Departmental Public Body of the UK Department for Work and Pensions. In Northern Ireland the ILF budget was devolved to the Department for Social Development (DSD) but the administration was still done on a UK wide basis.

<sup>124</sup> Written statement to the Assembly by Health Minister Simon Hamilton MLA (19 May 2015): 'New arrangements for the future support of Independent Living Fund users In Northern Ireland'. Available at: <https://www.health-ni.gov.uk/publications/dhssps-ministerial-announcements-and-statements-2015>

<sup>125</sup> Department for Work and Pensions (6 March 2014): 'Future of the Independent Living Fund'. Available at: <https://www.gov.uk/government/news/future-of-the-independent-living-fund>

<sup>126</sup> Welfare Weekly (20 May 2015): 'Northern Ireland Independent Living Fund To Be Administered In Scotland'. Available at: <http://www.welfareweekly.com/northern-ireland-independent-living-fund-to-be-administered-in-scotland/>

indication of the arrangements to succeed the scheme. There is an absence of quantitative and qualitative information on the extent to which disabled people with substantial needs, who are not existing Independent Living Fund users are having their needs met through the Self-directed Support and Direct Payments provisions.

Key stakeholders in Northern Ireland have pointed out that Direct Payments do not fund many of the activities that were funded by the ILF, and that disabled people using this scheme therefore have less choice and control than was possible through support from the ILF<sup>127</sup>.

The Joint Committee for Human Rights has highlighted that, in their view, welfare reform, changes to eligibility criteria for adult social care and the closure of the ILF 'risk interacting in a particularly harmful way for disabled people. Some disabled people risk losing Disability Living Allowance (DLA)...whilst not getting support from the ILF, all of which may force them to return to residential care'<sup>128</sup>.

The draft delivery plan for Programme for Government Indicator 42, 'average life satisfaction score of people with disabilities', includes a commitment to work with disabled people and social care sector to address barriers and to increase take up of self-directed support and direct payments, for those who choose to access their care in this way<sup>129</sup>. However, a final plan has yet to be approved in the absence of a functioning Northern Ireland Executive.

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<sup>127</sup> See, for example, comments by Disability Action and the Centre for Independent Living in Murphy, E. (2013): 'The Independent Living Fund', pages 4-5. Available at:

[http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2013/social\\_dev/4413.pdf](http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2013/social_dev/4413.pdf).

<sup>128</sup> Joint Committee for Human Rights: 'Implementation of the Right of Disabled People to Independent Living', paragraph 161, Twenty Third Report, 6 February 2012.

<http://www.publications.parliament.uk/pa/jt201012/jtselect/jtrights/257/25708.htm>

<sup>129</sup> The Northern Ireland Executive (2016): 'Draft Delivery Plan for Programme for Government Indicator 42, Average life satisfaction score of people with disabilities', page 12. Available at: <https://www.northernireland.gov.uk/publications/programme-government-delivery-plans>



## **Issues to consider: What evidence is available as to how the health, care and social needs of persons who would have hitherto been eligible for ILF funding but are not existing recipients are being met?**

The Commissioner for Older People in Northern Ireland has highlighted the lack of a cohesive approach to the delivery of key support services for those people who are assessed as needing non-critical levels of domiciliary care<sup>130</sup> but who would be greatly assisted by social care services<sup>131</sup>. The Commissioner also noted that good quality domiciliary care was a ‘postcode lottery’<sup>132</sup> and that domiciliary care visits are being reduced from thirty minutes to fifteen minutes in some areas<sup>133</sup>.

## **Article 20: Personal Mobility**

The Northern Ireland Disability Strategy linked Article 20 to Strategic Priority 6, ‘To eliminate barriers to accessing transport and ensure personal mobility for disabled people’<sup>134</sup> but although identifying a range of Programme for Government related commitments did not explicitly explain how these would realise the obligations emanating from the article<sup>135</sup>.

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<sup>130</sup> Domiciliary care is defined under the Health and Personal Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 as ‘An undertaking which consist of or includes arranging the provision of prescribed services in their own homes for a person who by reason of illness, infirmity or disability or family circumstances are unable to provide any such service for themselves without assistance’. See Article 2 of the Order, available at:

<http://www.legislation.gov.uk/nisi/2003/431/article/2/made>

<sup>131</sup> Commissioner for Older People for Northern Ireland (2015): ‘Domiciliary Care in Northern Ireland’ para 1.2, page 8. Available at: <https://www.copni.org/media/1119/domiciliary-care-in-northern-ireland.pdf>.

<sup>132</sup> Ibid, para 1.14, page 8.

<sup>133</sup> Ibid, para 6.9, page 19.

<sup>134</sup> Office of the First Minister and the deputy First Minister (2013): ‘A Strategy to improve the lives of disabled people 2012-2015’, page 17. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>135</sup> These include, for example: Introduce programmes to address chronic condition management and obesity; Develop sports stadiums as agreed with the IFA, GAA and Ulster Rugby; Ensure all children

## *Access to public transport*

Although Part V of the Disability Discrimination Act 1995 has led to a number of significant achievements<sup>136</sup> with regard to improved accessibility, some problems remain.

The Northern Ireland Survey of Activity Limitation and Disability (NISALD survey) identified that 83% of respondents said they rarely or never use public transport and of those that do, 16% said they had experienced difficulties in the 12 months prior to being interviewed thus suggesting that additional factors need to be considered to attain a completely accessible transport system<sup>137</sup>.

A 2015 survey found that 30 per cent of disabled people stated that difficulties getting on or off vehicles prevented them from using public transport, compared with 4 per cent of non-disabled people<sup>138</sup>.

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have the opportunity to participate in shared education programmes by 2015 and substantially increase the number of schools sharing facilities by 2015. Source: Office of the First Minister and Deputy First Minister (2013) 'The Disability Strategy 2012-2015', pages 36-51 (Belfast: OFMDFM).

<sup>136</sup> Part V of the Act incorporated, inter alia, a range of measures to address discrimination by transport providers including those concerned with rail vehicles, public service vehicles, taxis and other private hire vehicles which have positively changed policies and practices in the area of transport, notably in relation to air travel, taxis and transport operators. Other changes have included the expansion of concessionary fares to more groups of disabled people; an increase of accessible buses and trains; the installation of audio/visual announcement systems on all new trains and the expansion of a door-to-door bus service in urban areas; and the Baywatch campaign to highlight the abuse of designated parking spaces for disabled people.

<sup>137</sup> Northern Ireland Statistics and Research Agency (2007): 'Disability and Activity Limitations amongst adults and children living in private households in Northern Ireland' (Belfast: NISRA). Available at: <http://www.csu.nisra.gov.uk/NISALD%20Household%20Prevalence%20Report.pdf>

<sup>138</sup> Department for Regional Development and the Northern Ireland Statistics and Research Agency (2016): 'Attitudes of Disabled People and Older People to Public Transport, November 2014 – January 2015', page 17. Available at: <https://www.infrastructure-ni.gov.uk/publications/attitudes-disabled-and-older-people-public-transport-november-2014-january-2015>

Research by the Consumer Council in 2009 suggested that disability awareness staff training and verbal and electronic updates at stations are required in Northern Ireland<sup>139</sup>.

The report of the Promoting Social Inclusion (PSI) Working Group on Disability summarised the difficulties in relation to mobility in Northern Ireland when it commented that some of the difficulties involved in the mobility of disabled people were due to a range of factors including the attitudes of people and society, service design, and the availability of accessible information<sup>140</sup>.

The report suggested that the mainstreaming of disability considerations into planning and design can achieve positive outcomes for disabled people through supporting them to empower themselves to live more independent, participative lives.

Although the Northern Ireland Executive's Disability Strategy<sup>141</sup> identified a work stream on transport, resources were not unequivocally allocated to this or any of the other six disability specific work streams in the strategy<sup>142</sup>.

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<sup>139</sup> Consumer Council (2009): 'Public Transport on the Right Track?' (Belfast: Consumer Council). Available at: [http://www.consumercouncil.org.uk/filestore/documents/Final\\_PT\\_report\\_05.06.09.pdf](http://www.consumercouncil.org.uk/filestore/documents/Final_PT_report_05.06.09.pdf)  
Issues identified from the research included: drivers not recognising disabilities such as blindness and not offering the appropriate help to blind people when buying tickets; drivers not stopping for people who are blind or have other disabilities; no enforcement of priority seats for the elderly and disabled; and staff not trained in the operation of equipment meant to make buses more accessible.

<sup>140</sup> Promoting Social Inclusion Working Group on Disability (2000): 'Report of the Promoting Social Inclusion Working Group on Disability', pages 90-93.

<sup>141</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of people with disabilities 2012-2015' (Belfast OFMdfM), pages 27-28. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>142</sup> Lead Departments will be required to engage in a tendering process to bid for resources to be allocated to the work stream for which they are responsible. Departmental bids to the commitments in the Delivering Social Change Fund for any of the 7 disability work streams will be set against other Programme for Government priorities and concerned with social disadvantage, poverty and inequality as set out in Annex 1 accompanying the Strategy.

The draft delivery plan for Programme for Government Indicator 42, ‘average life satisfaction score for people with disabilities’<sup>143</sup>, includes a commitment to support the delivery of the Accessible Transport Strategy 2025<sup>144</sup>. However, the strategy has yet to be approved in the absence of a functioning Northern Ireland Executive.

**Issues to consider: What further steps will be taken to ensure increased personal mobility for disabled people in Northern Ireland?**

## **Article 21: Freedom of Expression**

The Northern Ireland Disability Strategy linked Article 21 with Strategic Priority 7 ‘To increase the level of accessible/inclusive communications so that people with disabilities can access information as independently as possible and make informed choices’<sup>145</sup>. The PfG commitment to ‘improve online access to government services’, including the promotion of digital inclusion for people with disabilities, is identified in connection with the Strategy<sup>146</sup>.

### *Accessible information*

Through its engagement with disabled persons, IMNI has noted that the lack of information in appropriate formats continues to impact on persons

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<sup>143</sup> The Northern Ireland Executive (2016): ‘Draft Delivery Plan for Programme for Government Indicator 42, Average life satisfaction score of people with disabilities’, page 11. Available at:

<https://www.northernireland.gov.uk/publications/programme-government-delivery-plans>

<sup>144</sup> Department for Infrastructure (2017): ‘Accessible Transport Strategy 2025’. Available at:

<https://consultations.nidirect.gov.uk/dfi/accessible-transport-strategy-2025/>

<sup>145</sup> Office of the First Minister and the deputy First Minister (2013): ‘A Strategy to improve the lives of disabled people 2012-2015’, page 17-18. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>146</sup> Office of the First Minister and the deputy First Minister (2013): ‘A Strategy to improve the lives of people with disabilities 2012-2015’ (Belfast OFMdfM), page 17. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

with disabilities ability to access educational and health services<sup>147</sup>. In addition, there remains a shortage of qualified BSL and ISL Sign Language interpreters in Northern Ireland<sup>148</sup>.

In 2016, the (then) Department for Culture, Arts and Leisure published a consultation on a draft Sign Language Framework<sup>149</sup> that included a proposal for draft legislation to safeguard Irish Sign Language/British Sign Language users' rights. However, the current draft Programme for Government does not include any commitment to advance the Framework<sup>150</sup>.

### **Issues to consider: What measures have been taken in Northern Ireland to ensure the effective provision of information in appropriate formats?**

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<sup>147</sup> See also: Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD', pages 111 - 115. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>148</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): 'Disability programmes and policies: How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities in Northern Ireland', paragraph 5.2.4.1, page 174 (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/UNCRPDmonitoringimplementationFullReport0112.pdf?ext=.pdf>

Department for Culture, Arts and Leisure (2016): 'Sign Language Framework', paragraph 340, page 30. Although noting that there are now 28 registered interpreters compared to 4 in 2004 (for 3,500 British Sign Language users and 1,500 Irish Sign Language users), the Department acknowledged that 'more needs to be done'.

<sup>149</sup> Department for Culture, Arts and Leisure (2016): 'Sign Language Framework'. Available at: <https://www.communities-ni.gov.uk/sites/default/files/consultations/dcal/Sign%20Language%20Framework%20Document.PDF>.

See also ECNI (2016): 'Response to the Consultation by DCAL on a Sign Language Framework'.

Available at:

<http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2016/DCALSignLangFramework.pdf>.

<sup>150</sup> See: <https://www.northernireland.gov.uk/publications/programme-government-delivery-plans>

## Article 22: Respect for Privacy

The Northern Ireland Disability Strategy did not refer to Article 22.

### *Mixed gender wards*

In 2009, the Chief Nursing Officer in Northern Ireland issued a guidance letter to health and social care providers stating: *“Mixed gender accommodation has been identified by patients and relatives/carers as having a significant impact on maintaining privacy and dignity whilst in hospital. There should be a presumption therefore that men and women will not be required to sleep in the same area, nor use mixed bathing and WC facilities”*<sup>151</sup>.

In August 2012, the Regulation and Quality Improvement Authority (RQIA), following a Review of Mixed Gender Accommodation in Hospitals, recommended that: *“The [Government] should ensure that robust policy on the support for privacy, dignity and respect for patients in mixed gender accommodation in hospitals is fully implemented”*<sup>152</sup>.

In an investigation by the Northern Ireland Human Rights Commission (NIHRC) into nursing homes, a number of individuals with family members resident in such homes raised concerns regarding the absence of mechanisms to ensure the privacy of intimate care needs<sup>153</sup>.

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<sup>151</sup> Privacy and Dignity-Mixed sex inpatient accommodation in hospitals, from the Chief Nursing Officer, Professor Martin Bradley, 21 May 2009 (DHSSPS), cited in: The Regulation and Quality Improvement Authority (2012): ‘Review of Mixed Gender Accommodation in Hospitals, Northern Health and Social Care Trust’ page 2. Available at:

[http://www.rqia.org.uk/cms\\_resources/MixedGender\\_NHSCT\\_Rpt\\_Finalwebv%207%20Aug%2012.pdf](http://www.rqia.org.uk/cms_resources/MixedGender_NHSCT_Rpt_Finalwebv%207%20Aug%2012.pdf).

<sup>152</sup> The Regulation and Quality Improvement Authority (2012): ‘Review of Mixed Gender Accommodation in Hospitals Overview Report’, page 23. Available at:

[http://www.rqia.org.uk/cms\\_resources/MixedGender\\_NHSCT\\_Rpt\\_Finalwebv%207%20Aug%2012.pdf](http://www.rqia.org.uk/cms_resources/MixedGender_NHSCT_Rpt_Finalwebv%207%20Aug%2012.pdf).

<sup>153</sup> Northern Ireland Human Rights Commission (2012): ‘In Defence of Dignity, the Human Rights of Older People in Nursing Homes’, pages 39-40. Available at: <http://www.nihrc.org/documents/research-and-investigations/older-people/in-defence-of-dignity-investigation-report-March-2012.pdf>

**Issues to consider: What measures have been taken to ensure disabled residents in health and social care settings in Northern Ireland are ensured privacy when receiving help with their personal care and, as far as practicable, have their choices respected in relation to the gender of staff helping with intimate personal care?**

## **Article 23 Respect for home and the family**

### *Support for carers*

The Northern Ireland Disability Strategy linked Article 23 to Strategic Priority 10 'To ensure parents and carers with a disability have access to effective and appropriate support, where required, to access their right to a family life'<sup>154</sup> but although identifying a range of PfG-related commitments did not explicitly explain how these would realise the obligations emanating from the article.

Research<sup>155</sup> by the NI Human Rights Commission has identified that family members are often principal carers for persons with disabilities and that there are many carers in Northern Ireland who although of advanced years are still providing a significant amount of caring to their loved ones on a full time basis. Such carers can experience difficulties in: paying for household bills; undertaking educational and employment opportunities; and maintaining good mental and physical health.

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<sup>154</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', page 20. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>155</sup> Northern Ireland Human Rights Commission (2014): 'The Human Rights of Carers in Northern Ireland' (Belfast: NIHRC). Available at: [http://www.nihrc.org/uploads/publications/The\\_Human\\_Rights\\_of\\_Carers.pdf](http://www.nihrc.org/uploads/publications/The_Human_Rights_of_Carers.pdf)

A recent report by Carers UK found that carers in Northern Ireland are reaching 'breaking point' as they struggle to take even a day away from care responsibilities for years at a time. Nearly a third (30 per cent) of unpaid carers in Northern Ireland have not had a day off in over one year, while one in five (21 per cent) had not received a day away from caring in over five years<sup>156</sup>.

The Evaluation of the 2009-2011 Bamford Action Plan found that more could be done with respect to Direct Payments, engagement with General Practitioners (GPs) to ensure that the needs of carers are met, and involvement of carers in service planning). The Evaluation also referred to an awareness of the restrictions of respite allocation due to both high demand and a lack of resources<sup>157</sup>.

**Issues to consider: What measures have and will be taken to ensure support for carers of persons with disabilities in Northern Ireland, including financial support to compensate for costs associated with caring and the provision of respite care to ensure that carers are able to access education, employment and health services?**

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<sup>156</sup> Carers UK (11 July 2017): 'One in five carers in Northern Ireland have not had a day off in five years' Available at: <https://www.carersuk.org/news-and-campaigns/news/one-in-five-unpaid-carers-in-northern-ireland-have-not-had-a-day-off-in-five-years>

<sup>157</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRRPD' – Draft Final Report 11 March 2014', pages 120-121. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRRPD-Disability>



## Article 24: Education

Although the Northern Ireland Disability Strategy links Article 24 with Strategic Priority 16, to ‘increase the opportunities for people with disabilities to attain skills and qualifications through access to appropriate training and lifelong learning opportunities’<sup>158</sup>, it does not explicitly address inclusive education or contain any specific action points related to the article<sup>159</sup>.

### *Educational outcomes*

In terms of disabled students’ attainment levels, there is an extremely limited amount of data available on educational outcomes for people with disabilities in Northern Ireland. Overall, 41% of disabled people had no qualifications, more than twice the proportion of non-disabled people (17%). People with a disability are less qualified than those without; for example, 13% of disabled people held higher qualifications compared with 27% of non-disabled people<sup>160</sup>.

Research commissioned by the Equality Commission on Education inequalities in Northern Ireland<sup>161</sup> found that students with Special Educational Needs (SEN) or a disability have lower attainment levels than students without any SEN or disability and are less likely to go on to higher

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<sup>158</sup> Office of the First Minister and the deputy First Minister (2013): ‘A Strategy to improve the lives of disabled people 2012-2015’, page 23. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>159</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): ‘Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD’ – Draft Final Report 11 March 2014’, pages 123. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>160</sup> Equality Commission for Northern Ireland (2007): ‘Statement of Key Inequalities in Northern Ireland’, page 6 (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/Publications/Delivering-Equality/Statement-on-key-inequalities-in-N-Ireland?ID=1236>

<sup>161</sup> Burns, S., Leitch, R. and Hughes, J. (2015): ‘Education Inequalities in Northern Ireland’ (Belfast: School of Education, Queens University Belfast).

education. The lower attainment of students with SEN or a disability is a persistent inequality. Despite increases in the proportions of school leavers with any SEN or a disability achieving 2+ A Levels (A\*-E) and 5+ GCSES (A\*-C), the attainment proportions are still substantially below the attainment proportion for pupils who do not have a special educational need or a disability<sup>162</sup>.

### *Special Educational Needs*

The law concerning the education for children with disabilities in Northern Ireland is contained in the Education (Northern Ireland) Order 1996 as amended by the Special Educational Needs and Disability (Northern Ireland) Order 2005 (SENDO)<sup>163</sup> the Special Needs and Disability (Northern Ireland) Order 2016<sup>164</sup>. Schools, Education and Library Boards and Health and Social Services authorities must consider the advice given in the Department of Education's Code of Practice on the Identification and

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<sup>162</sup> Ibid, page 224. In 2011/12, 29.4% of school leavers with a disability attained 2+ A Levels A\*-E, compared to 55.8% of school leavers without a disability; 51.6% of school leavers with a disability attained 5+ GCSEs at A\*-C, compared to 76.7% of leavers without a disability; and, 33.3% of leavers with a disability attained 5+ GCSEs at A\*-C including Maths and English, compared to 62.2% of leavers without a disability

<sup>163</sup> The statutory responsibility for securing provision for pupils with special educational needs rests with the Education and Library Boards and Boards of Governors of mainstream schools. Currently, special educational needs provision is matched to individual need and may be made in special schools; special units attached to mainstream schools; or in mainstream classes.

<sup>164</sup> Available at: <http://www.legislation.gov.uk/nia/2016/8/introduction>

Assessment of Special Educational Needs<sup>165</sup> when deciding what they should do for children with special educational needs<sup>166</sup>.

Reports by the Education and Training Inspectorate (ETI) have highlighted a lack of consistency in procedures/protocols for assessing need and differential thresholds for intervention in relation to the assessment and diagnosis of SEN in Northern Ireland<sup>167</sup>. Research has shown that only 33.3% of children with disabilities attain 5+ GCSEs, including English and Maths (A\*-C), compared to 62.2% of children without disabilities<sup>168</sup>.

A 2007 ETI report noted particular difficulties with delay and shortcomings in the planning for and assessment of children's special educational needs in all types of pre-school provision<sup>169</sup>.

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<sup>165</sup> Department of Education (1998): 'Code of Practice on the Identification and Assessment of Special Educational Needs', (Bangor: Department of Education). (Bangor: Department of Education). Available at: [http://www.deni.gov.uk/the\\_code\\_of\\_practice.pdf](http://www.deni.gov.uk/the_code_of_practice.pdf) The Code of Practice defines 'special education provision' as "educational provision which is additional to, or otherwise different from, the educational provision made generally to children of this age in ordinary schools." It is important to note that not all disabled children have special educational needs and not all children with special educational needs will have a disability raising the issue that not all children with disabilities may necessarily be protected by existing policies and programmes.

See also: Department of Education (2005): 'Supplement to the Code of Practice on the Identification and Assessment of Special Educational Needs' (Bangor: Department of Education). Available at: <http://www.deni.gov.uk/supplement.pdf>

<sup>166</sup> It is anticipated that a revised Code of Practice will be developed to take into account the Special Needs and Disability (Northern Ireland) Order 2016.

<sup>167</sup> Education and Training Inspectorate (2006): 'Report of a Survey on Provision and Outcomes for Pupils with Special Educational Needs in Post-Primary Schools' (Bangor: Department of Education). Available at: <http://www.etini.gov.uk/survey-on-provision-and-outcomes-for-pupils-with-special-educational-needs-in-post-primary-schools.pdf>

<sup>168</sup> Burns, S., Leitch, R. and Hughes, J. (March 2015): 'Education Inequalities in Northern Ireland – Summary Report', Figure 5, page 11. Available at: <http://www.equalityni.org/KeyInequalities-Education>

<sup>169</sup> Education and Training Inspectorate (2007): 'Special Educational Needs in the Pre-School Sector'. (Bangor: Department of Education). Available at: <http://www.etini.gov.uk/index/surveys-evaluations/surveys-evaluations-pre-school-centre-and-nursery-school/surveys-evaluations-pre-school-centre-and-nursery-school-2007/special-education-needs-in-the-pre-school-sector.pdf>

In March 2016, the Education Authority announced that from September 2016 the amount of nursery and pre-school provision for children in special schools is to be reduced from 4.5 hours per day to 2.5 hours.

The EA stated that the move "is designed to increase the opportunity for children to access special school places," and will provide "greater regional consistency"<sup>170</sup>.

In a submission to the Northern Ireland Assembly, the Strategic Leadership Forum for Special Schools (SLFSS), a body that represents special school principals and governors, said they "totally disagree" with the move, which would "hold back and restrict the development of children with complex needs" and have a range of adverse impacts<sup>171</sup>.

In response to concerns expressed by parents and by Members of the Legislative Assembly (MLAs), the Education Authority announced, in June 2016, its intention to suspend the proposed cuts until the completion of a

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<sup>170</sup> See BBC news, 08 March 2016: 'Special needs: Nursery hours for children to be cut'. Available at: <http://www.bbc.co.uk/news/uk-northern-ireland-35750654> See also: Irish News, 08 March 2016: 'Education authority to review special needs pre-school cuts'. Available at: <http://www.irishnews.com/news/educationnews/2016/03/09/news/education-authority-to-review-special-needs-pre-school-cuts-443893/> ; BBC news, 16 March 2016: 'Special needs: Proposed nursery hours cut suspended'. Available at: <http://www.bbc.co.uk/news/uk-northern-ireland-35823283>; BBC news, 03 June 2016: Education Authority 'misled Stormont committee' over pre-school provision. Available at: <http://www.bbc.co.uk/news/uk-northern-ireland-36440310>; BBC news 15 June 2016: 'Special school: Education Authority apologises to parents over plans to cut hours'. Available at: <http://www.bbc.co.uk/news/uk-northern-ireland-36534305>

<sup>171</sup> These include:

- A limited time to deliver any planned education activities after a pupils "medical and complex needs" and other needs including "nappy changes" are addressed;
- Less time to help children exhibiting "severe to challenging behaviour";
- No time to help children learn feeding skills, as under the new model "children are unable to stay for lunch";
- Restricting delivery of speech language therapy, physiotherapy and occupational therapy to children.

review over six months had taken place<sup>172</sup>. However, public consultation on the review was subsequently postponed until autumn 2017<sup>173</sup>.

The Department of Education's (DENI) policy proposals for the 'Way Forward for Special Educational Needs and Inclusion'<sup>174</sup> proposed a new framework that emerged following a review of the current system<sup>175</sup>.

In 2012, the Education Minister outlined his key preferred proposals<sup>176</sup>, which were agreed by the Northern Ireland Executive. Among the proposed changes is the replacement of statements of special educational needs with Coordinated Support Plans (CSPs) which would be awarded to 'some children in mainstream classrooms, all children in learning support centres attached to mainstream schools and all children in special schools'.

The key proposals arising from the review were enacted in the Special Needs and Disability (Northern Ireland) Order 2016.

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<sup>172</sup> BBC News (3 June 2016): 'Education Authority 'misled Stormont committee' over pre-school provision'. Available at: <http://www.bbc.co.uk/news/uk-northern-ireland-36440310>;

<sup>173</sup> See: <http://www.eani.org.uk/about-us/latest-news/education-authority-provides-update-on-strategic-review-of-nursery-provision-in-special-schools/>

<sup>174</sup> A consultation on the policy proposals concluded on 31 January 2010. However, concerns were expressed that the proposals would lead to greater uncertainty, reduce further the confidence of parents, fail to effectively address the shortcomings of the current system and erode the existing entitlement of children with disabilities to special educational needs provision (see Harper et al (2012): Op Cit. at pages 193-194)

<sup>175</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): 'Disability programmes and policies: How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities in Northern Ireland', pages 193-194 (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/UNCRPDmonitoringimplementationFullReport0112.pdf?ext=.pdf>

<sup>176</sup> Department of Education (2012): 'Summary Report of Responses to the Consultation on Every School a Good School – The Way Forward for Special Educational Needs and Inclusion and the associated Equality Impact Assessment', Bangor: DENI. Available at: [http://www.deni.gov.uk/sen\\_summary\\_report\\_-\\_english.pdf](http://www.deni.gov.uk/sen_summary_report_-_english.pdf).

See also Department of Education (2009): 'Every School a Good School: The Way Forward for Special Educational Needs', Bangor: DENI. On 16<sup>th</sup> May 2012, the Minister presented a policy paper to the Education Committee. See also Committee for Education, Special Educational Needs and Inclusion, Official Report (Hansard) Northern Ireland Assembly, 18 January 2012.

Concerns have been expressed<sup>177</sup> that the policy changes will dilute existing entitlements for children and young people with disabilities and lead to inconsistencies between children and young people with disabilities depending on whether they are educated in special school or mainstream schools, and whether they receive a CSP or a Person Learning Plan<sup>178</sup>.

Furthermore, concern continues to be expressed at the quality of educational experiences received by children with disabilities in Northern Ireland. In particular, there are concerns at the lack of resourcing, planning,

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<sup>177</sup> These include:

- Concern that the Personal Learning Plan (PLP) proposals will not meet the needs of children in a timely manner, consistent across all schools;
- Concern of risk to principle of inclusion;
- Concern regarding the appeal pathways for children with PLPs;
- Disappointment that further progress has not been made to facilitate the child's right to appeal to the Special Educational Needs and Disability Tribunal (SENDIST);
- Concern at the lack of meaningful involvement of children and young people in the development of the policy proposals.

<sup>178</sup> See NICCY Submission to the NI Assembly Committee for Education: 25 May 2012

[http://www.niccy.org/uploaded\\_docs/2012/Consultations/Apr-July/NICCY%20submission%20to%20Education%20Committee%20re%20DE%20policy%20proposals%20on%20SEN%2025%205%2012%20FINAL.pdf](http://www.niccy.org/uploaded_docs/2012/Consultations/Apr-July/NICCY%20submission%20to%20Education%20Committee%20re%20DE%20policy%20proposals%20on%20SEN%2025%205%2012%20FINAL.pdf) Accessed 31 January 2014;

Children with Disabilities Strategic Alliance (2014) The State of SEN statements: the case for specification and quantification, Belfast: CDSA

training, participation and support<sup>179</sup>. There are no specific programmes in place that encourage people with disabilities to train as teachers<sup>180</sup>.

In June 2017, the Northern Ireland Audit Office published a report on SEN provision within mainstream education<sup>181</sup>. The report was critical of the level of support currently provided to more than 75,000 children with SEN<sup>182</sup> and concluded that neither the Department of Education nor the Education Authority can demonstrate value for money in terms of economy, efficiency or effectiveness in the provision of support to children with SEN in mainstream schools.

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<sup>179</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): 'Disability programmes and policies: How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities in Northern Ireland', page 193 (Belfast: Equality Commission NI). Available at:<http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/UNCRPDmonitoringimplementationFullReport0112.pdf?ext=.pdf>

The Northern Ireland Commissioner for Children and Young People (2009): 'Children Rights Review 2007/08', page 298. Available at: <http://www.niccy.org/about-us/news/latest-news/2009/february/17/niccys-childrens-rights-review/>

Save the Children Northern Ireland and the Children's Law Centre (2008): 'Northern Ireland NGO Alternative Report Submission to the United Nations Committee on the Rights of the Child for Consideration during the Committee's scrutiny of the UK Government Report'. Available at: <http://www.qub.ac.uk/research-centres/advancing-childrens-rights/Filestore/Fileupload,403612,en.pdf>

<sup>180</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): 'Disability programmes and policies: How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities in Northern Ireland', pages 192-193, (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/UNCRPDmonitoringimplementationFullReport0112.pdf?ext=.pdf>

<sup>181</sup> NIAO (2017): 'Special Educational Needs Full Report and Key Facts' Available at: <https://www.niauditoffice.gov.uk/publications/special-educational-needs>

<sup>182</sup> Key findings included that: (i) 80% of SEN statements issued in 2015/16 were not completed within the recommended 26 weeks; that there was a lack of consistency across schools; (ii) the impact of specific support provisions (such as classroom assistants) have not been evaluated at strategic level; (iii) there had been a 45% rise in costs for SEN support provision since 2011-2012.

The Equality Commission for Northern Ireland (ECNI) has recommended a number of legislative reforms to improve the rights of disabled pupils<sup>183</sup>.

**Issues to consider: What further measures will the Executive take to:**

- (i) collect, monitor and review information (including on attainment levels) regarding pupils and students with a disability in Northern Ireland;**
- (ii) put in place consistent procedures/protocols for assessing need and differential thresholds for intervention in relation to the assessment and diagnosis of SEN in Northern Ireland;**
- (iii) ensure the quality of educational experiences received by children with disabilities in Northern Ireland with regard to resourcing, planning, training, participation and support;**
- (iv) secure equality of opportunity for pupils and students with disabilities in Northern Ireland, including the immediate realisation of reasonable accommodation; and**
- (v) set targets to increase participation and completion rates by students with disabilities in all levels of education and training in Northern Ireland, including tertiary level education.**

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<sup>183</sup>Equality Commission for Northern Ireland (March 2012): 'Strengthening Protection for Disabled People Proposals for Reform - Full Report', (Belfast: Equality Commission NI). Available at: [http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Strengthening\\_protection\\_for\\_disabled\\_people0312.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Strengthening_protection_for_disabled_people0312.pdf)

These include a free standing right for disabled people against harassment related to their disability by schools when providing education for disabled pupils in line with protections existing under Northern Ireland equality law on other equality grounds and in Great Britain under the Equality Act 2010. The Commission also recommends that an additional duty is placed on schools to provide auxiliary aids and services for disabled pupils, where reasonable; in circumstances where a failure to do would put the disabled pupil at a substantial disadvantage compared to non-disabled pupils.



## *Transitions from school*

Research has suggested that the process of transition from school to further education, training or employment and from child to adult health and social care services is often inadequate<sup>184</sup>.

The draft delivery plan for Programme for Government Indicator 42, 'Average life satisfaction score of people with disabilities', includes commitments to 'explore support options that will enable more young people with disabilities to access pre-employment, educational and vocational programmes' and to 'provide comprehensive information on benefit support for young people with severe learning disabilities, with a focus on transition and post transition support'<sup>185</sup>. However, the draft delivery plan has yet to be approved in the absence of a functioning Northern Ireland Executive.

**Issues to consider: What measures will the Executive take to improve the process of transition for disabled children and young people from school to further education and employment?**

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<sup>184</sup> Regulation Quality and Improvement Authority (2013): 'A Baseline Assessment and Review of Community Services for Adults with a Learning Disability', page 36 (Belfast: RQIA). Available at: [http://www.rqia.org.uk/publications/rqia\\_reviews.cfm](http://www.rqia.org.uk/publications/rqia_reviews.cfm)

Lundy, L., Byrne, B. and McKeown, P. (2012) 'Review of Transitions to Adult Services for Young People with Learning Disabilities', page 34, paragraph 2 (Belfast: NICCY). Available at: <http://www.niccy.org/Publications/PolicyandResearchReportsandpapers/publications-from-2012>

<sup>185</sup> Northern Ireland Executive (2016): Draft delivery plan for PfG Indicator 42, 'Average life satisfaction score of people with disabilities', page 8. Available at: <https://www.northernireland.gov.uk/publications/programme-government-delivery-plans>

## Article 25: Health

The Northern Ireland Disability Strategy only addressed health in relation to mental health, the need for joint working between health, social care and housing agencies and how access to sports and leisure improves health<sup>186</sup>.

### *Health Service reform*

The Department of Health committed to taking forward, as part of the Programme for Government<sup>187</sup> a commitment to allocate an increasing percentage of the overall health budget to public health<sup>188</sup>, major proposals for reforming, reconfiguring and modernising health and social care through ‘Transforming Your Care’<sup>189</sup> and a new public health strategy, ‘Fit and Well – Changing Lives’<sup>190</sup>, based on a whole system planning approach which also targets the reduction of health inequalities. In addition, a number of Disability-specific policies and initiatives have been developed<sup>191</sup>.

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<sup>186</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): ‘Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD’, page 128. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>187</sup> Northern Ireland Executive (2012): ‘Programme for Government 2011-15: Building a Better Future’, page 52. Available at: <https://www.northernireland.gov.uk/publications/programme-government-2011-2015>

<sup>188</sup> Northern Ireland Executive (2012): ‘Programme for Government 2011-15: Building a Better Future’, page 35. Available at: <https://www.northernireland.gov.uk/publications/programme-government-2011-2015>

<sup>189</sup> The Department seeks to secure a shift from hospital based services to community based services together with an appropriate shift in funding. For further information see: <http://www.transformingyourcare.hscni.net/wp-content/uploads/2013/03/Transforming-Your-Care-Vision-to-Action-Post-Consultation-Report.pdf>

<sup>190</sup> Department of Health, Social Services and Public Safety for Northern Ireland (2012): ‘Fit and Well – Changing Lives – A Ten Year Public Health Strategic Framework for Northern Ireland 2012-2022. A Consultation Document’, (Belfast: DHSSPS). The framework includes a commitment to reducing the health inequalities experienced by vulnerable people in Northern Ireland, including people with disabilities.

<sup>191</sup> These include: the Bamford Review of Mental Health and Learning Disability; Mental Capacity (Health, Welfare and Finance) legislation; the Autism Strategy; the Physical and Sensory Disability Strategy; Protect Life – A Shared Vision: Suicide Prevention Policy; and the Speech, Language and Communication Therapy Action Plan: Improving Services for Children and Young People.

## **Issues to consider: What actions will be taken to monitor the impact in Northern Ireland of National Health Service reform on persons with disabilities?**

### *Adequacy of mental health care*

Mental illness has been identified as one of the major causes of ill health and disability in Northern Ireland with twenty five per cent (25%) higher overall prevalence of mental health problems than in England<sup>192</sup>.

Northern Ireland had the second highest rates of mental ill-health when compared to 17 other European countries<sup>193</sup> with 20%-25% higher overall prevalence of mental health problems than in England<sup>194</sup>.

Mental health services in Northern Ireland seem to have been funded more poorly than elsewhere in the UK for some time both with respect to its share of the global health budget and on a per capita basis<sup>195</sup>.

In 2006/7, mental health was allocated 9.3% of the total health budget in Northern Ireland in contrast to 11.1% in Scotland and 11.8% in England<sup>196</sup>.

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<sup>192</sup> Gray, A.M. and Horgan, G. (2009): 'Figuring It Out - Looking Behind the Social Statistics in Northern Ireland', page 27, (Economic and Social Research Council, University of Ulster and Queens University Belfast). Available at: <http://www.ark.ac.uk/publications/books/Figuringitout.pdf>

<sup>193</sup> Action Mental Health (no date): *About Mental Illness in Northern Ireland*. Available at: <http://www.amh.org.uk/about/>

<sup>194</sup> Friedli, L & Parsonage, M (2007): *Mental Health Promotion: Building an Economic Case*. Belfast: NIAMH. Available at: [http://www.chex.org.uk/media/resources/mental\\_health/Mental%20Health%20Promotion%20-%20Building%20an%20Economic%20Case.pdf](http://www.chex.org.uk/media/resources/mental_health/Mental%20Health%20Promotion%20-%20Building%20an%20Economic%20Case.pdf).

<sup>195</sup> Commission on Acute Adult Psychiatric Care (June 2016): 'Building on progress: achieving parity for mental health in Northern Ireland – Final Report', page 64. Available at: [http://www.rcpsych.ac.uk/pdf/Building\\_on\\_Progress\\_CAAPC\\_Report\\_NI\\_June\\_2016.pdf](http://www.rcpsych.ac.uk/pdf/Building_on_Progress_CAAPC_Report_NI_June_2016.pdf)

<sup>196</sup> Friedli, L. and Parsonage, M. (2007): Op. Cit.

A 2004 study calculated that in 2002/3 per capita expenditure on mental health was 15.6% lower in Northern Ireland than in England<sup>197</sup>.

A 2010 McKinsey report concluded that once the higher levels of need were taken into account, expenditure in Northern Ireland spends was less than half of the per capita spend in England with respect to supporting people with mental health problems and Learning Disability<sup>198</sup>. Research carried out in 2011 found that actual spending per capita on mental health services in Northern Ireland was 10-30% lower than in England, even though necessitating almost 44% higher per capita funding<sup>199</sup>.

Mental health funding has also compared poorly (i) in terms of actual spending against budgeted spending and (ii) with respect to other health categories. A report by Queen's University Belfast (2015) highlighted that, between 2008 and 2014, actual spend on mental health services by Health & Social Care Trusts was around 25% less than had been projected<sup>200</sup>. This compared unfavourably with other areas of healthcare; for example although funding for primary care increased by 136.2%, mental health services have experienced year on year reductions in funding since 2009<sup>201</sup>.

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<sup>197</sup> The Northern Ireland Association for Mental Health (2014): *Counting the Cost: The Economic and Social Costs of Mental Illness in Northern Ireland*. Available at [http://www.niamhwellbeing.org/SiteDocuments/niamh\\_counting\\_cost.pdf](http://www.niamhwellbeing.org/SiteDocuments/niamh_counting_cost.pdf)

<sup>198</sup> McKinsey (2010): *Reshaping the system: implications for Northern Ireland's health and social care services of the 2010 spending review*. Belfast: DHSSPSNI

<sup>199</sup> Appleby, J. (2011): *Rapid review of Northern Ireland health and social care funding needs and the productivity challenge: 2011/12-2014/15*. Belfast: DHSSPSNI. Available at: [http://s3.amazonaws.com/zanran\\_storage/www.dhsspsni.gov.uk/ContentPages/2508490435.pdf](http://s3.amazonaws.com/zanran_storage/www.dhsspsni.gov.uk/ContentPages/2508490435.pdf).

<sup>200</sup> Wilson, G., Montgomery, L., Houston, S., Davidson, G., Harper, C. & Faulkner, L. (2015): *Regress? React? Resolve?: An evaluation of mental health service provision in Northern Ireland*, page 3. Available at: [http://pure.qub.ac.uk/portal/files/17051927/Regress\\_React\\_Resolve.pdf](http://pure.qub.ac.uk/portal/files/17051927/Regress_React_Resolve.pdf)

<sup>201</sup> Commission on Acute Adult Psychiatric Care (June 2016): 'Building on progress: achieving parity for mental health in Northern Ireland – Final Report', page 64. Available at: [http://www.rcpsych.ac.uk/pdf/Building\\_on\\_Progress\\_CAAPC\\_Report\\_NI\\_June\\_2016.pdf](http://www.rcpsych.ac.uk/pdf/Building_on_Progress_CAAPC_Report_NI_June_2016.pdf).

The strategy for addressing mental health issues in Northern Ireland ended in 2008 and has not been replaced by a new or revised strategy.

It is acknowledged by the DHSSPS that people with poor physical health are at a higher risk of experiencing common mental health problems than people with mental health problems, especially those with severe and enduring mental illness, are more likely to have poor physical health<sup>202</sup>.

The draft plan has yet to be approved

## **Issues to consider: What actions the Government will take to reduce levels of mental ill-health in Northern Ireland?**

### *Health inequalities*

People with learning disabilities are more likely to experience major illnesses and are 58 times more likely to die prematurely but that even with such a dramatic health profile they are less likely to get some of the evidence-based screening, checks and treatments they need, and continue to face real barriers in accessing services<sup>203</sup>.

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<sup>202</sup> People with mental health disabilities have higher rates of ischemic heart disease, stroke, high blood pressure and diabetes among people with schizophrenia or bipolar disorder compared to the rest of the population. People with schizophrenia are 90% more likely to get bowel cancer and 42% more likely to get breast cancer (women only). 31% of people with schizophrenia and chronic heart disease (CHD) are diagnosed under 55 years, compared to 18% of others with CHD; these figures are 41% and 30% respectively for diabetes. After five years, 28% of people who have had a stroke and have schizophrenia have died, as have 19% of people with bipolar disorder, compared with 12% of people with no serious mental health problems. People with learning difficulties have higher rates of respiratory disease at nearly twenty per cent (19.8%) than at fifteen per cent (15.5%) for the remaining population. People with learning disabilities are more likely to be obese. The rate of obesity in all those with their body mass index (BMI) recorded was 28.3 per cent in people with a learning disability, as compared to 20.4 per cent for the remaining population. (Source: Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): 'Disability programmes and policies: How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities in Northern Ireland', pages 203-204 (Belfast: Equality Commission NI)). Available at: <http://www.equalityni.org/Publications?subject=Disability&type=All&year=2012&page=2>

<sup>203</sup> Department of Health, Social Services and Public Safety for Northern Ireland (2012): Op. Cit., page 48. See also: Black, Dr. L.A. (2013): 'Health inequalities and people with a learning disability' NIAR 769-

There is no evidence that these differences have been ameliorated to any extent. The results of the ‘Confidential Inquiry into premature deaths of people with a learning disability’<sup>204</sup> underlines the striking extent to which this aspect of the right to health is being violated<sup>205</sup>.

An investigation by the Equality Commission for Northern Ireland found that people with learning disabilities face serious challenges such as poor communication from healthcare staff, a lack of understanding of their health needs, and a lack of user friendly written information in accessible formats<sup>206</sup>.

**Issues to consider: What actions will be taken to improve health outcomes for persons with learning disabilities in Northern Ireland?**

## **Article 26: Habilitation and rehabilitation**

The Northern Ireland Disability Strategy linked Article 26 to PfG commitments to deliver more social and affordable homes, programmes to address chronic condition management and obesity and increase access to

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2013 (Belfast: Northern Ireland Assembly Research and Information Services). Available at:

<http://www.niassembly.gov.uk/Documents/RaISe/Publications/2013/health/13413.pdf>

<sup>204</sup> Michael, J. (2008): ‘Healthcare for all: Report of the Independent Inquiry into access to healthcare for people with learning disabilities’. Available at:

[http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh\\_106126.pdf](http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_106126.pdf)

See also the Briefing Paper by Mencap on the Confidential Inquiry which is available at:

[http://www.mencap.org.uk/sites/default/files/documents/Briefing\\_Confidential\\_Inquiry.pdf](http://www.mencap.org.uk/sites/default/files/documents/Briefing_Confidential_Inquiry.pdf)

<sup>205</sup> Although, carried out in England, there is no reason to believe that the situation in Northern Ireland is any better.

<sup>206</sup> Equality Commission for Northern Ireland (2008): ‘Section 75 Formal Investigation into the Accessibility of Health Information for People with a Learning Disability 2006-2008’, (Belfast: Equality Commission NI). Available at:

<http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/InvestAccessibilityHealthInfoFullreport2008.pdf>

and outcomes from new treatments and services<sup>207</sup>. However, the Strategy was not clear about how these actions would be measured and evaluated with respect to fulfilling the obligations arising from Article 26.

### *Joined-up approaches to habilitation and re-habilitation*

In 2012, the DHSSPS published 'Living with Long-term Conditions: A Policy Framework'<sup>208</sup> in line with a commitment in the Northern Ireland Executive's Programme for Government<sup>209</sup>.

Whilst the scope of 'Living with Long-term Conditions' extends to the overall health and wellbeing of individuals, including their emotional health and wellbeing, the strategic framework does not extend beyond the jurisdictions of health and social care to the area of vocational (education and employment) rehabilitation.

Whilst the framework states that health and social care organisations should work closely with other Government departments, agencies and organisations, in areas such as benefits, housing and employment to enhance the delivery of integrated services, it is unable to ensure the delivery of integrated services.

### **Issues to consider: What measures will be taken to require health and social care organisations to work closely with other public authorities to organise, strengthen and extend comprehensive habilitation and**

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<sup>207</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', pages 35, 40, 41 and 53. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>208</sup> Department of Health, Social Services and Public Safety for Northern Ireland (2012): 'Living with Long-term Conditions: A Policy Framework', (Belfast: DHSSPS). Available at: <http://www.dhsspsni.gov.uk/long-term-condition.htm>

<sup>209</sup> Northern Ireland Executive (2012): 'Programme for Government 2011-15: Building a Better Future', page 41, refers to the enrolment of people who have a long-term (chronic) condition, and who want to be enrolled, in a dedicated chronic condition management programme. Available at: <http://www.northernireland.gov.uk/pfg-2011-2015-final-report.pdf>

**rehabilitation programmes and services, particularly in the areas of health, employment, education and social services?**

## **Article 27: Work and Employment**

The Northern Ireland Disability Strategy linked Article 27 (together with Article 24) to Strategic Priority 15, 'Work towards increasing the number of people with disabilities entering all levels of employment and safeguard the rights of those disabled people already in work' and Strategic Priority 16, 'Increase opportunities for people with disabilities to attain skills and qualifications through access to appropriate training and lifelong learning opportunities'<sup>210</sup>. The Disability Strategy also related a range of PfG commitments to Article 27<sup>211</sup>. Some of these were unmistakably related to employment e.g. to 'develop and implement a strategy to reduce economic inactivity through skills, training, incentives and job creation'<sup>212</sup> and to 'support people (with an emphasis on young people) into employment by providing skills and training'<sup>213</sup>. Other commitments are not clearly linked to employment e.g. 'reduce the level of serious crime (including hate crime)'<sup>214</sup>.

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<sup>210</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', pages 22-23. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>211</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', pages 35 - 42. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>212</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', page 35. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>213</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', page 38. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>214</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', page 42. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).



## *Employment gap*

Statistics published in the first quarter of 2016/17 showed that just under one in five persons of working age (18 per cent) in Northern Ireland had a disability. Almost three times the proportion (31 per cent) of persons with disabilities had no qualifications compared to persons without a disability (12 per cent). People without a disability were more than twice as likely to be in employment (78 per cent) than those with a disability (33 per cent)<sup>215</sup>, mirroring a similar ratio in relation to those without educational qualifications<sup>216</sup>. In comparison to the UK, Northern Ireland had a higher percentage of economically inactive (16-64) who were sick or disabled (30 per cent compared to 25 per cent)<sup>217</sup>.

According to a 2013 survey, most people claiming the main unemployment benefit, Job Seekers Allowance, had worked since 2010. This figure contrasts significantly with the experience of persons with disabilities which show just 12% of respondents with a disability had worked since 2010<sup>218</sup>.

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<sup>215</sup> Northern Ireland Statistics and Research Agency (31 August 2016): 'Quarterly Supplement to the Labour Market Report: April – June 2016', page 2. Available at: <https://www.economy-ni.gov.uk/sites/default/files/publications/deti/Quarterly%20Supplement%20to%20the%20Labour%20Market%20Report%20-%20Oct-Dec%202015.PDF>

<sup>216</sup> Ibid.

Equality Commission for Northern Ireland (2010): 'Inequalities in Education Fact and Trends 1998 – 2008', (Belfast Equality Commission NI) highlights that a greater proportion of economically inactive people with a declared disability hold no qualifications (25%) than those without a declared disability (16%) (page 7). Available at: <http://www.equalityni.org/Publications/Delivering-Equality/Inequalities-in-education-1998-2008-summary?ID=1238>

<sup>217</sup> Northern Ireland Statistics and Research Agency (31 August 2016), op cit.

<sup>218</sup> Department for Social Development (October 2013): 'Work and the welfare system: a survey of benefits (social security) and tax credits recipients in Northern Ireland', page 30, final paragraph, (Belfast: DSD). See also table 3.2 - length of time out of work by benefit type, age, disability and gender.

Available at:

[http://www.dsdni.gov.uk/work\\_and\\_the\\_welfare\\_system\\_a\\_survey\\_of\\_benefits\\_and\\_tax\\_credits\\_recipients\\_in\\_northern\\_ireland.pdf](http://www.dsdni.gov.uk/work_and_the_welfare_system_a_survey_of_benefits_and_tax_credits_recipients_in_northern_ireland.pdf)

### *Welfare to work measures*

While the Department for Employment and Learning provides a number of programmes to support persons with disabilities in Northern Ireland into employment such as Access to Work NI<sup>219</sup>, evidence provided to IMNI from the disability sector indicates that these programmes have not effectively supported people with more complex disabilities requiring a high level of personalised and ongoing support to access and retain employment and did not include accurate statistics and targets utilising appropriately disaggregated data to identify what progress has been made in this area<sup>220</sup>.

Although the Disability Strategy for Northern Ireland identified working towards increasing the number of people with disabilities entering all levels of employment as a strategic priority<sup>221</sup>, no specific actions to achieve this were set out.

However, a Disability Employment Strategy outlining proposals to address the difficulties and inequalities that people with significant disabilities are attempting to overcome in employment was launched by the Department of Communities at the end of March 2016<sup>222</sup>. However, concerns have been expressed amongst stakeholders that although considerable joint working has taken place in the development of the strategy and action plan, it needed to be resourced and implemented<sup>223</sup>.

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<sup>219</sup> Access to Work offers practical assistance to people with disabilities to maintain employment such as special aids and equipment, travel to work costs, support workers etc. Further information available at: <http://www.nidirect.gov.uk/access-to-work-practical-help-at-work>

<sup>220</sup> Equality Commission for Northern Ireland (2012): Notes of UNCRPD Work and Employment Workshop, 7 March 2012 (unpublished).

<sup>221</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of people with disabilities 2012-2015', pages 22-23 (Belfast: OFMdfM). Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>222</sup> Department for Communities (2016): 'Supporting Equality Through Inclusive Employment – An Employment Strategy for People with Disabilities'. Available at: <https://www.communities-ni.gov.uk/consultations/employment-strategy-people-disabilities-consultation>

<sup>223</sup> Department for Communities (2016): Indicator 42 Stakeholder Engagement Event Report, page 6.

Furthermore, little progress has been made with respect to providing transition support for young people over 19 years<sup>224</sup>, especially those with complex needs<sup>225</sup>.

The draft delivery plan for Programme for Government Indicator 42, ‘average life satisfaction score for people with disabilities’, includes a number of actions aimed at enhancing opportunities for employment<sup>226</sup>. However, the plan has yet to be approved in the absence of a functioning Northern Ireland Executive.

### *Attitudinal barriers*

A recent equality awareness survey in Northern Ireland found that 26% of respondents stated that they would mind having a person with mental ill health as a work colleague<sup>227</sup>.

**Issues to consider: What measures, including outcome focused actions, policies, laws and programmes<sup>228</sup> and the collection of appropriate disaggregated data, will be taken to:**

- (i) assist persons with complex disabilities into employment in Northern Ireland; and**

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<sup>224</sup> Byrne, B. and McAlister, S. (2014): ‘Transitions for Young People with Hearing Loss’, pages 130-140 (Belfast: Action on Hearing Loss). Available at: <https://www.qub.ac.uk/research-centres/DisabilityResearchNetwork/FileStore/Fileupload,467458,en.pdf>.

<sup>225</sup> <sup>225</sup> Regulation, Quality and Improvement Authority (2013): ‘A Baseline Assessment and Review of Community Services for Adults with a Learning Disability’, page 36. Available at: <https://rqia.org.uk/RQIA/files/a3/a3b73f17-35b3-4873-8797-e96ff1c44992.pdf>

<sup>226</sup> Northern Ireland Executive (2016): Draft delivery plan for PfG Indicator 42, ‘Average life satisfaction score of people with disabilities’, page 9. Available at: <https://www.northernireland.gov.uk/publications/programme-government-delivery-plans>

<sup>227</sup> Equality Commission for Northern Ireland (2011): ‘Do You Mean Me?’, page ii. Available at: <http://www.equalityni.org/Delivering-Equality/dymmsurvey>

<sup>228</sup> For example, education packages, job training, work experience, flexible working arrangements, etc.

- (ii) **improve the overall employment situation of persons with disabilities in Northern Ireland?**

## **Article 28: Adequate Standard of Living and Social Protection**

The Northern Ireland Disability Strategy links Article 28 to Strategic Priority 13, to 'Reduce poverty among people with disabilities and their families and protect their right to an adequate standard of living' and Strategic Priority 14, to 'Ensure that people with disabilities and their families have appropriate accommodation and adequate support to live independently'<sup>229</sup>. A number of actions under the PfG are identified in association with these Priorities including, to 'Introduce UNCRPD compliant measures to tackle poverty and social exclusion'<sup>230</sup> and to 'Deliver 8,000 social and affordable homes that will include homes adapted to meet the needs of people with disabilities'<sup>231</sup>. However, the Strategy does not identify how this range of actions will be monitored with respect to meeting obligations under Article 28.

### *Welfare Reform*

The Northern Ireland (Welfare Reform) Act 2015<sup>232</sup>, which received Royal assent on 25 November 2015<sup>233</sup>, will bring about what are widely regarded

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<sup>229</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', page 22. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>230</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', page 37. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>231</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', page 35. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>232</sup> The proposed welfare reform measures are broadly similar to the measures already passed into law in GB. For further information, see: <http://www.niassembly.gov.uk/Assembly-Business/Legislation/Primary-Legislation-Current-Bills/Welfare-Reform-Bill/>

<sup>233</sup> See: <http://services.parliament.uk/bills/2015-16/northernirelandwelfarereform.html>

as radical changes in the social security system<sup>234</sup>. According to research, the changes to disability benefits and the increased requirements on people with disabilities to look for work, as well as changes to Housing Benefit entitlement will impact far more on Northern Ireland than other parts of the UK<sup>235</sup>. There are a high proportion of people with disabilities living in Northern Ireland compared to other parts of the UK due, in part, to the legacy of conflict within the region. Just over 1 in 10 of the population in Northern Ireland is in receipt of Disability Living Allowance compared to just over 1 in 20 of the population in Great Britain<sup>236</sup>. Over 10% of the working age population in Northern Ireland is claiming Incapacity Benefit (IB) or Employment Support Allowance (ESA) compared to 6.6% in Great Britain (GB)<sup>237</sup>.

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In Northern Ireland, Social Security is a devolved matter for the Northern Ireland Assembly. However, the following a period of political stalemate over the proposed reforms, the Fresh Start agreement included provision that the Welfare Reform Bill would be debated and approved by the Assembly by way of a Legislative Consent Motion. This approval would also cover a draft Order in Council which would give effect in Northern Ireland to the 2012 welfare changes in Great Britain. The motion was passed by 70 votes to 22 votes. The Northern Ireland (Welfare Reform) Bill did not itself contain welfare provisions but was instead an enabling measure providing a power by Order in Council to:

- Legislate for welfare reform in Northern Ireland; and
- Confer powers on the Secretary of State or the Department for Social Development in Northern Ireland to make further provision by regulations and order.

See also: Bowers, P., Kennedy, S., Parkin, L., Armstrong, H. and Wilson, W. (20 November 2015): 'A Fresh Start: the Stormont Agreement and Implementation Plan and the Northern Ireland (Welfare Reform) Bill 2015-16 [Bill 99]', House of Commons Library Briefing Paper 7839.

Available at: <http://researchbriefings.files.parliament.uk/documents/CBP-7389/CBP-7389.pdf>.

<sup>234</sup> Northern Ireland Assembly (2011): 'An introduction to Welfare Reform', Research and Library Service Briefing Paper, paper 13/11, NIAR 606-10. Available at:

<http://www.niassembly.gov.uk/Documents/RaISe/Publications/2011/Social-Development/1311.pdf>.

<sup>235</sup> Beatty, C. and Fothergill, S. (2013): 'The Impact of Welfare Reform in Northern Ireland' (Centre for Regional Economic and Social Research at Sheffield Hallam University for NI Council for Voluntary Action). Available at: <http://www.nicva.org/resource/impact-welfare-reform-northern-ireland>

<sup>236</sup> Department for Social Development (April 2013): 'Welfare Reform Briefing Section 75 Update', page 55, final paragraph, (Belfast: DSD). Available at: [www.dsdni.gov.uk/welfare-reform-bill-section-75-update-april-2013.doc](http://www.dsdni.gov.uk/welfare-reform-bill-section-75-update-april-2013.doc)

<sup>237</sup> MacInnes, T., Aldridge, H., Parekh, A. and Kenway, P. (2012): 'Monitoring Poverty and Social Inclusion in Northern Ireland', (York: Joseph Rowntree Foundation). Available at:

[http://www.jrf.org.uk/topic/monitoring\\_poverty](http://www.jrf.org.uk/topic/monitoring_poverty)

A wide range of groups including academics, political parties, NGOs, churches, trade unions and equality and human rights bodies have expressed concerns about the potential negative impact of the reforms to social security benefits on people experiencing poverty, including disabled people<sup>238</sup>.

In addition to a number of welfare reform 'flexibilities'<sup>239</sup> specific to Northern Ireland agreed by the Executive, as part of the 'Fresh Start'<sup>240</sup> agreement, a Welfare Reform Mitigations Working Group was established to develop proposals to assist people through the implementation of the changes to the welfare system. The group produced a report which detailed a

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<sup>238</sup> See for example:

Beatty, C. and Fothergill, S. (October 2013): 'The Impact of Welfare Reform on Northern Ireland', (Centre for Regional Economic and Social Research, Sheffield Hallam University for the Northern Ireland Council for Voluntary Action). Available at: <http://www.nicva.org/resource/impact-welfare-reform-northern-ireland>

Northern Ireland Assembly Ad Hoc Committee (2013): 'Report on whether the Provisions of the Welfare Reform Bill are in Conformity with the Requirements for Equality and Observance of Human Rights'. Available at: <http://www.niassembly.gov.uk/Assembly-Business/Committees/Ad-Hoc-Committee-on-Conformity-with-Equality-Requirements-Welfare-Reform-Bill/Reports/Report-on-whether-the-Provisions-of-the-Welfare-Reform-Bill-are-in-Conformity-with-the-Requirements-for-Equality-and-Observance-of-Human-Rights/>

A summary of concerns expressed by Church Leaders and Trade Unions on Welfare Reform Bill and its potential impact on Northern Ireland is available at: <http://www.bbc.co.uk/news/uk-northern-ireland-20132024>

Law Centre Northern Ireland (September 2011): 'Evidence to the Work and Pensions Select Committee Proposal to Replace Disability Living Allowance with Personal Independence Payment'. Available at: <http://www.lawcentreni.org/Publications/Policy-Responses/ResponseWPSCreplacingDLA.pdf>

Northern Ireland Welfare Reform Group (October 2012): 'The Welfare Reform Bill: Briefing on the key issues for people with disabilities and carers'. Available at: <http://www.disabilityaction.org/fs/doc/publications/disability-and-carers-policy-briefing-on-welfare-reform.doc>

<sup>239</sup> Including the housing element of Universal Credit (UC) to be paid to the landlord rather than the tenant; claimants to receive fortnightly rather than monthly payments of UC; and payment of UC for joint claims can be split rather than paid into a single back account.

<sup>240</sup> Northern Ireland Executive (14 November 2015): 'A Fresh Start: The Stormont Agreement and Implementation Plan'. Available at: <https://www.northernireland.gov.uk/publications/fresh-start-stormont-agreement-and-implementation-plan-0>.

mitigation strategy<sup>241</sup>, subsequently approved by the Executive. However, a number of the key mitigations for persons with disabilities are limited to one year in duration<sup>242</sup>.

### *Transition from the Disability Living Allowance (DLA) to the new Personal Independence Payment (PIP)*

As a result of the proposed transition from the Disability Living Allowance<sup>243</sup> (DLA) to the new Personal Independence Payment (PIP), it is estimated that 57% of those in receipt of DLA in Northern Ireland will either lose their entitlement altogether or have their disability benefit decreased<sup>244</sup>. Those

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<sup>241</sup> Welfare Reform Mitigations Working Group Report (January 2016). Available at:

<https://www.executiveoffice-ni.gov.uk/publications/welfare-reform-mitigations-working-group-report>

The package of mitigation measures proposed by the Working Group and agreed by the Northern Ireland Executive includes: supplementary payments for those who will be adversely affected by the reforms such as carers, claimants with disabilities and ill health, households affected by the Benefit Cap and changes to tax credits, those affected by the new sanctions regime; a Discretionary Support Scheme to replace the Social Fund; and financial support for the independent advice sector in order to assist people through the change process.

<sup>242</sup> For example, supplementary payments for:

- Those who cease to receive contributory Employment Support Allowance (ESA) and are not entitled to income-based ESA;
- Those who, after assessment, qualify for Personal Independence Payment (PIP) at a reduced rate;
- Those who, after assessment, are judged to have no entitlement to PIP but score at least four points;
- Carers who lose Carer's Allowance if the person they care for does not, following assessment, qualify for Personal Independence Payment.

<sup>243</sup> Disability Living Allowance is a social security benefit specifically targeted at disabled adults and children to help them with extra costs associated with having a disability addressing care and support requirements of day-to-day living and mobility requirements. Persons with disabilities could apply for either or both the care component of mobility component of DLA. This allowance also provided a passport to other additional social security benefits such as increased unemployment benefit. This benefit has been replaced, with revised criteria for eligibility, by the Personal Independence Payment.

<sup>244</sup> Department for Social Development (April 2013): 'Welfare Reform Briefing Section 75 Update', (Belfast: DSD). Available at: [www.dsdni.gov.uk/welfare-reform-bill-section-75-update-april-2013.doc](http://www.dsdni.gov.uk/welfare-reform-bill-section-75-update-april-2013.doc)  
25% of those Disability Living Allowance recipients who will be reassessed before October 2015 will not be eligible for Personal Independence Payment and will receive no award while 32% will have their award decreased and 24% are expected to see an increase in their payments. The remaining 19% are expected

individuals adversely affected by incapacity benefit reform are expected to lose an average of almost £3,500 per year<sup>245</sup>.

The more stringent and frequent medical tests under PIP are based on a medical, rather than social model of disability. Further concerns have been raised in relation to the lack of an arrears system under PIP. For example, those wrongly held on remand do not qualify for their claim to be backdated for the entire period of their wrongful custody<sup>246</sup>. Although mitigating measures, by way of supplementary payments, have been agreed by the Northern Ireland Executive in respect of those who lose out in the transfer from DLA to PIP, these are limited to a duration of one year<sup>247</sup>.

### *Universal Credit*

It has been suggested that as a result of the transition to Universal Credit, disabled adults and children will receive less financial support from the social security system. For example, under this reform severely disabled people who do not have another adult to assist them will receive £28 to £58 less per week in care support<sup>248</sup>.

### *Housing benefit*

It is estimated that if the removal of the 'spare room subsidy' (also referred to as the 'bedroom tax')<sup>249</sup> is introduced, it will affect 32,000 households in

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to see no change. Beatty and Fothergill (see page 14 in reference 105 above) estimate that those losing out as a result of the changeover from DLA to PIP will lose an average of £2,000 per year.

<sup>245</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD', page 105. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>246</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD', page 105. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>247</sup> Welfare Reform Mitigations Working Group Report (January 2016), Op Cit.

<sup>248</sup> Byrne, B. et al. Op Cit.

<sup>249</sup> The removal of the 'subsidy' will reduce the amount of housing benefit paid to claimants living in social housing who are deemed to have surplus bedrooms - 14% for one bedroom and 25% for two or more.



Northern Ireland<sup>250</sup>. This measure has been criticised for failing to take into account that a spare room may be needed to accommodate equipment for a person with disabilities in the household. In 2013, the UN Special Rapporteur on Housing expressed deep concern at both the impact of the measure and stated that it could constitute a violation of the human right to housing<sup>251</sup>. Whilst one of the mitigation measures agreed by the Executive is that it will provide funding so that the 'bedroom tax' will not apply in Northern Ireland, this is on a time-limited basis (four years)<sup>252</sup> subject to review.

### *Work Capability Assessment*

The Work Capability Assessment measure, part of the welfare to work programme, is also likely to have an adverse impact on persons with disabilities<sup>253</sup>. There is evidence that persons with disabilities are being deemed by the government as fit for work and having their disability benefits reduced or removed<sup>254</sup>. Such circumstances arise at a time when the Government's welfare to work measure intended to support disabled

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Source: Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD – Draft Final Report 11 March 2014', page 145. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>250</sup> Northern Ireland Federation of Housing Associations and the Chartered Institute of Housing (5 April 2013): 'Bedroom tax will cost more than it will save, say experts'. Available at: [http://www.cih.org/news-article/display/vpathDCR/templatedata/cih/news-article/data/Bedroom\\_tax\\_to\\_cost\\_more\\_than\\_it\\_can\\_save](http://www.cih.org/news-article/display/vpathDCR/templatedata/cih/news-article/data/Bedroom_tax_to_cost_more_than_it_can_save)

<sup>251</sup> Press Statement by the United Nations Special Rapporteur on adequate housing: 'End mission to the United Kingdom of Great Britain and Northern Ireland, 29 August to 11 September 2013'. Available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13706&LangID=E>

<sup>252</sup> Welfare Reform Mitigations Working Group Report (January 2016), Op Cit, page 4.

<sup>253</sup> Department for Social Development (1 August 2012): News Release. 67% of Employment and Support Allowance appeals upheld in Department's favour. Therefore 33% of persons with disabilities in Northern Ireland have been wrongly assessed as fit for work and lost social security benefit. Available at: <http://www.northernireland.gov.uk/index/media-centre/news-departments/news-dsd/news-releases-dsd-august-2012/news-dsd-010812-esa-appeals-upheld.htm>

<sup>254</sup> Department for Social Development (1 August 2012): News Release. Available at: <http://www.northernireland.gov.uk/index/media-centre/news-departments/news-dsd/news-releases-dsd-august-2012>

people and other long-term unemployed people into work has failed to deliver against the Government's own targets<sup>255</sup>.

**Issues to consider: What further measures will be undertaken in Northern Ireland to:**

- (i) ensure that persons with disabilities currently in receipt of welfare benefits have an adequate standard of living for themselves and their families;**
- (ii) monitor the impact of welfare reform on persons with disabilities;**
- (iii) mitigate adverse impacts on persons with disabilities arising from welfare reform in the medium to long-term; and**
- (iv) increase the numbers of persons with disabilities entering work?**

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<sup>255</sup> House of Commons Committee of Public Accounts (13 February 2013): 'Department for Work and Pensions: Work Programme Outcome Statistics, Thirty-third Report of Session 2012-2013, report together with formal minutes and written evidence, conclusions and recommendations'. The report highlights the shortcomings regarding measures to secure access to employment for many disabled people, see pages 3-6. Available at:

<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/936/936.pdf>

See also research by Disabled Person's Organisation-Disability Rights UK (October 2013): 'Taking Control of Employment Support'. The Work Programme (welfare to work measure) in Great Britain, similar to the Steps to Work Programme due to be introduced in Northern Ireland, set a (modest) performance target: 16.5% of people on the out of work disability benefit Employment and Support Allowance should secure sustained employment through the programme. Government figures from July 2013 show only 5.3% of new Employment and Support Allowance claimants had secured employment (a 95% failure rate). The most optimistic projections suggest this might rise to 12% as the most recent recruits go the full course of the programme (a failure rate, at best, of 88%) - see paragraph 3.1, third bullet point, page 12. Available at:

<http://www.disabilityalliance.org/policy-campaigns/reports-and-research/taking-control-employment-support>

## Article 29: Participation in political and public life

The Northern Ireland Disability Strategy includes as Strategic Priority 1, a commitment to ‘Increase people with disabilities’ opportunity to influence policies and programmes in Government’<sup>256</sup>. However, it is difficult to comprehend how the action associated with this priority, ‘To invest in social enterprise growth to increase sustainability in the broad community sector’<sup>257</sup>, will adequately realise the requirements of Article 29.

### *Representation in public and political life*

With respect to participation in public and political life, the UK State Report contains no analysis of the participation of disabled persons in political life in Northern Ireland. However, persons with disabilities continue to be significantly under-represented on the boards of public bodies in Northern Ireland<sup>258</sup> and in political life<sup>259</sup>.

Independent evaluations<sup>260</sup> commissioned by the Equality Commission concluded that public authorities needed to do more to effect meaningful

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<sup>256</sup> Office of the First Minister and the deputy First Minister (2013): ‘A Strategy to improve the lives of disabled people 2012-2015’, page 15. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>257</sup> Office of the First Minister and the deputy First Minister (2013): ‘A Strategy to improve the lives of disabled people 2012-2015’, page 33. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>258</sup> Information on public appointments during the period 2015-16 indicates that 3% of applicants and appointees were disabled (compared to 25% of the population aged 16 and over who had a long-term health problem or disability which limited their day-to-day activities). Source: The Executive Office (2017): ‘Public Appointments Annual Report 2015/16’, pages 10 and 14. Available at: <https://www.executiveoffice-ni.gov.uk/publications/public-appointments-annual-report-northern-ireland-201516>

<sup>259</sup> Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): ‘Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD’, page 150. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

Banks, G., Hamilton, E. and Rooney, F. (2015): ‘Inequalities in Participation in Public Life in Northern Ireland’, page 227 (Belfast: Ipsos MORI for the Equality Commission for Northern Ireland).

<sup>260</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): ‘Disability programmes and policies:

engagement with disabled people in the development of policy. The evaluation found that a majority of public authorities had not provided appropriate evidence of meeting any of the framework indicators relating to the recruitment of people with disabilities to public life positions within formal and informal decision-making structures.

The draft delivery plan for Programme for Government Indicator 42, 'average life satisfaction score of people with disabilities', includes a number of commitments to improve the participation of persons with disabilities in public life. For example, commitments to work with the Executive Office and the Commissioner for Public Appointments NI with a view to increasing the number of people with disabilities in public appointments and to engage with stakeholders and local Councils to consider how disabled people can better participate in community life.<sup>261</sup> However, the plan has yet to be signed off in the absence of a functioning Northern Ireland Executive.

### **Issues to consider: What further actions will be undertaken to recruit people with disabilities to public life positions and to effect the meaningful participation of disabled people in the development of public policy?**

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How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities in Northern Ireland' (Belfast: Equality Commission NI). Available at:

<http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/UNCRPDmonitoringimplementationFullReport0112.pdf?ext=.pd>

Byrne, B., Harper, C., Irvine, R.S., Russell, H. and Fitzpatrick, B. (2014): 'Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD', page 151. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/UNCRPD-Disability>

<sup>261</sup> Northern Ireland Executive (2016): 'Draft delivery plan for Programme for Government Indicator 42, average life satisfaction score for people with disabilities', page 13. Available at:

<https://www.northernireland.gov.uk/publications/programme-government-delivery-plans>

## **Article 30: Participation in cultural life, recreation, leisure & sport**

The Northern Ireland Disability Strategy linked Article 30 with Strategic Priority 18, to 'Improve access to sports, arts, leisure and other cultural activities so that people with disabilities have equal access to community life'<sup>262</sup>. The Strategy linked Article 30 with a range of PfG commitments including programmes to develop obesity, the development of sports stadiums and the inclusion of social clauses in public procurement contracts.

### *Mainstreaming*

Despite a reference in the Northern Ireland Executive's submission to the UK Initial Report to the development of a Disability Mainstreaming Policy being implemented by Sports Northern Ireland<sup>263</sup>, there was no commentary within the Report on the participation of disabled people in sport in the region. An independent review<sup>264</sup> of the Mainstreaming Policy concluded that progress had been made in a number of areas including:

- a significant increase in investment in sports for disabled people; and
- the routine solicitation and inclusion of the views of people with disabilities within policy development for sport.

However, the report also noted that:

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<sup>262</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of disabled people 2012-2015', page 24. Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>263</sup> A state funded agency supported by the Department for Culture Arts and Leisure (DCAL).

<sup>264</sup> Sports Northern Ireland (April 2011): 'An Impact Review of Sport Northern Ireland Mainstreaming Disability Policy', Summary of Recommendations and Conclusions, pages 7 and 8 (Belfast: Sports Northern Ireland). Available at: <http://www.sportni.net/get-active/community-sport-publications/>

- there is no current data set which gives an accurate picture of participation either within the disability sports sector as a whole, or within specific disability groupings; and
- between 33-50% of organisations involved in the promotion and development of sport for people with disabilities in Northern Ireland have yet to embrace an inclusive approach.

The Northern Ireland Strategy for Sport and Physical Recreation 2009-2019<sup>265</sup>, omitted from both the UK Initial State Report and the Northern Ireland Executive's submission to that report, included commitments to increase the number of disabled people in sport and physical recreation, by 6% points against a 2011 baseline by 2019<sup>266</sup>.

The draft delivery plan for Programme for Government Indicator 42, 'average life satisfaction score of people with disabilities', includes a number of commitments to improve the participation of persons with disabilities in recreation, leisure and sport. For example, commitments to develop and deliver a disability sport action plan and to improve outdoor recreation opportunities for people with disabilities<sup>267</sup>. However, the plan has yet to be approved in the absence of a functioning Northern Ireland Executive.

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<sup>265</sup> The Department of Culture, Arts and Leisure (DCAL) (2009): 'Sports Matters Strategy - The Northern Ireland Strategy for Sport and Physical Recreation 2009-2019'. The Strategy aims to deliver an increase in the number of people with a disability who regularly participate in sport and physical recreation, (Belfast: DCAL). Available at: [http://www.dcalni.gov.uk/index/sport/sport\\_matters.htm](http://www.dcalni.gov.uk/index/sport/sport_matters.htm)

<sup>266</sup> Ibid, page 27.

<sup>267</sup> Northern Ireland Executive (2016): 'Draft delivery plan for Programme for Government Indicator 42, average life satisfaction score for people with disabilities', pages 13-14. Available at: <https://www.northernireland.gov.uk/publications/programme-government-delivery-plans>

## Issues to consider:

- (i) What actions will be taken to achieve a further significant increase in the participation of disabled people in sport in Northern Ireland; and**
- (ii) What arrangements will be made to monitor the effectiveness of these actions (including the collection of disaggregated data)?**

## Article 31: Statistics and data collection

The Northern Ireland Disability Strategy included a commitment from the Northern Ireland Executive to ensure that data sources were identified and developed to measure the outcomes of the Strategy and more widely the UNCRPD<sup>268</sup>. However, there were no references to Article 31 among the commitments made in the PfG.

A set of indicators was developed by the Northern Ireland Statistics and Research Agency for OFMdfM using data derived from the 2006 Northern Ireland Survey on Activity and Limitation and Disability Survey (NISALD)<sup>269</sup>. However, OFMdfM subsequently acknowledged that the baseline

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<sup>268</sup> Office of the First Minister and the deputy First Minister (2013): 'A Strategy to improve the lives of people with disabilities 2012-2015', page 31 (Belfast: OFMdfM). Available at: [https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm\\_dev/disability-strategy-2012-2015.doc](https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm_dev/disability-strategy-2012-2015.doc).

<sup>269</sup> The Northern Ireland Survey of Activity Limitation and Disability (NISALD) was a major study looking at the experiences and lifestyles of disabled people in 2006. The survey includes both adults and children in households and in communal establishments such as residential homes and long stay wards. The last time that a similar survey was conducted it was in 1989. The surveys aim was to provide information on the prevalence of disability and health limitations amongst adults and children as well as information on their experiences and circumstances. The development of the survey had input of the Promoting Social Inclusion Working Group (PSIWG) on Disability. This group included representatives from government departments, the disability sector and representation from the Equality Commission. Available at: <http://www.csu.nisra.gov.uk/NISALD%20Household%20Prevalence%20Report.pdf>

indicators proposed<sup>270</sup> have a number of shortcomings<sup>271</sup>. Despite the limitations of the NISALD survey, much of the data obtained has yet to be analysed although it remains relevant to many of the challenges people with disabilities face today<sup>272</sup>. IMNI has advised that the collection of data and statistics for the purposes of monitoring the Disability Strategy should include other appropriate surveys to provide base-line data against which time-series data can be collected in order to measure progress in the implementation of the key objectives set out in the Strategy<sup>273</sup>. Significant work is needed by the State Party to ensure data collection (including disaggregated data) and research is undertaken against all Convention articles.

The draft delivery plan for Programme for Government Indicator 42, 'average life satisfaction score of people with disabilities', includes a Commitment to a data development Agenda to (i) establish the prevalence of disability within the Northern Ireland population, by type and for all age

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<sup>270</sup> Office of the First Minister and the deputy First Minister (2013): 'Monitoring and Evaluation of the Disability Strategy 2012 -2015, Baseline Indicator Set – Information to Support and Evaluate 'A Strategy to improve the lives of disabled people 2012 -2015'', (Belfast: OFMdfm). Available at:

<https://www.communities-ni.gov.uk/articles/disability>

<sup>271</sup> Equality Commission for Northern Ireland (2015): 'Equality Commission Response to 'A Strategy to Improve the Lives of People with Disabilities 2012-2015' Annual Indicators Public Consultation Document issued by the Office of the First Minister and Deputy First Minister (OFMdfm)' (Belfast: ECNI). Available at:

<http://www.equalityni.org/consultationresponses?subject=Disability&type=NI%20Departments&year=All&page=2>

<sup>272</sup> Equality Commission for Northern Ireland (July 2012): 'Response to OFMdfm Consultation on 'A Strategy to Improve the Lives of Disabled People 2012-2015'', paragraph 188, page 55 (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/Delivering-Equality/Consultancy-responses?subject=Disability&type=All&year=2012>

<sup>273</sup> Equality Commission for Northern Ireland (July 2012): 'Response to OFMdfm Consultation on 'A Strategy to Improve the Lives of Disabled People 2012-2015'', paragraph 189, page 55, (Belfast: Equality Commission NI). Available at: <http://www.equalityni.org/Delivering-Equality/Consultancy-responses?subject=Disability&type=All&year=2012>



groups including children. (ii) develop an alternative measure to the LFS life satisfaction score<sup>274</sup>.

However, the plan has yet to be approved in the absence of a functioning Northern Ireland Executive.

**Issues to consider: What measures will be taken to:**

- (i) collect sufficient desegregated data relating specifically to people with disabilities (including children and young people) to ensure the effective design, implementation and delivery of the Disability Strategy in Northern Ireland; and**
- (ii) ensure appropriate data collection in Northern Ireland across all Convention articles?**

## **Article 46: Reservations and Interpretative Declarations**

IMNI does not believe reservations or interpretative declarations are appropriate in ratifying the Convention and we continue to call for the withdrawal of the three remaining reservations and the interpretative declaration.

### *Reservation re: Article 18 Liberty of Movement and Nationality*

The Review of the reservation by the Home Office in 2012 concluded that the reservation was necessary ‘to retain the right to apply immigration rules, to avoid creating an unnecessary new avenue to challenge immigration decisions due to the optional protocol, and to preserve the right

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<sup>274</sup> Northern Ireland Executive (2016): ‘Draft delivery plan for Programme for Government Indicator 42, average life satisfaction score for people with disabilities’, page 15. Available at: <https://www.northernireland.gov.uk/publications/programme-government-delivery-plans>

to safeguard the public purse from excessive demands which may be placed on it'<sup>275</sup>.

This reservation also appears to be out of step with the removal of the similar immigration reservation under the Convention on the Rights of the Child<sup>276</sup>.

IMNI considers that this reservation is so broad as to be incompatible with the object and purpose of the Convention and therefore in breach of Article 46. Furthermore, the reservation is not compliant with the principle of non-discrimination as set out in Article 5.

### *Reservation re: Article 24 Education*

IMNI considers the interpretative declaration<sup>277</sup> to be unnecessary. The Article sets out a progressively realisable right, not an immediate entitlement. The interpretative declaration has the potential to be incompatible with the Convention's object and purpose<sup>278</sup>, if the intention or

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<sup>275</sup> Hansard (22 March 2012) Home Office, The Minister for Immigration (Damian Green), Col 74WS.

<sup>276</sup> The reservation under Article 22 of the Convention on the Rights of the Child was withdrawn just after the examination of the third and fourth UK periodic reports in September 2008. It was in very similar terms to that proposed under the Disability Convention, as follows: "The United Kingdom reserves the right to apply such legislation, in so far as it relates to the entry into, stay in and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, and to the acquisition and possession of citizenship, as it may deem necessary from time to time." The redundancy of such reservations was pointed out by the NGO Justice some years ago in a review of UK reservations to international human rights instruments: "...reservations to human rights treaties are not necessary as human rights do not confer a right to immigration per se, they confer rights to have applications assessed fairly and to be treated properly in accordance with human rights principles" (<http://www.liberty-human-rights.org.uk/pdfs/policy02/interventions-dec-2002.pdf>).

<sup>277</sup> Interpretative Declaration: "The General Education System in the UK includes mainstream and special schools, which the UK Government understands is allowed under the Convention." Reservation: "The United Kingdom reserves the right for disabled children to be educated outside of their local community where more appropriate education is available elsewhere. Nevertheless, parents of disabled children have the same opportunity as other parents to state a preference for the school at which they wish their child to be educated."

<sup>278</sup> Article 46(1) of the Convention, restating the rule from Article 19 of the Vienna Convention on the Law of Treaties, states: "Reservations incompatible with the object and purpose of the present Convention

effect is to dilute the requirement on the state to strive progressively to ensure an inclusive education system<sup>279</sup>. The interpretative declaration appears to have the opposite effect to the UK's stated aim in the Explanatory Memorandum.

The United Kingdom is committed to continuing to develop an inclusive system where parents of disabled children have increasing access to mainstream schools and staff, which have the capacity to meet the needs of disabled children<sup>280</sup>.

Since the aim stated in the Explanatory Memorandum appears to accord with the requirements of Article 24 in respect of the progressively realisable right to inclusive education, the interpretative declaration is not needed in order to uphold the principle of parental choice in respect of the education of the child. Without the continued development of an inclusive

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shall not be permitted." In addition, "Where the effect of a declarative statement relating to a Convention is to exclude or modify the legal effect of the obligations in the Convention, it is considered to be a reservation, regardless of the label adopted by the state" (see *JCHR Report on the UN Convention on the Rights of Persons with Disabilities*, 4 January 2009, footnote 5). The Joint Committee earlier found that one of the UK reservations to the Convention on the Rights of the Child - the immigration reservation - "read literally would allow the Government to disapply the CRC rights so far as they relate to people who are subject to immigration control. In our view, that would be incompatible with the object and purposes of the CRC, and so would not constitute a valid reservation" (*Seventeenth Report of the JCHR on the Nationality, Immigration and Asylum Bill* at para 17, 21 June 2002). This reservation has now been removed.

<sup>279</sup> Article 24 of the Convention states: "In realising this right, states parties shall ensure that... [p]ersons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability; [p]ersons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live."

<sup>280</sup> This policy commitment also has a legislative basis; see e.g. the Special Educational Needs and Disability (Northern Ireland) Order 2005 (SENDO). It increased the rights of children with special educational needs to attend mainstream schools and introduced disability discrimination laws for the whole education system in Northern Ireland for the first time. The SENDO presumption is for attendance at mainstream school subject to parental wishes and the efficient education of other pupils. The interpretative declaration tends to undermine that approach and calls into question the long-term policy commitment under SENDO.

mainstream sector, to which the state is apparently already committed, the parents of a disabled child are likely to find their 'choice' to be more, rather than less, limited.

The Explanatory Memorandum states that the Convention "covers some matters which, under the UK's devolution settlements, are devolved, and the Devolved Administrations have an interest..."<sup>281</sup> Education is one of these devolved matters. In addition, the Equality Impact Assessment accompanying the Explanatory Memorandum states that:

'All Government Departments and the Devolved Administrations have had to consider whether their existing legislation, policies, practices and procedures are compliant with the requirements of the Convention...'<sup>282</sup>

IMNI understands that the Minister for Education for Northern Ireland did not consider any such interpretative declaration necessary in Northern Ireland and that the Minister did not endorse its application here. This calls into question the extent to which appropriate weight was given to the outcome of consultation with the devolved administrations in respect of such devolved matters<sup>283</sup>.

IMNI is aware that the need for inclusion of disabled children has already been the subject of recommendations to the UK from another treaty body. The Committee on the Rights of the Child recommended in September 2008 that the UK:

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<sup>281</sup> See paragraph 6.

<sup>282</sup> See para 12, Equality Impact Statement. The Explanatory Memorandum also states: "In working towards ratification, Departments and the [devolved administrations] have examined their legislation, policies, practices and procedures, notwithstanding the fact that the UK already has robust anti-discrimination and human rights legislation, to ensure that the UK is compliant" (para 12).

<sup>283</sup> The Minister for Disabled People told the JCHR on 18 November 2008: "It is for Departments to determine, just in the same way it is for devolved administrations to determine whether or not they have reservations"; see response to Q 38.

*‘...invest considerable additional resources in order to ensure the right of all children to a truly inclusive education which ensures the full enjoyment to children from all disadvantaged, marginalised and school-distant groups’<sup>284</sup>.*

IMNI considers the reservation to be equally unnecessary<sup>285</sup>. Article 24(c) makes it clear that only “reasonable accommodation of the individual’s requirements” must be provided, and therefore this does not give rise to an absolute right to specific provision at the local level for every individual irrespective of cost. Nevertheless, there is an onus on the state to demonstrate the steps it is taking to work towards full compliance with this progressively realisable right.

There are specific Northern Ireland concerns with regard to this reservation. The relatively small, and relatively dispersed, population in the region makes it less likely that the incidence of certain specific disabilities will be sufficient to result in specialist provision in close proximity to every child in need. This may, at times, mean that certain children currently have no option but to access specialist provision well outside of their locality and that can mean greater difficulty and expense than would be the case in other parts of the UK. Local provision is the aim under the Convention, and there are human rights implications in distant provision (notably concerning ECHR Article 8 rights in relation to respect for family life); however, so long

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<sup>284</sup> At paragraph 67(b). The Committee also expressed concern that “there is no comprehensive national strategy for the inclusion of children with disabilities into society” (para 52(a)).

<sup>285</sup> The terms of the reservation are unusual and the language is inappropriate: “The United Kingdom reserves **the right for disabled children** [emphasis added] to be educated outside of their local community where more appropriate education is available elsewhere. Nevertheless, parents of disabled children have the same opportunity as other parents to state a preference for the school at which they wish their child to be educated.” The Government is here reserving a position to itself, not granting a right to disabled children. In addition, the opportunity for parents to state a preference in relation to the school they wish their child to attend already exists, independently of any treaty, and does not need to be affirmed least of all by way of a reservation.

as reasonable adjustments are made for individual families to mitigate the impact, and so long as the overall momentum towards progressive realisation of local provision is maintained, these cases are not irreconcilable with the Convention right.

### *Reservation re: Article 27 Employment*

IMNI does not support a reservation in respect of employment in the armed forces,<sup>286</sup> and would like to see a review of the exemption in respect of the armed forces under the Disability Discrimination Act. Removal of the exemption would still permit the state to employ objective and necessary job criteria in respect of service in the armed forces, and to maintain its present practice of seeking where possible to recruit or retain people with disabilities by making reasonable adjustments.

**Issues to consider: That the UK should provide information about the measures taken to monitor and keep under review the reservations and interpretative declaration.**

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<sup>286</sup> The armed forces reservation is set out as follows in the Explanatory Memorandum: 'The United Kingdom ratification is without prejudice to provisions in Community law that Member States may provide that the principle of equal treatment in employment and occupation, in so far as it relates to discrimination on the grounds of disability, shall not apply to the armed forces. The United Kingdom accepts the provisions of the Convention, subject to the understanding that its obligations relating to employment and occupation, shall not apply to the admission into or service in any of the naval, military or air forces of the Crown'.