


# STATEMENT ON CHILDREN'S RIGHTS IN NORTHERN IRELAND 2

November 2020



The illustration features a central purple-outlined cloud-like shape containing the text "You have the RIGHT to know your RIGHTS!". Surrounding this central text are several hand-drawn elements: red hearts with diagonal stripes, a rainbow with a small house at its base, purple decorative swirls, and a large orange exclamation mark. Small orange dots are scattered throughout the white background.

You have the  
RIGHT  
to know your  
RIGHTS!

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# 1. FOREWORD

*“Childhood is not a preparation for life, childhood is life. A child isn’t getting ready to live – a child is living” – T Ripaldi*



Welcome to our second Statement on Children’s Rights in Northern Ireland (SOCRNI 2) where we have across a range of areas outlined how we believe our government has fulfilled its commitment to the United Nations Convention on the Rights of the Child (UNCRC). Article 6 (3) (a) of the NICCY legislation states that in determining how and when to exercise our function I must have regard to the role of parents in the lives of children and secondly, the UNCRC. By making this provision The Commissioner for Children and Young People (NI) Order, 2003 reminds us all that rights are not something that we can switch on and off when it suits us but are tangible and provide the framework which should govern the work that we all undertake. Government should never act without first considering whether their actions will help to realise a child’s rights or whether it will impede them. It also reminds us that children are not adults in waiting but active citizens in their own right.

Since 2018 NICCY has published two significant rights based reviews of Mental Health Services and Special Educational Needs in Mainstream Schools, as well as issuing advice on a range of issues. The Reviews have been very well received, with government accepting and actively working towards implementation of the overwhelming majority of recommendations.

When reflecting on the first SOCRNI published in June 2018, I raised concerns about how unprecedented times and the lack of a Northern Ireland Assembly and Executive for just over a year was having a detrimental impact on the lives of children and the possibility for better outcomes. This situation was exacerbated by the fact that 1 year turned into 3 and was further affected by the Covid pandemic. Today we are still waiting for the publication of the Children and Young People’s Strategy and the commencement of the SEND and Anti-Bullying Legislation that was passed in 2016. The list goes on.

In Northern Ireland we have unfortunately often been bystanders, watching as other jurisdictions on these islands have to varying degrees moved forward by publishing strategies, introducing new structures and passing legislation that has furthered children’s rights. It has sometimes felt like the children and young people of Northern Ireland were being left behind and becoming the poor forgotten relative.

In spite of this lack of policy and legislative progress, children, their communities, services and agencies have all demonstrated remarkable resilience and determination in making changes happen, where and whenever this has been possible.

The New Decade New Approach Deal that heralded the return of the institutions is a testament of the work and preparation that was undertaken. It outlines an ambitious programme for addressing many of the issues we outlined in SOCRNI (2018) and in other NICCY publications.

This second SOCRNI is being published later than anticipated because of the Covid-19 pandemic and the devastating impact it has had, and continues to have, on all our lives. We have provided an early analysis of how we believe the pandemic has impacted different aspects of our children's lives. There are obvious areas such as its effect on young people's education but there is still a lot of work to do to understand its full and longer term impact and identifying any lessons to be learned.

As we begin preparations for the 6th Periodic Reporting of the UK Government to the UN Committee on the Rights of the Child our government in NI must continue to build on the focussed and partnership approach they developed in the early stages of the pandemic.

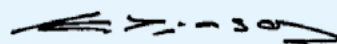
Whilst progress towards the realisation of rights for children and young people in Northern Ireland has been infuriatingly slow, there has been some very welcome changes. High amongst this is the announcement by

the NI Assembly of its intention to establish a Northern Ireland Youth Assembly by April 2021. Another is the fact that stigma directed towards mental ill-health is beginning to be dismantled, in no small part due to the strong advocacy shown by young people. There is also a commitment to explore educational disadvantage, including for children with Special Educational Needs (SEN).

In 2019, we celebrated the 30th Anniversary of the UNCRC which provided the opportunity to reaffirm our commitment to children's rights. It was reassuring and indeed very encouraging that so many public bodies, different organisations, groups and political parties actively embraced and acknowledged this important milestone with us.

We have in recent years seen children and young people continue to find their voice as Rights Defenders. Young people are no longer waiting to be asked, they are taking the initiative and demanding real change on the issues that most affect them. They have taken the lead in protecting the environment, in changing attitudes to mental health and getting fairness in examinations.

I hope that you find SOCRNI 2 a helpful reference when seeking to progress children's rights in Northern Ireland. We all have a role to play as Rights Defenders.



**Koulla Yiasouma**

Northern Ireland Commissioner  
for Children and Young People  
November 2020



## 2. EXECUTIVE SUMMARY

### NICCY'S Mission:

*'To safeguard and promote the rights and best interests of children and young people'*

Welcome to our 'Statement on Children's Rights in Northern Ireland 2' (SOCRNI 2) 2020. Our first Statement on Children's Rights was issued in the 70th anniversary year of the Universal Declaration on Children's Rights and is quoted in the preamble to the United Nations Convention on the Rights of the Child (the 30th anniversary of which we celebrated last year), acknowledging that:

*'the inherent dignity and... the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world'.*

**NICCY's Mission** is grounded in the UNCRC and is:

*'To safeguard and promote the rights and best interests of children and young people'*

This 'Statement' is produced in a context which has seen significant change since the last publication. The Northern Ireland Assembly and Executive were 'restored' in January 2020 and a 'New Decade, New Approach'<sup>1</sup> (NDNA) agreement, outlining a series of priorities and ambitions for a reformed Executive and Assembly over the remaining two years of this mandate<sup>2</sup>, was put in place. However, the advent of the 'Covid-19' pandemic in March 2020 has meant the NI Executive has had to refocus in responding to an unprecedented situation,

redeploying resources – human, financial and physical – to address this public health crisis. NICCY has continued its work while recognising the scale and unique challenges faced by our Government, Public Authorities and the whole of society.

We are also in the final, somewhat fraught months, of the transition year following the UK's exit from the EU. The UK Government's Internal Market Bill has caused grave concern in regard to rights protections and safeguards, viewed as vital for stability in Northern Ireland. At time of writing, talks continue on the UK's future relationships with the EU.

NICCY's second 'Statement' includes reflection on each key priority; these are prefaced with the relevant UNCRC Articles, the UN Committee's Concluding Observations, followed by the current context in respect of children's rights, followed by NICCY's Calls to Government. On reading through, it will become clear that there is much to be done to address, and indeed redress issues in education, mental health, child poverty, youth justice, safeguarding, age discrimination, as well as the broader societal issues of the legacy of the conflict and 'Brexit'. We have also delayed publication to reflect the emerging impact of 'Covid-19' on Children's and Young People's Rights, their lives and access to services.

<sup>1</sup> <https://commonslibrary.parliament.uk/northern-ireland-assembly-new-decade-new-approach/>

<sup>2</sup> NICCY welcomes the NDNA commitment to a multi-year Programme for Government (PfG) and multi-year Budgets.

In parallel with 'SOCRNI 2' and in line with NICCY's duty to monitor rights compliance and delivery of services for children and young people by relevant authorities, we are also publishing our 'Monitoring Table'. This outlines Northern Ireland Government Departments' progress on the UN Committee's 2016 Concluding Observations against which all have provided input. The table includes associated commentary from NICCY and is available separately on our website at [www.niccy.org/SOCRNI2](http://www.niccy.org/SOCRNI2).

As always, we have continued to ensure the participation of children and young people has informed our work and have supported members of our NICCY Youth Panel in producing a young person's version and videos to accompany this document. Links to this and other NICCY Reports and documents are provided throughout this Report.

Given the challenging contexts of an ongoing global public health crisis, the increasing uncertainty about the outcome of the UK's EU withdrawal and potential reduction of rights protections and safeguards, it is more important now than ever that we monitor developments, scrutinise legislative and policy changes to address rights breaches and hold Government and relevant authorities to account, where these adversely impact on the lives and outcomes of our children and young people. We will be following up on NICCY's 'Calls to Government', an integral part of our mission to safeguard and promote the rights and best interests of children and young people.



**Mairéad McCafferty**  
Chief Executive  
November 2020

Article 31  
we all have the right to rest  
and play.



### 3. STATUTORY DUTIES AND POWERS



## NICCY'S STATUTORY DUTIES

### PROMOTE

Awareness and Understanding of the Rights and Best Interests of Children & Young People

Awareness of Function / Location of the Commissioner and how to contact NICCY

Art 7(1), (5) (a) Order

### MONITOR & REVIEW

The Effectiveness of Law and Practice

The Adequacy and Effectiveness of Services

Art 7(2) & (3) Order

### ADVISE & COMMUNICATE

Advise Government and Relevant Authorities

Communicate effectively with Children and Young Persons and their Parents

Seek Views of Children & Young People

Art 7(4) & (5) Order

## NICCY'S STATUTORY POWERS

### UNDERTAKE COMMISSION, CHALLENGE

Research or educational activities concerning the Rights or Best Interests of Children and Young Persons or the exercise of Functions

Conduct Investigations as considered necessary or expedient to meet statutory duties

Compile information, provide Advice and publish any matter (including educational activities, investigations and advice) concerning their Rights and Best Interests

Art 8(1) & (3) & (5)

### ISSUE GUIDANCE, MAKE REPRESENTATIONS

In relation to any matter concerning the Rights or Best Interests of Children or Young Persons

Make representations or recommendations to any Body or Person relating to the Rights and Best Interests of Children and Young Persons

Art 8 (2) & (6)

### ADDRESS RIGHTS BREACHES, ADVOCACY

Assist with Complaints to / or against Relevant Authorities


Bring, Intervene in, or Assist in, Legal Proceedings

Art 11, 12 & 14



## 4. UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

The United Nations Convention of the Rights of the Child (UNCRC) is a set of minimum standards that the UK Government and its devolved administrations have committed to upholding for all children, through ratification of the Convention. Last year we celebrated its 30th Anniversary with a day long series of children's and young people's activities culminating in them achieving the status of 'Child Rights Defenders'.



## UN Day of General Discussion

### Protecting and Empowering Children as Human Rights Defenders

Submission from:

Northern Ireland Commissioner for Children and Young People  
Equality House  
7-9 Shaftesbury Square  
Belfast  
BT2 7DP

T: 028 9031 6397  
E: [info@niccy.org](mailto:info@niccy.org)  
W: [www.niccy.org](http://www.niccy.org)

1

In September 2018 (following issue of our first SOCRNI), we made a submission to the UN Committee for their 'Day of General Discussion' on 'Protecting and Empowering Children as Human Rights Defenders', and also facilitated young people from N. Ireland to submit their own paper and to attend on the day.





## ***“Protecting and Empowering Children as Human Rights Defenders”***

The 4 principles of the Convention are contained in the following articles:

- ▶ **Article 2** – Right to non-discrimination on any grounds;
- ▶ **Article 3** – Best interests of the child being of paramount consideration;
- ▶ **Article 6** – Right to life and development to the child's maximum potential; and
- ▶ **Article 12** – Right of the child to have their views heard and taken into account in decisions which affect their lives.

Under NICCY's legislation<sup>3</sup> in exercising the functions, i.e., the duties and powers of the Office (set out earlier), the Commissioner has to have regard to all relevant provisions of the UNCRC. The UNCRC is viewed as the most complete international Human

3 The Commissioner for Children and Young People (Northern Ireland) Order 2003

Rights Convention covering as it does, civil, political, social and economic rights. As such NICCY has been calling for its 'domestic' incorporation for many years; most recently at the evidence session to the Ad Hoc Committee on a Bill of Rights for Northern Ireland<sup>4</sup>.

The 2016 Concluding Observations of UN Committee on the Rights of the Child includes that to:

*'Expedite bringing in line with the Convention its domestic legislation, at the national and devolved levels and in the overseas territories and the Crown dependencies, in order to ensure that the principles and provisions of the Convention are directly applicable and justiciable under domestic law;'*<sup>5</sup> 7(a).

As stated earlier, in line with our monitoring role, we had requested that NI Government Departments input in relation to progress on the areas for which they are responsible – individually and collaboratively – to our 'Monitoring Table'. Our commentary has subsequently been added to this and this has been published as stated, on our website at [www.niccy/SOCRNI2](http://www.niccy/SOCRNI2).

The process for the examination of the UK's next (6th) Periodic Report to the UN Committee on the Rights of the Child is underway. NICCY, along with our counterpart Children's Commissioners in the other 3 UK jurisdictions, have submitted a 'List of Issues' Report to the Committee on 1st November 2020.



#### NICCY Monitoring Table UNCRC Committee's – Concluding Observations 2016 [Northern Ireland]

In compliance with the Commissioner for Children and Young People Order (2003) Northern Ireland, NICCY has a duty (under Articles 7 (2) and (3) to keep under review the adequacy and effectiveness of law, practice and services for children and young people in this jurisdiction. In fulfilling these functions the Commissioner has to have regard to the United Nations Convention on the Rights of the Child. Following the 5<sup>th</sup> periodic examination of the UK State Party in 2016, we will be monitoring progress on delivery and implementation of the Committee's Concluding Observations and Recommendations by Northern Ireland's Government. To this end we requested that Government Departments input to this monitoring table on areas of responsibility and we are grateful to the Department of Education for collating this across departments. We have also provided commentary throughout as necessary. It is our intention that such monitoring be carried out in parallel with our 'Statement on Children's Rights in NI' publication.

NB: This Monitoring Table is issued with the following caveat from Department of Education Permanent Secretary on behalf of NI Government Departments, "responding to the concluding observations is the responsibility of the Northern Ireland Executive and in the absence of Ministers, therefore, Departments cannot provide an update on how they have responded to or plan to respond to the concluding observations. The information in the table therefore represents the position in relation to the issues raised by the UN Committee in its report, and the relevant work that is being taken forward, but the work has not been initiated in response to the concluding observations and should not be interpreted as such".

<sup>4</sup> New Decade, New Approach Agreement (January 2020) contained a commitment to setting up a Committee on the Bill of Rights for NI.

<sup>5</sup> Para 7a, CRC/C/GBR/CO/5, 12 July 2016.



FOR Every child HAS Every  
RIGHT!





# ARTICLE 12

The right to have a say  
in matters that affect you.



## 5. THE CHILDREN'S SERVICES CO-OPERATION ACT

The Children's Services Co-operation Act (Northern Ireland) 2015 (CSCA) is the most significant legislative development relating to children in Northern Ireland in recent years. It provides a statutory framework to improve the wellbeing of our children and young people within a rights based context.<sup>6</sup> The eight outcomes set out in Section 1 of the legislation defines the well-being of children and young people. They are:

- Physical and mental health;
- The enjoyment of play and leisure;
- Learning and achievement;
- Living in safety and with stability;
- Economic and environmental wellbeing;
- The making by them of a positive contribution to society;
- Living in a society which respects their rights; and
- Living in a society in which equality of opportunity and good relations are promoted between persons who share a relevant characteristic and persons who do not share that characteristic.

Significantly in determining such meaning, regard is to be had to any relevant provision of the UNCRC<sup>7</sup>.

The Act places obligations on Government Departments and Agencies to co-operate with each other in order to contribute to the improvement of the specified wellbeing outcomes. It places a further statutory obligation on Government to adopt a **Childrens and Young Peoples Strategy**, outlining how this will be achieved.

Section 3 of the CSCA states the NI Executive must set out in its Children and Young Peoples Strategy (CYPS), how it intends to improve the well-being of children and the actions to be taken by Northern Ireland Departments, Children's Authorities and Children's Services Providers to realise those outcomes.

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<sup>6</sup> [www.legislation.gov.uk/nia/2015/10/contents/enacted](http://www.legislation.gov.uk/nia/2015/10/contents/enacted)

<sup>7</sup> Section 1(4) reiterates that in determining the meaning of wellbeing for the purposes of the CSCA – regard is to be had to any relevant provision of the UNCRC (Gen' Ass' resol' 44/25 20.11.1989).





## **6. THE CHILDREN AND YOUNG PEOPLE STRATEGY 2020-2030**

Article 4 of the UNCRC states that:

*'States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.'*<sup>8</sup>

Subsequently, the UN Committee's General Comment No. 5 on 'general measures of implementation' of the Convention, states the need for a 'National Action Plan for Children'. The Northern Ireland Executive's Ten Year Children and Young People Strategy is viewed as such for this jurisdiction. While NICCY (and others) provided extensive advice on the Strategy, it has not yet been published<sup>9</sup>. This is due in part to the 3 year 'hiatus' when NI had no Assembly or Executive in place until earlier this year. Since the Institutions have been restored and the emergency response to the Covid-19 pandemic has subsided somewhat, it is envisaged that the Strategy will now be published following the necessary NI Executive approvals.

Further Article 4 also states:

*'With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources...'*<sup>10</sup>

The CSCA puts a duty on all key agencies to co-operate in the planning, commissioning and delivery of children's services; it also creates an 'enabling' power to allow departments to pool resources to address crosscutting children's issues. Addressing children's rights breaches in Northern Ireland will in many instances, require the cross-departmental and cross-agency measures envisaged in the CSCA.

Work on the development of the Strategy's 'Delivery Plan' and 'Participation Mechanisms' has now resumed. NICCY continues to advise and monitor same having also addressed with the Minister for Education whose department has lead responsibility for driving this forward.

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8 [www.ohchr.org/en/professionalinterest/pages/crc.aspx](http://www.ohchr.org/en/professionalinterest/pages/crc.aspx)

9 Section 10 of the CSCA stated that the first Strategy was to be laid before the NI Assembly prior to the end of the 12 month period, beginning on the day the CSCA received Royal Assent, i.e. by 9th December 2016.

10 [www.ohchr.org/en/professionalinterest/pages/crc.aspx](http://www.ohchr.org/en/professionalinterest/pages/crc.aspx)





## 7. NICCY'S KEY CHILDREN'S RIGHTS PRIORITIES



As part of identifying key priorities, we engaged with a range of stakeholders to develop our triennial Corporate Plan; this covered the period of 2017-'20. From this we developed our Annual Business Plans while retaining flexibility to respond to new and emerging issues in Children's Rights. Currently we have 9 key priority areas of work, these are:

- ▶ **7.1** Educational Inequalities;
- ▶ **7.2** Mental Health;
- ▶ **7.3** Child Poverty;
- ▶ **7.4** Safeguarding;
- ▶ **7.5** Youth Justice;
- ▶ **7.6** UK Withdrawal from the EU - 'Brexit';
- ▶ **7.7** Legacy of the Conflict;
- ▶ **7.8** Participation;
- ▶ **7.9** Challenging Discrimination in:
  - Access to Goods, Facilities and Services proposed legislation;
  - Mental Capacity legislation; and
  - Equal Protection.

The following sections address each of these in turn.



## 7.1 EDUCATIONAL INEQUALITIES

Articles 28 and 29 of the UNCRC relate to the child's right to education:

#### **Article 28**

1. States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
  - (a) Make primary education compulsory and available free to all;
  - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
  - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
  - (d) Make educational and vocational information and guidance available and accessible to all children; and
  - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and

technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

#### **Article 29**

1. States Parties agree that the education of the child shall be directed to:
  - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
  - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
  - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own;
  - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; and
  - (e) The development of respect for the natural environment.
2. No part of the present Article or Article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given

in such institutions shall conform to such minimum standards as may be laid down by the State.

The 2016 Concluding Observations made a number of recommendations about education. The Committee recommended that the Government:

- (a) Enhance its efforts to reduce the effects of the social background or disabilities of children on their achievement in school and to guarantee the right of all children to a truly inclusive education in all parts of the State party, including for newcomer children without experiences of formal education. In this regard, closely monitor and if necessary, regulate the establishment and management of academies and free schools in England, and abolish the practice of unregulated admission tests to post-primary education in Northern Ireland;
- (b) Use the disciplinary measure of permanent or temporary exclusion as a means of last resort only, forbid and abolish the practice of “informal” exclusions, and further reduce the number of exclusions by working closely with social workers and educational psychologists in school and using mediation and restorative justice;
- (c) Ensure that children have the right to appeal against their exclusion, and are provided with legal advice, assistance and, where appropriate, representation for those without means;

- (d) Abolish the use of isolation rooms;
- (e) In Northern Ireland, actively promote a fully integrated education system and carefully monitor the provision of shared education, with the participation of children, in order to ensure that it facilitates social integration;
- (f) Taking note of Sustainable Development Goal 4, Target 4.2 on access to quality early childhood development services, allocate sufficient human, technical and financial resources for the development and expansion of early childhood care and education, based on a comprehensive and holistic policy of early childhood development, with special attention to the children in the most vulnerable situations; and
- (g) Make children’s rights education mandatory.<sup>11</sup>

## Context

Over the last number of years, Northern Ireland’s school population has continued to rise and diversify. Latest school enrolment data reports almost 349,000<sup>12</sup> pupils in all funded schools in Northern Ireland. Almost 174,000 pupils are in primary schools<sup>13</sup> (Year 1–7) and just over 145,000 pupils are in post-primary schools. Over 63,000 children attend Grammar Schools and almost 82,000 attend non-Grammar Schools. Furthermore, there are:

- 23,760 children in funded pre-school education;
- Over 24,000 who attend integrated schools (7% of pupils);
- Over 6,800 pupils who participate in

<sup>11</sup> Para 73, CRC/C/GBR/CO/5, 12 July 2016.

<sup>12</sup> NI Statistical Bulletin 3/2019 Enrolments at schools and in funded pre-school education in Northern Ireland 2019/20, Department of Education, 3rd March 2020. Available at: [www.education-ni.gov.uk/sites/default/files/publications/education/revised%203rd%20March%202020%20-%20Annual%20enrolments%20at%20schools%20and%20in%20pre-school%20....pdf](http://www.education-ni.gov.uk/sites/default/files/publications/education/revised%203rd%20March%202020%20-%20Annual%20enrolments%20at%20schools%20and%20in%20pre-school%20....pdf)

<sup>13</sup> *Ibid.*

funded Irish medium education, with nearly 5,500 pupils educated in dedicated Irish medium schools and pre-school settings and more than 1,400 pupils educated in Irish medium units attached to English-medium schools;

- 666 pupils enrolled in Education Other Than at School (EOTAS) centres in October 2019. This includes pupils who are dual registered with a mainstream school. Just 54 pupils are 'single registered' at EOTAS centres; this means that they no longer have a link to a mainstream school; and
- Nearly 97,000 pupils in Northern Ireland are entitled to free school meals. This represents three in ten of all pupils.<sup>14</sup>

Schools continue to be increasingly ethnically diverse with a year on year rise of pupils whose first language is not English. School enrolment data<sup>15</sup> identifies 17,391 newcomer pupils which accounts for 5% of the school population. This represents a rise of almost 5,500 pupils over the last five years. In 2019/20, there were approximately 89 first languages spoken by pupils, with Polish and Lithuanian being the most common behind English.<sup>16</sup>

There are growing numbers of children with special educational needs (SEN). In Northern Ireland over 67,000 pupils have some form of SEN, representing almost 20% of the entire school population. 5.5% of these have a statutory statement of SEN. 6,174 children are educated in 39 dedicated special schools.

NICCY previously called on Government to ensure that all children and young people in Northern Ireland enjoy their right to an effective education by:

1. Ending the educational attainment gap between specific groups of children and young people;
2. Removing all barriers to every child's full participation in, and access to, a child rights compliant education system, including supporting LGBTIQ+, newcomer, children in care and children with SEN, and addressing the costs of education to families;
3. Ensuring that the focus of education is on the development of every child's talents, skills and abilities as well as academic achievement; promoting children's wellbeing and measuring same; and
4. Having an urgent debate and consultation on how we fund education in Northern Ireland, and whether resources can be identified, streamlining the education system and reducing duplication, to ensure that all children have access to an effective education regardless of their circumstances.

It is NICCY's view that little progress has been made in enacting the Commissioner's 2018 SOCRNI recommendations. Inequalities are ever present in Northern Ireland's education system and many groups of children and young people continue to face significant impediments to accessing a high quality education in line with Articles 28 and 29 of the UNCRC. The following paragraphs further consider the predominant issues impacting on children's right to education in Northern Ireland.

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<sup>14</sup> *Ibid.*

<sup>15</sup> Department of Education, Education data infographics 2019/20

<sup>16</sup> NI Statistical Bulletin 3/2019 Enrolments at schools and in funded pre-school education in Northern Ireland 2019/20 Department of Education 3rd March 2020.



## Barriers to an effective education for all children and young people

As Northern Ireland's school population increases and diversifies, the inequalities in educational attainment become ever more pronounced. Specific groups of children and young people are much more likely to do worse in education dependent on specific issues/characteristics and/or circumstances. This includes children in care; Roma and Traveller children; newcomer children; children with a disability, children with additional needs, children from economically disadvantaged backgrounds, and those entitled to free school meals. Evidence<sup>17</sup> shows that there are additional groups at risk of underachieving in education and these include working class boys, children out of school, e.g., in Education Other Than at School, Community and Statutory Alternative Education Providers, informally excluded, children in hospital, children in Woodlands Juvenile Justice Centre and possibly children educated at home, although very limited data exists on this group.

Despite repeated calls by NICCY for the removal of barriers that prevent all children and young people from realising their right to an effective education, there remains a multitude of issues that prevent every child's full participation in, and access to, a child rights compliant education system. During a celebration event to mark the 30th Anniversary of the UNCRC, 133 primary and 57 post-primary pupils voted on the most significant barriers that they believe are stopping children and young people from achieving their right to education. The biggest issues, identified by both primary and post-primary pupils, included:

- The pressure put on young people to do well in exams;
- The cost of education for families;
- Academic selection;
- Children and young people not having a voice in schools about the issues that affect them; and
- Insufficient mental health and well-being supports in schools.

NICCY remains ever committed to ensuring that the right to an effective education is realised for all children and young people, and calls for Government to systematically address the endemic barriers identified by children and young people. This must involve addressing the issues preventing every child's full participation in, and access to, a child rights compliant education system.

### Further exploration of the barriers to an effective education for children with SEN in mainstream schools

'Too Little, Too Late',<sup>18</sup> NICCY's Rights Based Review of Special Educational Needs (SEN) Provision in Mainstream Schools in Northern Ireland, was published on the 31st March 2020. This provides a comprehensive outline of the significant flaws in the education system which have presented barriers for children and young people with SEN in mainstream schools from fully realising their right to an effective education. Specific barriers include:

- Lack of early assessment, identification of need, and subsequent provision of supports, compounded by the imposition of quotas or time allocation relating to the number of children that schools can refer for assessment by the Education Authority's (EA) Educational Psychology Service;
- Timeliness and effectiveness of the statutory assessment and statementing process;

<sup>17</sup> NICCY (July 2017) – Educational Inequalities and Inclusion Position Paper. Available at: [www.niccy.org/publications/2017/august/02/educational-inequalities-position-paper](http://www.niccy.org/publications/2017/august/02/educational-inequalities-position-paper)

<sup>18</sup> NICCY (March 2020) 'Too Little, Too Late', A Rights Based Review of Special Educational Needs Provision in Mainstream Schools. Available at: [www.niccy.org/senreviewreports](http://www.niccy.org/senreviewreports)

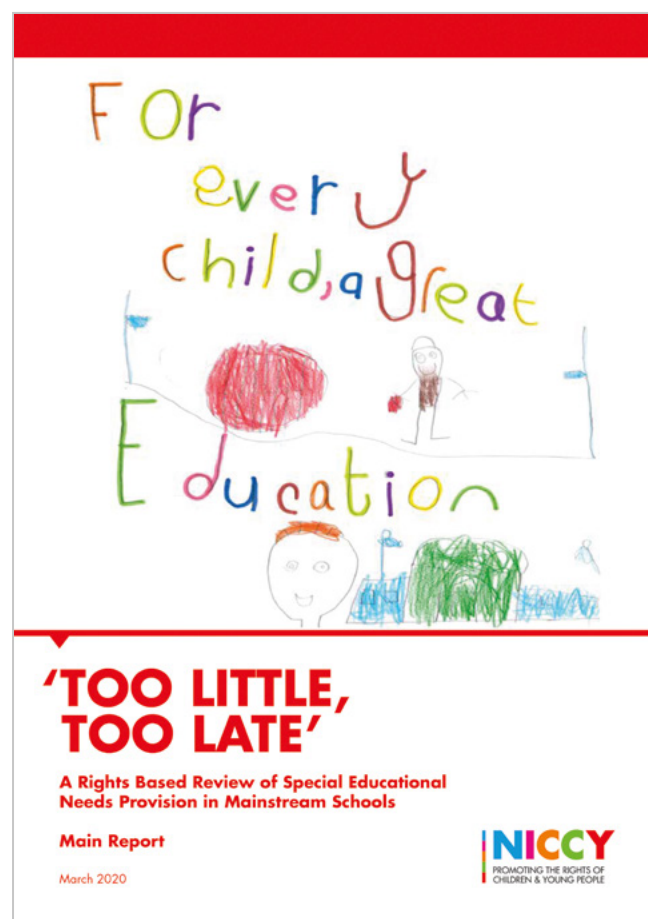
- Insufficient capacity and resource in schools to meet the rising numbers of children with SEN in mainstream settings and the diversity of need in schools;
- Poor quantity, quality and accessibility of supports for children at all stages of the SEN process;
- A lack of transparency in the SEN system, specifically with the statutory assessment process and the criteria for identifying and establishing the relevant provision for children with SEN in mainstream settings;
- A lack of clear and comprehensible information for parents/carers and other stakeholders from both the EA and schools at different stages of the SEN process;
- A lack of effort and opportunity provided by schools and services to involve children and young people, and their parents, in the SEN process; and
- Poor coordination and communication between education and health in relation to the initial identification and diagnosis, assessment and implementation of support needs, and the ongoing monitoring procedure in support of the child's and family needs.

The Review revealed a system under extreme pressure, unable to respond to the scale of need and the complexity of issues that children are presenting. It yielded much evidence of the detrimental impact on children's education, and mental health and wellbeing, when their needs are not met. It also highlighted the frustrations of many parents and professionals in trying to get their voices heard by an education system that has, to date, consistently demonstrated an inability to prioritise and respect the perspective of these key stakeholders.

Challenges in the system have been further exacerbated by extensive delays in the implementation of the new policy and legislative framework for SEN in Northern Ireland. NICCY recognises that the new SEN Framework provides an opportunity

for systemic improvements to be made, and that the revised Regulations and new Code of Practice are vehicles through which the recommendations from 'Too Little, Too Late' can be actioned. The New SEN Framework must be commenced as a matter of priority.

The Review set out 40 recommendations to address the fundamental weaknesses in the system. Since the publication of the report, there has been welcome acknowledgment by the relevant authorities of the systemic improvements required to meet the needs of these children, and commitments given to address the critical issues identified by NICCY's Review. NICCY will continue to closely review, monitor, and report on the progress made by relevant authorities in implementing the recommendations. It is essential that all barriers are removed to enable children and young people with SEN and disability to fully enjoy their right to an effective education.



## Prioritising children and young people's well-being in school

It is unclear whether children and young people in Northern Ireland are getting an effective education in line with Article 29(1) of the UNCRC, as there are no measurements of long term educational outcomes which relate to the development of the personality, talents and abilities of individual children as required under Article 29(1) of the UNCRC. While data on educational outcomes is available from the Department of Education (DE) and other sources, this tends to focus almost exclusively on the educational attainment of young people in GCSE and A Level examinations. It is essential that the education system stops using academic achievement as the sole measure of school achievement and transition. The achievement of a child rights compliant education system in Northern Ireland requires a broader examination of outcomes in education which encompass the, 'distance travelled' by each individual child. This should include a clear focus on the development of the personality, talents and skills of all children in education in Northern Ireland.

NICCY has previously called on the Minister for Education, as lead in the Department with oversight and implementation responsibility for the Children's Services Co-operation Act, to make a public commitment to the Act and the obligations within it by making a commitment to the improvement of child well-being. This should include the prioritisation of emotional health and well-being in schools, and the implementation of a measure of well-being across all schools in Northern Ireland.

Some progress has been made by DE in the development of a well-being measure. In 2015, the Programme for International Student Assessment (PISA)<sup>19</sup> study included

a voluntary wellbeing survey that ran alongside the traditional measures of student academic performance in Maths, Science and English. Students in Northern Ireland participated in both strands of PISA and, in 2016, findings from the wellbeing survey, which consisted of 69 questions on health and wellbeing completed by over 5,000 15 year olds, were produced by DE. In order to supplement these findings, DE more recently commissioned ARK to include a module of questions using some of the same scales that were used in PISA in the Young Life and Times (YLT) and Kids' Life and Times (KLT) surveys in 2018. Whilst this is a useful starting point, the wellbeing measurement should be carried out with all children, not just 11 and 16 year olds through the YLT and KLT surveys.

It is also imperative that the education system fulfils its key role in building mental health literacy and mainstreaming mental health issues in schools, as highlighted by NICCY's Rights Based Mental Health Review, 'Still Waiting'<sup>20</sup>. This Review revealed a lack of support for young people (and their parents/carers) to develop awareness and literacy around emotional well-being and mental health. It recommended the adoption of a consistent regional approach to educating children, and normalising conversations about mental health and emotional well-being, as vital parts of a system in which prevention and early intervention are prioritised. It also highlighted the need for mandatory mental health training for all teachers in schools, and better working arrangements between schools and Child and Adolescent Mental Health Services (CAMHS).

Some action has been taken to address these issues. For instance, the Emotional Health and Wellbeing Framework for children and young people is expected to be finalised at the end

<sup>19</sup> PISA: [www.oecd.org/pisa/](http://www.oecd.org/pisa/)

<sup>20</sup> NICCY (September 2018) Still Waiting. Available at: [www.niccy.org/media/3114/niccy-still-waiting-report-sept-18-web.pdf](http://www.niccy.org/media/3114/niccy-still-waiting-report-sept-18-web.pdf).

of 2020. This is a positive move forward and, with appropriate support to schools and commitment by all relevant parties to the Framework's successful implementation, should result in improvements in mental health awareness and literacy, and alleviate mental health difficulties in schools.

NICCY recognises that some progress has been made in addressing our previous call to ensure that the focus of education is on the development of every child's talents, skills and abilities as well as academic achievement. However, much more work is required to combat the range of issues that continue to negatively impact on children and young people's wellbeing in schools. This must include a review of the adequacy of school counselling and an extension of the Independent Counselling Service for Schools (ICSS) to primary schools.

### Addressing bullying in schools

A recent scoping report <sup>21</sup> by the National Children's Bureau (NCB), commissioned by DE and the Public Health Agency (PHA) to inform its emotional health and wellbeing framework, reiterated the role of schools in promoting positive wellbeing and in identifying mental health concerns. It found that schools that involve the whole school community in building good mental health and wellbeing see the greatest results in terms of improved wellbeing in later life.

The report identified the pressure on children and young people to achieve academically, and social media, as amongst some of the issues negatively affecting children and young people's wellbeing. It also reflected findings from the EA's Regional Assessment of Need, 2018. A significant part of this research by EA involved a survey of over 11,000 children and young people, aged 4-25; findings showed a range of top issues as outlined in the table below.

As depicted in the table below, the report identified bullying as amongst the key issues facing pupils in Northern Ireland, with respondents aged 9 – 13 years reporting it as the biggest issue. In its scoping report<sup>22</sup>, NCB identified newcomer children and LGBTIQ+ children to be at particular risk of bullying.

In its 2016 Concluding Observations, the Committee on the Rights of the Child recommended that Government:

*"Intensify its efforts to tackle bullying and violence in schools, including through teaching human rights, building capacities of students and staff members to respect diversity at school, improving students' conflict resolution skills, conducting regular monitoring of incidences of bullying at school, and involving children in the initiatives and monitoring aimed at eliminating bullying"* <sup>23</sup>

Age group	All respondents	Age 9-13	Age 14-25
<b>Top 5 issues</b>	Exam Stress (45.9%) Boredom (34.5%) Body Image (34.4%) Confidence (32.7%) Mental Health (30.2%)	Bullying (40.5%) Racism (31.2%) Mental Health (29.8%) Internet Safety (29.6%) Physical Health (29.5%)	Mental Health (37%) Suicide (39.4%) Bullying (31.8%) Making positive relationships (25.9%) Lack of confidence (25.4%)

21 [National Children's Bureau \(2019\) Informing the development of an emotional health and wellbeing framework for children and young people in Northern Ireland. Available at: www.ncb.org.uk/sites/default/files/field/attachment/news/Informing%20the%20Development%20of%20an%20Emotional%20Health%20and%20Wellbeing%20Framework...pdf](https://www.ncb.org.uk/sites/default/files/field/attachment/news/Informing%20the%20Development%20of%20an%20Emotional%20Health%20and%20Wellbeing%20Framework...pdf)

22 *Ibid.*

23 Para 48(a), CRC/C/GBR/CO/5, 12 July 2016.

The 'Addressing Bullying in Schools Act (Northern Ireland) 2016' was due to come into effect on 2 September 2019. On the 28th August 2019, the Commissioner was notified that, due to Trade Union concerns, the Act would not commence as scheduled. Rather, DE has agreed a temporary pause 'in order to facilitate further meaningful dialogue on this issue and to allow us to seek an agreed resolution to union concerns, where possible.' However, at the time of writing, the Act is still to be implemented.

## Funding in education

Issues with Northern Ireland's education budget were well documented prior to the current health crisis and it is therefore deeply concerning that the Covid-19 pandemic will further exacerbate existing budgetary pressures. In July 2019, the NI Affairs Committee's Inquiry into Education Funding in Northern Ireland<sup>24</sup> recognised that the lack of an Assembly and Executive had a detrimental impact on NI's education sector and concluded that the education budget is not sufficient to meet rising pressures on schools while the system remains in its current form. NICCY's analysis of DE returns to the Treasury showed that spending on education per child was considerably lower in Northern Ireland than the rest of the UK, and that a smaller proportion of this made it through to schools in Northern Ireland than in other parts of the UK. In February 2020, education officials warned that they would require an extra £427m in 2020/21 to meet the sector's financial needs<sup>25</sup>. DE has stated that cuts to frontline children and young people services would have to be considered if significant extra funding is not provided. NICCY is concerned about the impact that this will have on the ability of children and young people

to access their right to education. This is particularly concerning given the findings of NICCY's research on the Cost of Education<sup>26</sup>, which revealed that the costs associated with education is impacting on the ability of children and young people to fully participate in their education.

NICCY remains deeply concerned about the inadequate levels of funding for education in Northern Ireland, inefficient use of resources and delays in progressing key areas of policy. The crisis in the funding of education in Northern Ireland cannot be fully addressed without fundamental reform of the education system.

## Transformational reform of Northern Ireland's Education System

NICCY wants to see an inclusive system of education which enables children and young people in Northern Ireland to be taught and learn together, and one which is much more efficient and cost effective, especially given the current climate financial / budgetary pressures on public resources. NICCY believes that this can only be achieved through fundamental reform of the education system in NI ensuring all children equal access to an excellent quality education in line with Articles 28 and 29 of the UNCRC. This must also end costs inefficiencies of supporting a system which comprises multiple education sectors, at different levels of education. None of this will be possible without a proper review of our segregated system and addressing the fundamental flaws and inequalities that arise from academic selection.

Academic selection continues to exacerbate inequalities, to advantage children from more affluent families and to reinforce the

24 Inquiry into Education Funding in NI, Report by the NI Affairs Committee, 19th July 2019.

25 <https://www.bbc.co.uk/news/uk-northern-ireland-51563308> - 19th February 2020

26 NICCY (2017) Cost of Education. Available at: [www.niccy.org/costofeducation](http://www.niccy.org/costofeducation)



social divide; this is evidenced by the fact that 38% of children in non-Grammar schools and only 14% of children in Grammar schools are entitled to free school meals<sup>27</sup>. In recent months, the outbreak of Covid-19 has placed a further spotlight on the adverse consequences of this unregulated system. It has reinforced the unacceptable pressure placed on children as young as 10 and 11 years to perform in these exams, and has highlighted the resultant negative impacts on children's health and wellbeing. It is also evident that the continued operation of these tests in the 2020/21 academic year, albeit delayed by a matter of weeks, has diverted the focus from wellbeing and education recovery of our year 7 students. Academic selection is profoundly unfair and discriminatory. In order to ensure our children have equal access to an excellent quality education in line with Articles 28 and 29 of the UNCRC, it must be abolished entirely.

Reform efforts must also focus on raising standards, and improving access to the curriculum for all pupils. As part of this, it is essential that children and young people across Northern Ireland have access to Relationships and Sexuality Education (RSE), and mandatory child's rights education in schools. Whilst the UNCRC and children's and young people's rights are reflected within the NI school curriculum throughout Key Stages 1 to 4, these are not a compulsory part of the curriculum. Furthermore, DE's current approach, which enables grant-aided schools to develop their own policy on how they will address RSE within the curriculum, is contrary to the UN Committee's recommendation that

meaningful sexual and reproductive health education is part of the mandatory school curriculum for all schools in Northern Ireland. It also contravenes Section 9 of the Northern Ireland (Executive Formation etc) Act 2019 which requires the implementation of the recommendations of the CEDAW report<sup>28</sup> and therefore the introduction of a compulsory RSE curriculum in Northern Ireland. Furthermore, it is in contrast with regulations passed by Parliament to ensure that all English post-primary schools teach RSE and all primary schools teach Relationships Education from September 2020.

NICCY is encouraged by Government's expressed commitment to transforming Northern Ireland's education system in the New Decade, New Approach<sup>29</sup> deal. The external, independent review of education will be critical in delivering this commitment.

### **The impact of COVID-19 on children's and young people's education**

The impact of the Covid-19 pandemic has affected all aspects of children's and young people's lives, and perhaps no more so than in the area of education. From the 23rd March 2020, schools and nurseries were closed to the majority of pupils apart from those of key workers and vulnerable children. Whilst learning continued for other children at home, using a variety of approaches including virtual teaching, the uploading of lessons online for accessing by parents and pupils, and in some cases providing hardcopy learning material for use at home, the break in formal schooling that ensued until schools re-opened at the end of August has undoubtedly

27 Department of Education, Education data infographics 2019/20

28 Report of the Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/OP.8/GBR/1) published on 6 March 2018

29 *New Decade, New Approach* published 9th January 2020. Available online at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf)

impacted on children's and young people's education and emotional wellbeing. Much has been written about the potential long-lasting societal and economic effects of school closures. The United Nations Secretary-General<sup>30</sup> has warned that the potential losses that may accrue in learning for children and young people, and for the development of their human capital, are hard to fathom. As reflected in the joint statement from the Chief Medical Officers and Deputy Chief Medical Officers of England, Scotland, Northern Ireland and Wales<sup>31</sup> there is a significant risk of long-term harm to many children and young people from not attending school.

It is evident that COVID-19 has had a significant impact on the mental health and wellbeing of children and young people. The closure of schools, academic uncertainty, children having less contact with their peer group, the disruption to routine together with concerns about contracting the virus are all likely to create or exacerbate existing mental health problems among children and young people. Recent research from Barnardo's<sup>32</sup> highlighted that the pandemic had impacted upon school's ability to support pupils with their mental health and wellbeing, primarily because there was less face-to-face contact. The report also found that schools would welcome more support with emotional health and wellbeing including increased funding and that this needed to be a priority area in

future. Further detail on the impact of school closures on children's and young people's mental health and emotional wellbeing can be found in the next section of this report.

NICCY welcomes that schools remained open for some vulnerable children and young people and that additional guidance<sup>33</sup>, and supports<sup>34</sup> were implemented to protect the most vulnerable, including an extension of Free School Meals over the summer months. NICCY acknowledges that EA continued to deliver a range of other services for vulnerable children<sup>35</sup>. Nonetheless, it is evident that not all vulnerable children and young people engaged with supports and services, and it has been acknowledged that the number of vulnerable children attending schools was low<sup>36</sup>.

Whilst the full impact of school closures on children's wellbeing and education is unlikely to be known for some time yet, it is evident that some groups of children and young people have experienced its effects more acutely than others. This includes children and young people from lower socio-economic backgrounds, those with special educational needs in mainstream and special schools, and newcomer groups. Other vulnerable groups include those accessing Education Other Than At School; receiving support from Health & Social Services including family support, child protection and looked after children services;

30 United Nations Secretary-General Policy Brief: The Impact of COVID-19 on children (April 2020). Available at: <https://violenceagainstchildren.un.org/content/united-nations-secretary-general-policy-brief-impact-covid-19-children>

31 Statement from the UK Chief Medical Officers on schools and childcare reopening (August 2020) Available at: [www.gov.uk/government/news/statement-from-the-uk-chief-medical-officers-on-schools-and-childcare-reopening](http://www.gov.uk/government/news/statement-from-the-uk-chief-medical-officers-on-schools-and-childcare-reopening)

32 Barnardo's (August 2020) 'New Term, New Challenges, New Opportunities' - Putting Children's Mental Health at the Heart of Education 2020. Available at: [www.barnardos.org.uk/sites/default/files/uploads/BarnardosNI-ChildrensMentalHealthAtTheHeartOfEducation.pdf](http://www.barnardos.org.uk/sites/default/files/uploads/BarnardosNI-ChildrensMentalHealthAtTheHeartOfEducation.pdf)

33 COVID-19 Guidance Vulnerable Children and Young People (April 2020). Available at: [www.education-ni.gov.uk/sites/default/files/publications/education/Guidance%20on%20Vulnerable%20Children%20and%20Young%20People.pdf](http://www.education-ni.gov.uk/sites/default/files/publications/education/Guidance%20on%20Vulnerable%20Children%20and%20Young%20People.pdf)

34 [www.education-ni.gov.uk/news/weir-outlines-proposals-support-vulnerable-children-and-young-people-summer](http://www.education-ni.gov.uk/news/weir-outlines-proposals-support-vulnerable-children-and-young-people-summer)

35 [www.eani.org.uk/vulnerable-children-and-young-people](http://www.eani.org.uk/vulnerable-children-and-young-people)

36 Education Minister's statement to the Northern Ireland Assembly Ad Hoc Committee on the COVID-19 Response (21 May 2020) Available at: [www.education-ni.gov.uk/news/statement-education-minister-ad-hoc-committee](http://www.education-ni.gov.uk/news/statement-education-minister-ad-hoc-committee)

on the Child Protection Register; young carers; those with emerging and diagnosed mental health needs; and those who are affected by domestic violence.

Therefore, it is quite evident that it is those children and young people, who were already facing significant barriers in accessing education, that have been most gravely affected by the COVID-19 crisis. The closure of schools has undoubtedly exacerbated educational inequalities, which were previously well documented before the pandemic. Many children, particularly those from lower socio-economic backgrounds, were without a digital device for much of lockdown, and therefore largely unable to engage with home learning. NICCY recognises investment by DE in additional devices and a free Wi-Fi scheme for disadvantaged pupils. However, the allocation of devices only began to be rolled out from late May 2020<sup>37</sup> and investment in Wi-Fi/mobile connectivity was only announced in July<sup>38</sup>. Whilst welcomed, this does not compensate for months of lost learning for many children who were without access to devices during lockdown. It also does not mitigate against other inequalities arising from the shift to home-learning<sup>39</sup>, which include insufficient access to online learning and related support / equipment, in particular for children with disabilities or

SEN, and a lack of access to educational or curriculum support materials.

Furthermore, the consistency and quality of children's and young people's learning experience varied across schools and settings, and many have described vastly different levels of support and education from schools, as well as from different teachers within the same school<sup>40 41</sup>. According to the Education and Training Inspectorate<sup>42</sup>, there is 'variation in pupil engagement with remote learning across year groups and schools'.

Research reinforces that socio-economic background and other characteristics affected children's home learning experience. For instance, a study by Stranmillis University College found that parental education and employment status impacted on the extent of parental involvement in their child's learning<sup>43</sup>. Researchers at Ulster University<sup>44</sup> found that parents of children with Free School Meals Entitlement were less confident supporting the learning of their children at home. This study also found that the parents of children with SEN were likely to experience a range of challenges when home schooling their children. Such challenges are consistent with the experiences of parents/carers of children with SEN and disability, as conveyed to NICCY; many informed us of the profoundly

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37 [www.education-ni.gov.uk/news/minister-outlines-plans-provide-digital-devices-disadvantaged-children](http://www.education-ni.gov.uk/news/minister-outlines-plans-provide-digital-devices-disadvantaged-children)

38 [www.education-ni.gov.uk/news/weir-announces-free-wi-fi-scheme-disadvantaged-pupils](http://www.education-ni.gov.uk/news/weir-announces-free-wi-fi-scheme-disadvantaged-pupils)

39 NI Equality Commission (June 2020) COVID-19 and Education: Equality Considerations, Policy Position Paper. Available at: [www.equalityni.org/Footer-Links/News/Delivering-Equality/Covid-19-and-Education-Equality-Considerations](http://www.equalityni.org/Footer-Links/News/Delivering-Equality/Covid-19-and-Education-Equality-Considerations)

40 NICCY (June 2020) A Child's Right to Education and Covid-19. Available at: [www.niccy.org/publications/2020/june/22/a-child-s-right-to-education-and-covid-19](http://www.niccy.org/publications/2020/june/22/a-child-s-right-to-education-and-covid-19)

41 NICCY (August 2020) Advice on the Preparations for Re-Opening Schools. Available at: [www.niccy.org/publications/2020/august/10/advice-on-preparations-for-the-re-opening-of-schools](http://www.niccy.org/publications/2020/august/10/advice-on-preparations-for-the-re-opening-of-schools)

42 Education and Training Inspectorate (June 2020) Remote and blended learning: curricular challenges and approaches. Available at: [www.etini.gov.uk/publications/remote-and-blended-learning-curricular-challenges-and-approaches](http://www.etini.gov.uk/publications/remote-and-blended-learning-curricular-challenges-and-approaches)

43 Walsh, G., Purdy, N., Dunn, J., Jones, S., Harris, J., and Ballentine, M. (2020) Homeschooling in Northern Ireland during the COVID-19 crisis: the experiences of parents and carers. Belfast: Centre for Research in Educational Underachievement/Stranmillis University College

44 Ulster University (July 2020) Northern Ireland Parent Surveys: Experiences of Supporting Children's Home Learning during COVID-19 UNESCO Centre, School of Education, Ulster University.

detrimental effects on the education, health and wellbeing of children with SEN and disabilities, as well as on their health and wellbeing, as a result of school closures and the temporary suspension of pupil support services and other fundamental services.

In the immediate response to the crisis, DE issued a Notice modifying the provisions listed in Part II of the Education (NI) Order 1996 and the Education (Special Educational Needs) Regulations (NI) 2005 for 28 days, as per its powers under the Coronavirus Act 2020. The Notice modified the duties on the EA; Schools; Principals and Boards of Governors of schools; the Health and Social Services Authority, and parents to a best endeavours duty, where the inability to comply with the original duty is attributable to the temporary closure of schools or the reallocation of EA or health and social care resources to meet other essential services required as a result of the outbreak. This Notice was continuously renewed from the start of April to the end of August, resulting in significant restrictions on the supports and services available to children and young people with SEN and disability.

NICCY repeatedly expressed concern about the impact of the Temporary Modification of Education Duties on statutory SEN operations, supports and services; the fact that this undoubtedly exacerbated the already extensive delays and waiting times for statutory assessment, and impacted on the processes for reviewing and appealing Statements of Special Educational Need. The impact of the Temporary Modifications is all the more concerning given the systemic

issues that these children faced in accessing their right to education prior to the pandemic; fundamental reform is required to address the myriad issues preventing these children from accessing appropriate, effective, and timely support and services, as documented before the pandemic<sup>45</sup> and evidenced as being further exacerbated during lockdown.

The Minister's announcement<sup>46</sup> that all schools would re-open full time from the end of August 2020 was greatly welcomed; this is vital for protecting children's and young people's mental health, wellbeing and their futures. However, as the situation continuously evolves, it is clear that a concerted, collaborative effort is required to ensure the safe and sustainable opening of our schools. This must include rapid testing of pupils and teachers so that any confirmed Covid-19 cases and their close contacts can isolate at home without necessarily having to send entire classes or year groups home. Additional supports must be provided to children and young people who were unable to fully engage with learning during school closures. It is also essential that robust plans are established to facilitate blended learning so that disruption of services and education for children can be kept to a minimum. This should include assessing needs for future home study and inter-agency planning to promptly meet the needs of vulnerable children and young people, including those who may be required to shield. This will be critical in case of further waves of the pandemic, in case of local outbreaks, or in individual cases where some pupils may be required to isolate.

45 NICCY (March 2020) 'Too Little, Too Late', A Rights Based Review of Special Educational Needs Provision in Mainstream Schools. Available at: [www.niccy.org/senreviewreports](http://www.niccy.org/senreviewreports)

46 [www.education-ni.gov.uk/news/weir-sets-out-revised-plans-reopening-schools](https://www.education-ni.gov.uk/news/weir-sets-out-revised-plans-reopening-schools)

## Calls to Government 2020

It is essential that Government ensures that all children and young people experience their right to an effective education by addressing the following recommendations:

1. Ending the educational attainment gap between specific groups of children and young people and removing all barriers to every child's full participation in, and access to, a child rights compliant education system including supporting LGBTIQ+, newcomer, children in care, and children with SEN. This must include full implementation of the recommendations from 'Too Little, Too Late', NICCY's rights based review of SEN provision in mainstream schools, and immediate commencement of the new SEN Framework.
2. Government must prioritise the promotion and monitoring of mental health and wellbeing of children and young people in schools, and protect against factors negatively impacting on well-being in schools by:
  - Implementing the 'Addressing Bullying in Schools Act (Northern Ireland) 2016' as a matter of urgency;
  - Ensuring that all children who require access to counselling services can do so. This must include ensuring access to ICSS in primary school settings;
  - A prevention and early intervention approach to emotional health and wellbeing. This must include prioritising the implementation of the Emotional Health and Wellbeing Framework in schools; and
  - Implementing a measure of well-being across all schools in Northern Ireland and ensuring that this measure is completed by every pupil.
3. Government must move towards a single education system that is UNCRC Article 28 and 29 compliant, fit for purpose, provides greater efficiency and addresses the cost of education for families. This must involve a proper review of our segregated system and addressing the fundamental flaws and inequalities that arise from academic selection.
4. Ensuring thorough and ongoing assessment of the impact of the Covid-19 pandemic and Government response to this on all children and young people's access to education, including the most vulnerable such as those attending special schools.





Teacher



Assistant



Counsellor



Doctor



Family

## 7.2 MENTAL HEALTH

Article 24 of the UNCRC is the main article of the Convention that sets out a child's right to health, which includes mental health. It builds on and develops the rights to life, survival and development to the maximum extent possible, set out under Article 6. Paragraph 1 of Article 24 specifically refers to the rights of a child to the highest attainable standard of health, and access to facilities for treatment and rehabilitation.

24 (1) States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

Paragraph 2 provides a list of appropriate measures that States must take in pursuing the full implementation of Article 24 (1). This includes the need to ensure the provision of necessary medical assistance and health care to all children, with an emphasis on the development of primary health care. It also sets out a range of prevention measures to ensure good health is promoted and facilitated, and by doing so reaffirms that health rights are inclusive in that they cover prevention, health promotion, intervention and rehabilitative services.

There are also a number of additional articles of the UNCRC that are of particular relevance to a child's right to mental healthcare.

Article 25 sets out the role of State Parties where a child has been admitted to hospital for treatment, and in particular their right to a periodic review.

25. States Parties recognise the right of a child who has been placed by the competent authorities for the purposes of

care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 23 specifically refers to children with a disability and the need to ensure that they have effective access to services, including health care and rehabilitative services.

23 (3) (...) the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

In 2016, the Committee on the Rights of the Child expressed a range of concerns in relation to mental health, this included reference to the rise in mental health problems, and made specific reference to the impact of substance misuse. They also expressed concern about the rates of youth suicides and the fact that children with mental health conditions are often treated far away from home (...), do not receive adequate child-specific attention and support, are placed in adult facilities, or are detained in police custody due to shortage of places in mental health clinics.<sup>47</sup>

The Committee made a number of recommendations to the UK Government and Northern Ireland Executive in order to address the issues raised, and these are outlined below.

<sup>47</sup> Para 60, CRC/C/GBR/CO/5, 12 July 2016

61. (a) Regularly collect comprehensive data on child mental health, disaggregated across the life course of the child, with due attention to children in vulnerable situations, and covering key underlying determinants;
- (b) Rigorously invest in child and adolescent mental health services and develop strategies at national and devolved levels, with clear time frames, targets, measureable indicators, effective monitoring mechanisms and sufficient human, technical and financial resources. Such strategy should include measures to ensure availability, accessibility, acceptability, quality and stability of such services, with particular attention to children at greater risk, including children living in poverty, children in care and children in contact with the criminal justice system;
- (c) Expedite the prohibition of placement of children with mental health needs in adult psychiatric wards or police stations, while ensuring provision of age-appropriate mental health services and facilities;
- (d) Support and develop therapeutic community-based services for children with mental health conditions; and
- (e) Review current legislation on mental health to ensure that the best interests and the views of the child are taken duly into account in cases of mental health treatment of children below the age of 16, in particular with regard to hospitalisation and treatment without consent.<sup>48</sup>

## Context

It is known that mental health problems are a primary cause of ill health, morbidity and mortality among adolescents. It is also now widely recognised that Government actions to promote wellbeing and address mental health problems should take a life span approach, in which services and support to promote wellbeing begin in infancy.

Northern Ireland currently lacks robust epidemiological research on the prevalence of poor mental health of under 18 year olds, which means that our understanding of mental health need within this population continues to be poorly understood. The first mental health prevalence survey is due to be published at the end of 2020 and is expected to provide the first comprehensive understanding of emotional health and wellbeing of 2-19 years old in Northern Ireland. In absence of this data, there is a range of other relevant data which can be referred to which indicate the persistent and in some cases increasing scale of problems.

Northern Ireland continues to have one of the highest suicide rates in Europe per 100,000 population, almost double the rates of suicide per 100,000 compared to the UK, this includes disproportionately higher rates of deaths by suicide of young people.<sup>49</sup> Since 2014, official rates of suicide for those aged 0-19 years old have fluctuated slightly, with 17 deaths recorded in 2014 and 15 in 2018.<sup>50</sup> As stark as these figures are, official statistics are known to be an under-estimation, and the real figure is likely to be much higher.

Anti-depressant prescription rates for 0-19 year olds in Northern Ireland remain persistently high with 12,765 prescriptions of anti-depressants administered to under 18's in 2017, 459 of which were prescribed

48 Para 61, CRC/C/GBR/CO/5, 12 July 2016

49 [www.assemblyresearchmatters.org/2019/11/28/suicide-statistics-and-strategy-in-northern-ireland-update](http://www.assemblyresearchmatters.org/2019/11/28/suicide-statistics-and-strategy-in-northern-ireland-update)

50 [www.nisra.gov.uk/publications/suicide-statistics](http://www.nisra.gov.uk/publications/suicide-statistics)

to under 12's. Between 2015-2017, anti-depressants prescribed to children include those that have not been clinically trialled with that age group.<sup>51</sup>

Between 2012 and 2018 there has been a 15% increase (782 to 1,096) in presentations of self-harm by under 18 year olds to Accident & Emergency Departments.<sup>52</sup>

Family support services continue to see a rise in referrals from families presenting with emotional behavioural difficulty for primary school age children. Between 2014 /2015 and 2018/19 referrals have increased from 1,103 to 1,899. They are also reporting that services are unable to meet some of the need being presented. It is to be expected that referrals increase as Hubs become established in communities, however it remains an important indication of levels of need and capacity of services to meet that need.<sup>53</sup>

Recent epidemiological research in England found that one in eight (12.8%) 5 to 19 year olds had at least one mental health disorder. It also found that rates of mental health disorder increased with age, with one in six 17-19 years olds having a mental health disorder. Young women were identified as the highest risk group with respect to mental health, as rates of mental health disorder increased to one in four for females aged 17-19 years old.<sup>54</sup> It is likely that the NI prevalence survey

will identify some of the same patterns with respect to the most common disorders,<sup>55</sup> differences across age categories and between genders. It has been commonly accepted that mental health need in Northern Ireland is likely to be 25% greater than England. There are a range of reasons for this but it is accepted that the legacy of the conflict, high rates of poverty and economic deprivation are significant contributing factors.<sup>56</sup> For the first time a clear evidence based comparison of rates of poor mental health in children and young people can be made between jurisdictions.<sup>57</sup>

The overall prevalence of poor mental health must be considered in the context of the adequacy of the service infrastructure to meet need. Successive Northern Ireland Executives have acknowledged the chronic under-investment in child and adolescent mental health services. Unfortunately, despite this acknowledgment, funding for mental health as a proportion of the health budget in Northern Ireland remains unchanged.

In 2017, mental health services for under 18's in Northern Ireland received 7.8% of the total mental health budget.<sup>58</sup> The Health and Social Care Board (HSCB) have calculated that CAMHS should receive 10% of the mental health budget and indicated there is a funding gap of £4.8 million to achieve this. In January 2019, NICCY provided a detailed written

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51 BSO FOI 23 August 2018 cited in Still Waiting, NICCY, p258

52 Northern Ireland Self Harm Registry-Annual Report 2017/18, PHA, p34, available from [www.publichealth.hscni.net/sites/default/files/2019-07/NIRSH%20Annual%20Report%202017.18%20final%20for%20publication\\_0.pdf](http://www.publichealth.hscni.net/sites/default/files/2019-07/NIRSH%20Annual%20Report%202017.18%20final%20for%20publication_0.pdf)

53 [www.cypsp.hscni.net/family-support-hubs/#ffs-tabbed-23](http://www.cypsp.hscni.net/family-support-hubs/#ffs-tabbed-23)

54 Mental Health of Children and Young People in England, NHS Digital, 2017, available from <https://digital.nhs.uk/data-and-information/publications/statistical/mental-health-of-children-and-young-people-in-england/2017/2017>

55 It is commonly understood that the most frequently occurring mental health problems in children and young people are depression, anxiety, self-harm, eating disorders, PTSD and ADHD. Missed Opportunities, Khan, Centre for Mental Health, 2016

56 pp. 19-20, *ibid*

57 Bamford Review of Mental Health and Learning Disability, 2006

58 CAMHS Reform- An Example of Integration: Presentation to NICCY by HSCB- dated 2015



submission on mental health funding to the Northern Ireland Affairs Committee Inquiry into Health Funding in Northern Ireland.<sup>59</sup> In this submission, we highlighted the need for greater prioritisation of funding to this area. The subsequent Inquiry report recommended that 'spending on CAMHS is brought into line with the HSCB recommendation of 10 per cent of the mental health budget.' Furthermore, it advised the Northern Ireland government to 'establish a long term and sustainable funding and practice partnership' model for driving change which takes account of the investment required across all key services and sectors included in the stepped care model'.<sup>60</sup>

Northern Ireland has some of the longest health service waiting times in the whole of the UK. In terms of mental health, statutory guidance states that no child should wait more than 9 weeks to access statutory child and adolescent mental health services. This waiting time is calculated from the date of acceptance of a referral, to the time a patient is seen and assessed at their first appointment. Between March 2018 and March 2019, the number of young people waiting for any CAMHS service increased from 1,057 to 2,005.<sup>61</sup> This equates to a 90% increase in young people waiting for a service in a one-year period. In the same period, there was also an increase of 638% in the number of young people waiting more than 9 weeks to access any CAMHS service (from 66 to 487).

Official statistics also show that breaches of the waiting time target for Step 3 / Core

CAMHS<sup>62</sup> continues to be a persistent problem. Between March 2014 and March 2019, breaches doubled from 12% to 24%, the highest recorded figure in the last 6 years.<sup>63</sup> However, this measurement of 'time waiting' does not reflect significant waits that can happen in other parts of a young person's mental healthcare pathway, i.e., waits between referral being made and referral accepted, between first and review appointment and between assessment and treatment.<sup>64</sup> Breaches of the statutory 13 week waiting time target to access psychological therapies continues to grow and is unlikely to improve unless additional funding is provided.<sup>65</sup>

The number of children and young people reported as being treated in adult wards for mental health problems has remained low, with annual rates of admission not rising above 6 since 2016/17.<sup>66</sup> However, the UNCRC is unequivocal in its position that compliance with this international standard requires that all children receive treatment in age and developmentally appropriate settings, and that no child be placed in an adult psychiatric ward. It is notable that provisions in the Mental Capacity Act (Northern Ireland) 2016, requiring age appropriate accommodation for young people (aged 16-17 years old) on mental health wards has commenced. The Department of Health (DoH) has indicated its intention to update guidance for under 16's who continue to fall within the scope of the Mental Health (NI) Order 1986. NICCY will continue to scrutinize the practical application of this provision.

59 [www.niccy.org/publications/2019/january/11/inquiry-into-health-funding-in-northern-ireland](http://www.niccy.org/publications/2019/january/11/inquiry-into-health-funding-in-northern-ireland)

60 NI Affairs Select Committee, 2019

61 Child and Adolescent Mental Health Services (CAMHS) is the overarching service provided by HSCs encompassing teams for: Step 2, Step 3 / Core, Eating Disorder, Crisis Response Home Treatment (CRHT) & Drug and Alcohol Mental Health Service (DAMHS)

62 Step 3 / Core CAMHS is specialist community / outpatient Teams / Clinics.

63 CAMHS Datasets provided to NICCY from HSCB 2016, 2017, 2019 & 2020.

64 NICCY Still Waiting, p.247-249.

65 HSCB Monthly Meeting Minutes- Performance Management reports

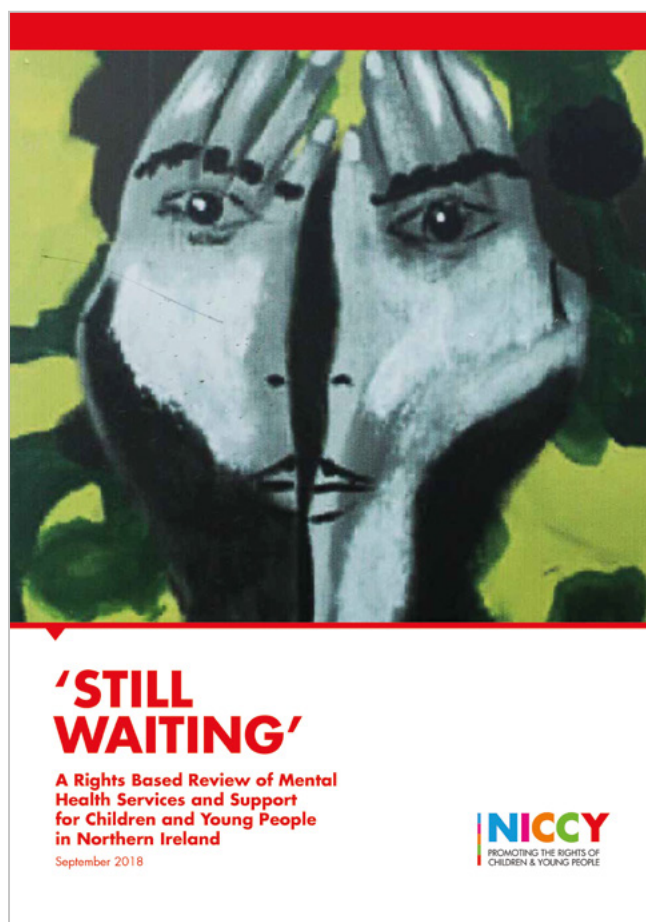
66 Information provided to NICCY from RQIA 2018 & 2020.



In NICCY's June 2018 Statement on Children's Rights in Northern Ireland,<sup>67</sup> the Commissioner made a number of calls to address the fundamental weakness in Northern Ireland's mental health system for children and young people. These related to the need for further investment and strategic planning in children and young people's emotional well-being and mental health, improvements in service activity monitoring processes, delivery on existing CAMHS improvement plans, and greater focus on children and young people's mental health in all public policy. Within this statement the Commissioner outlined her plans to publish a further comprehensive rights based review of mental health services and support and this report was published in September 2018.<sup>68</sup> The 'Still Waiting' Review found a system under significant pressure, finding it difficult to respond to the scale of need and the complexity of issues presented. It found chronic under-investment, historical patterns of flawed funding allocations not based on mental health need, and a very mixed experience from young people on the availability, accessibility and quality of services provided.

The Review included 50 recommendations that cover 8 thematic areas, i.e., 1. Working Effectively, 2. Accessing Help 3. Support for Adults working with Children and Young People, 4. Specialist Support, 5. Moving from Child to Adult Services 6. Flexible Treatment Options 7. Mental Health Awareness & Literacy and 8. Young People with Additional Needs.

These recommendations fully encompass NICCY's calls to Government in relation to mental health and between 2020- 2023, the Commissioner will publish annual progress monitoring reports; the first monitoring report was published in February 2020.



Within this first monitoring report, NICCY reflected on positive progress made to establish a high level multi-agency, cross-sectoral project board to oversee the implementation of the recommendations, this has been done in the form of an Inter-Departmental Project Board (IDG), Chaired by the DoH and consisting of representatives from DE, Department of Justice (DoJ) Department for Communities (DfC) and Voluntary and Community Sector organisations. In September 2019, despite not having a functioning Executive, the IDG published a draft Action Plan for responding to the recommendations. In December 2019, the IDG submitted a Progress Update Report against this Action Plan.

Unfortunately, as yet, the resource package required to fully implement the action plan

67 [www.niccy.org/about-us/our-current-work/statement-on-childrens-rights-in-northern-ireland](http://www.niccy.org/about-us/our-current-work/statement-on-childrens-rights-in-northern-ireland)

68 [www.niccy.org/StillWaiting](http://www.niccy.org/StillWaiting)

has not been provided. This has meant that many of the actions in the draft Action Plan remain contingent on funding and as a consequence many actions lack clear objectives and timelines for completion. A number of notable achievements are the commissioning of the first prevalence survey of children and young people's mental health in Northern Ireland and the establishment of multi-disciplinary teams (MDTs), comprising mental health practitioners, to work alongside GPs. NICCY will closely monitor developments in this area for evidence of improvements in access to mental health services for children and young people.

The 'Still Waiting' Review identified particular groups of young people at risk of egregious breaches of their rights to access mental healthcare, this included, children and young people with a learning disability and those with alcohol and drug problems who require intensive community support. NICCY had highlighted these groups of young people as requiring priority action, unfortunately there has not been adequate evidence of progress in these areas.<sup>69</sup>

NICCY welcomes the commitment made by the newly formed Executive in January 2020 to prioritise mental health,<sup>70</sup> this includes the publication of a mental health action plan for the whole population (May 2020) which has incorporated the IDG action plan for responding to NICCY's 'Still Waiting' Review. The Executive has also committed to developing a life span Mental Health Strategy by December 2020, with a 10-year funding package to support its delivery. NICCY has, and will continue, to seek assurances that its Review recommendations feature prominently as this work is rolled out.

The Covid-19 Pandemic has caused major disruption to the normal working of society at all levels - our health system is facing unprecedented challenges and on an individual level effectively children and young people's day to day lives have had to stop or change dramatically. A range of surveys conducted with parents, and children and young people are reporting that some young people are experiencing greater emotional and behavioural difficulties as a consequence of the lockdown. It is essential that these young people are directed to the right advice and support to ensure that this does not have long-lasting consequences.<sup>71</sup>

DoH expects to see a surge in referrals to CAMHS over the coming months and there is acknowledgment that this anticipated increase in pressure will be placed on a system that was already struggling to meet need.<sup>72</sup>

The impact of the pandemic on those with pre-existing mental health problems is a concern both in terms of the potential to exacerbate existing conditions and restrict access to essential services and support. This includes children being treated in the regional mental health in-patient facility (Beechcroft). Emergency legislation has been passed to allow health and social care services to operate in different ways, this has included amendments to the Mental Health (NI) Order 1986 by the Coronavirus Act 2020. It is important that changes made to legislation, policy or practice do not weaken compliance with human rights standards and where short term changes are unavoidable due to the immediate public health risk, these measures should be lifted as quickly as possible. A specific working group has been established which is Chaired by DoH and includes

69 [www.niccy.org/publications/2020/february/06/still-waiting-monitoring-report Theme 8](http://www.niccy.org/publications/2020/february/06/still-waiting-monitoring-report%20Theme%208)

70 New Decade, New Approach, p.6 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf)

71 [www.ox.ac.uk/news/2020-06-16-children-show-increase-mental-health-difficulties-over-covid-19-lockdown](http://www.ox.ac.uk/news/2020-06-16-children-show-increase-mental-health-difficulties-over-covid-19-lockdown)

72 [www.health-ni.gov.uk/sites/default/files/publications/health/mh-action-plan-plus-covid-response-plan.pdf](http://www.health-ni.gov.uk/sites/default/files/publications/health/mh-action-plan-plus-covid-response-plan.pdf), p47

representatives from a range of health bodies to focus on service planning for children services affected by Covid.<sup>73</sup> It is vital that this work takes full cognisance of the human rights implications of the pandemic and the changes made to services.

The response to the pandemic has also provided an opportunity to consider new ways of providing services and mental health interventions. Innovative practice, such as greater use of technology, may bring benefits to children and young people, these changes should be evaluated and established in the longer term if they lead to improved service user satisfaction and outcomes.

Prioritising pupil wellbeing when schools return, along with effective identification of the most vulnerable young people is essential.<sup>74</sup> Joint working and communication between education and mental health services is critical, and there is a pressing need to develop and strengthen these practices, in order to meet the holistic needs of children and young people during and post Covid. The cross departmental emotional health and wellbeing framework for schools is an essential supportive framework that should ensure that infrastructure and resources are in place to provide the emotional support that many will require. A scoping study to inform the Framework was completed in February 2019, however the framework is not due to be published until December 2020. Concern have been raised, including by members of the Assembly Education Committee,<sup>75</sup> about whether enough preparations were being made for children returning to school.

Covid-19 and the resulting pressures it will bring to bear on all parts of the public health system will make it increasingly difficult to

invest in new areas. However, the potential impact of the pandemic on emotional wellbeing and mental health has highlighted how critical good mental health is to the functioning of society. We must use this time to address current and future mental health needs, and sustain and strengthen mental health services.

## **Calls to Government 2020:**

**Government must prioritise children and young people's mental health by taking the following measures:**

- 1. Implement the recommendations of the Still Waiting Review and ensure its findings inform all current and future strategies to reform services. This must include long term investment to sustain services and improve outcomes.**
- 2. Prioritise investment in those areas which reflect the most egregious breaches of children's rights, ensure that all funding decisions are transparent and equality impact assessed and establish robust monitoring and evaluation processes to allow for effective measurement of impact.**
- 3. Ensure adequate mental health provision is in place to meet the needs of children and young people affected by the Covid-19 public health crisis. To include a proactive response to reducing pandemic-related adversities that are known to harm mental health, for example, those with pre-existing mental health problems or disabilities, those affected by domestic violence, abuse and poverty.**

<sup>73</sup> *Ibid*, p48

<sup>74</sup> Oxford University, The co-SPACE Study, 2020, available from <https://emergingminds.org.uk/wp-content/uploads/2020/06/CoSPACE-Report-4-June-2020.pdf>

<sup>75</sup> NIA Education Committee Session 8 July 2020- Briefing on the emotional health and mental well-being framework





## 7.3 CHILD POVERTY

Article 27 of the UNCRC provides all children with the right to an adequate standard of living:

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

The 2016 Concluding Observations raised concerns about Government action to tackle child poverty and the impact of welfare 'reforms' on children and young people.

71. The Committee draws the attention of the State party to target 1.2 of the Sustainable Development Goals, on poverty reduction, and urges the State party to:
  - (a) Set up clear accountability mechanisms for the eradication of child poverty, including by re-establishing concrete targets with a set time frame and measurable indicators, and continue regular

- monitoring and reporting on child poverty reduction in all parts of the State party;
- (b) Ensure clear focus on the child in the State party's poverty reduction strategies and action plans, including in the new "Life Chances Strategy", and support the production and implementation of child poverty reduction strategies in the devolved administrations;
- (c) Conduct a comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms introduced between 2010 and 2016 on children, including children with disabilities and children belonging to ethnic minority groups;
- (d) Where necessary, revise the mentioned reforms in order to fully respect the right of the child to have his or her best interests taken as a primary consideration, taking into account the different impacts of the reform on different groups of children, particularly those in vulnerable situations;
- (e) Strictly implement the legal prohibition of prolonged placement of children in temporary accommodation by public authorities in England, Wales and Scotland, and enact similar legislation in Northern Ireland;
- (f) Take necessary measures to reduce homelessness and to progressively guarantee all children stable access to adequate housing that provides physical safety, adequate space, protection against the threats to health and structural hazards, including cold, damp, heat and pollution, and accessibility for children with disabilities.<sup>76</sup>

<sup>76</sup> Para 71, CRC/C/GBR/CO/5, 12 July 2016



## The Context

The SOCRNI 2018 report included a review of the most recent government statistics on child poverty, using the 2016-17 Family Resources Study. According to this, 27% were in relative poverty (after housing costs). While this was estimated as having dropped to 23% in 2017-18<sup>77</sup>, it had risen again in 2018-19 to 27%.<sup>78</sup> This equates to 120,000 children living in relative poverty. There was a similar rise in the proportion of children in Absolute Poverty (after housing costs), rising to 24% or 107,000 children.<sup>79</sup>

Children continue to be the age group with the highest levels of poverty in Northern Ireland, as the relative poverty rates (after housing costs) for working age adults was 19%, and for pensioners was 15%, almost half the rate for children.

The patterns of child poverty remained consistent over the two years in terms of the groups most likely to be in poverty:

- Children in lone parent families (38%) compared to those in couple families (24%);
- Children in workless households (61%) compared to households where all adults work (15%);
- Children living in families where someone is disabled (29%) compared to those where no one is (26%); and

- Children living in Protestant households (23%), or with no religion (24%) compared to those in Catholic households (29%) and those in households of another religion (40%).<sup>80</sup>

One statistic where there has been some change is in relation to the number of children in a family. Where the poverty rate for children living in families where they are the only child remains at 23%, the poverty rate for children living in families with 3+ children has risen from 27% to 37%. This coincides with the introduction of the two child limit.<sup>81</sup>

The 2018-19 data shows that the majority of children in poverty, indeed two-thirds (66%) continued to live in households where at least one parent is working.<sup>82</sup> Therefore it continues to be the case that, while children may be in poverty due to their parents being out of work, parents finding work is no guarantee of being able to lift their family out of poverty.

For thousands of children, poverty continues to result in homelessness.<sup>83</sup> Over a twelve month period from Oct 18 – March 19 and July 19 – Dec 19, a total of 3,922 families were accepted as homeless, including 7,193 children.<sup>84</sup> At January 2020, 2,413 households were living in temporary accommodation, including 2,990 children.<sup>85</sup>

77 DfC, March 2019, NI Poverty Bulletin 2017-18, (Belfast, DfC).

78 DfC, May 2020, NI Poverty Bulletin 2018-19, (Belfast: DfC).

79 *Ibid*

80 DfC (Sept 2020), Households Below Average Income 2018-19, (Belfast: NISRA)

81 *Ibid*

82 *Ibid*

83 Since SOCRNI 2018 the numbers of children in families presenting as homeless, and in temporary accommodation are reported in 'experimental statistics'. DfC, NIHE (12 March 20), Northern Ireland Homelessness Bulletin July–December 2019, (Belfast, DfC).

84 This data is drawn from DfC, NIHE (10 Sept 19), Northern Ireland Homelessness Bulletin October 2018 - March 2019, (Belfast, DfC) and DfC, NIHE (12 March 20), Northern Ireland Homelessness Bulletin July–December 2019, (Belfast, DfC). While each includes data for a six month period, there is a gap of two months where no data is reported.

85 DfC, NIHE (12 March 20), Northern Ireland Homelessness Bulletin July–December 2019, (Belfast, DfC).

## NICCY's SOCRNI 2018 recommendations

In the Statement of Children's Rights NI 2018, and drawing on the 2016 UN Committee on the Rights of the Child's Concluding Observations, we identified three overarching calls to government in relation to addressing child poverty. We stated that government must take action to prioritise the eradication of child poverty through:

1. Meeting the material needs of children, through increasing family incomes, including by ensuring that there are sufficient, decently paid jobs for parents and young school leavers;
2. Allocating resources to mitigate against recent changes in social security benefits, including the Two-Child Limit, ensuring that the social security system is the safety net intended to prevent families falling into poverty; and
3. Developing and implementing a comprehensive action plan to eradicate child poverty, including introducing affordable childcare, tackling educational inequalities, social exclusion and homelessness.

### Supporting parents to meet material needs of children through employment

Article 27(1) of the UNCRC recognises 'the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.'

The key approach of government in tackling child poverty is to put the primary onus on parents to work to provide for the material needs of children. Indeed, this approach is also reflected in the second paragraph of article 27(2):

*'The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.'*

However, the third paragraph makes it clear that the state has responsibility for providing support to parents, to enable them to meet this responsibility:

*'States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.'*

In its draft Programme for Government the Executive had committed to producing an Industrial Strategy, and consulted on this in 2017. However, over the three years without an Executive, this was not published.

That is not to say that there has been no activity in relation to this. Numerous employment and skills programmes have been running, including social enterprise hubs, work experience programmes, essential skills training and employability support. In addition, the 'Make the Call' benefit uptake programme has included a focus on families.

In relation to childcare, there have been no policy developments since the consultation in 2015 on the draft strategy *Delivering Social Change through Childcare*. This is despite major investment in childcare in other parts of the UK, where working parents of children aged 3 and 4 can access 15 or more hours of free childcare a week.

The median income in Northern Ireland (£478 equivalised median household income before housing costs) remains lower than that across the UK (£514). While both fell since 2017/18, the 3% drop in the Northern Ireland median income (from £491 BHC in 2017/18) was greater than in the UK. Indeed the median income after housing costs in the UK had remained stable over this time. It will be important to continue to monitor

the change in median income in Northern Ireland as this is a measure of how household income is changing over time, and allows for a comparison with the rest of the UK.

## Welfare reform mitigations

At the time of publication of SOCRNI 2018, many of the Welfare Reform changes introduced through the Welfare Reform and Work (NI) Order 2016 were starting to be rolled out. Evidence at the time highlighted that these changes would have a disproportionate negative impact on children and their families, the clearest example being the Two Child Limit on Child Tax Credits and Universal Credit, and the removal of the family element for new claimants. Other cuts, targeted at working adults also affected families with children, including the freeze on working age benefit levels, the reduction in work allowances and the removal of the work related payment for new benefit claimants.

The Executive's mitigation package introduced in the Fresh Start Agreement in November 2015 was warmly welcomed as it provided £585 million over four years to mitigate against 'Welfare Reform' social security cuts. However, this only targeted cuts that predated the Welfare Reform and Work (NI) Order 2016, not mitigating the cuts listed above, including the Two Child Limit.

The Commissioner has sought to bring attention to the impact of welfare reform changes on children, through her engagement with government departments and agencies. This includes meeting with the Department for Communities on a regular basis to alert officials to the need to undertake an assessment of the impact of the 'Welfare Reform' changes and to put in place mitigations to ensure the best interests of children are made a primary consideration. NICCY has also provided more detailed advice, on a range of related matters,

including:

- The need for a NI-specific Equality Impact Assessment of the impact of each of the Welfare Reform changes, in particular the 'Two Child Limit';
- The impact of benefit sanctions on children and the lack of a process to take into account their best interests in the process;
- The implications of the non-consensual conception exception or 'rape clause' to the 'Two Child Limit' and
- The need for a new Mitigations package to be created from April 2020, to mitigate the Welfare Reform changes that have impacted severely on children and their families.

## Assessment of mitigations

The Department for Communities report 'Review of Welfare Mitigation Schemes' published in 2019 provides an analysis of the impact of the 'mitigation package',<sup>86</sup> including mitigations to address reduced payments from the 'benefit cap', changes to disability and carers payments, changes to eligibility for ESA and the 'social sector size criteria'. The element intended to mitigate against the additional costs associated with employment was not implemented.

Despite the ongoing advice from NICCY, the report did not provide the 'comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms' introduced on children or indeed an assessment of the Mitigation Schemes role in mitigating these detrimental impacts. Indeed, children again were entirely invisible in the document, despite being the group with the highest levels of poverty, and being targeted by many of the changes.

It is possible, however, to identify the elements of the package that were particularly important in mitigating the impact of cuts on

<sup>86</sup> Department for Communities (March 2019), 'Review of Welfare Mitigation Schemes', (Belfast, DfC).

families with children, namely:

- The benefit cap provision - payments were made to a total of 3,140 households, all of which had their benefits capped from June 2016 - January 2019.<sup>87</sup> All of the households capped and in receipt of the mitigations payment included children, and 85% were lone parent households;<sup>88</sup> and
- The Social Security Sector Size Criteria ('bedroom tax') mitigation payments - with around 34,000 households benefitting from this at the time of the report, receiving an average of £12.50 per week or around £650 per annum. While the Review report did not indicate the demographic composition of these households, many are likely to be families with children.<sup>89</sup>

The element mitigating the additional costs associated with employment which was intended in part, to provide funding to lone parents for childcare was not taken forward by the Department for Communities, due to practical problems that subsequently emerged. NICCY believes that other routes should have been found to fulfil the intention of this proposal even if this required a different approach.

NICCY was also concerned at the way the mitigations package was implemented in relation to young people as they reached the age of 16 and transfer to PIP. While adults were eligible to a supplementary payment through the mitigation package as they transferred to PIP, this was not made available for young people aged 16 and 17. We understand that this is due to the interpretation by DfC that the Mitigation Working Group proposals did not include young people aged 16 and 17 however, the Commissioner cannot see a rationale for this conclusion in terms

of the text of the report, or in relation to the equality duty placed on statutory bodies. Many of the payments were limited to a maximum of one year as claimants transferred to the new systems, and therefore most ended during the four year package. Thus, despite the mitigation package, many households will still have been worse off than before, as they would have already transitioned to lower benefit levels, and their mitigations payments ended. Indeed others, whose circumstances have resulted in them making new benefit applications during this time, will never have benefitted from the mitigations.

The NI Human Rights Commission commissioned a cumulative impact assessment of tax and social security reforms in Northern Ireland from March 2010 to May 2019,<sup>90</sup> taking into account the particular circumstances of Northern Ireland and the Executive's mitigation package. This found that households with children have experience much larger losses as a result of the reforms than households without children. Losses were particularly dramatic for:

- Lone parent households – losing around £2,250 on average, around 10% of their net income;
- Households with 3 or more children – losing around £2,575 on average, compared to average losses of £50 for households with one child; and
- Households with at least one disabled child – losing around £2,000 on average, compared to households with adults and children without any disabilities which lost around £50 per year on average.

When they analysed the impacts of specific policies, they found that the benefit freeze had the biggest impact of any policy, with

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87 DfC/NISRA, (January 2019), 'Benefit Cap: Northern Ireland', (Belfast, DfC).

88 The benefit cap was reduced in November 2016 from the earlier level set at £26,000 per annum.

89 *Ibid*

90 Reed, H., and Portes, J., (Nov 2019), Cumulative impact assessment of tax and social security reforms in Northern Ireland, (Belfast: NIHRC)



losses of between £500 and £700 in the poorest households. The report's authors recommended that a new mitigation package, post March 2020 should continue to offset the 'bedroom tax' and the benefit cap, and introduce a cost of work allowance as originally intended. It should also introduce a range of additional allowances including one to offset the 'Two Child Limit', a payment for households with a person with a disability, a per-child payment for low income families, and an expanded payment for low income families with young children, based on the Scottish Government's Best Start Grant.

With the return of the Assembly in January 2020, the New Decade New Approach document included a commitment to 'extend existing welfare mitigation measures beyond March 2020, when they are currently due to expire'.<sup>91</sup> The new Minister for Communities Deirdre Hargey stated her determination to meet this commitment and on 3 February announced that she would extend the Social Sector Size criteria (Bedroom Tax) mitigation, introducing legislation through accelerated passage to continue it after 31 March 2020. She has also stated her intention to extend other elements of the mitigation package through introduction of statutory regulations. As the legislative processes have been delayed, the 2020 Budget Act allowed the Department to continue to make payments to people who would otherwise have been entitled to a Welfare Supplementary Payment as set out in the previous scheme. The Minister submitted a bid for £41.7 million in 2020/21 and was allocated £40.3 million to cover the costs of these extended mitigations.

The Commissioner is pleased at the commitments in the NDNA document, and that the mitigations contained in the previous package have been extended. However, the Department for Communities should ensure the new mitigation package include elements to

target child poverty and support low income families, including continuing the mitigations relating to the social sector size criteria and the benefit cap and the payment for children transferring from DLA to PIP. In addition, as the previous package did not address some of the welfare reform changes that impacted most on families, it is critical that new elements are added to the extended mitigation package, including:

- Mitigation payments for families affected by the two child limit and removal of the family elements of tax credits;
- Grants to address costs associated with employment (as originally advised by the Mitigations Working Group);
- A per-child payment for low income families ; and
- An expanded payment for low income families with young children, based on the Scottish Government's Best Start Grant.

While making the case for the mitigation package to be revised and extended, this can only be a temporary 'fix' and ultimately the focus must be on reversing the harmful policies undermining the social security system in the longer term.

## Strategies to tackle child poverty

The last Child Poverty Strategy released to meet the statutory duties under the Life Chances Act 2010 was published by the Executive on 25 March 2016. This had been delayed for two years, and many of its actions were already out of date. However, it was useful in providing a strategic direction for action to tackle child poverty, particularly given the absence of government for three years until January 2020.

Annual Reports for the Strategy have subsequently been published, providing a great deal of detail on a wide range of actions the Northern Ireland departments

<sup>91</sup> New Decade, New Approach, p9.

and agencies are taking to address child poverty across the four high level outcomes, using a 'report card' approach. Many actions demonstrated measurable impact, although others had been completed before the Strategy had been published.

The Life Chances Act 2010, had placed a statutory duty on the Northern Ireland Executive to publish a Child Poverty Strategy every three years, requiring a new strategy to be published in March 2019. However, officials were not able to do this due to the lack of an Executive at the time, and the requirements to publish Child Poverty Strategies ended on 31 March 2020.<sup>92</sup>

Despite the 2015 legal ruling that the NI Executive had breached Section 28E of the Northern Ireland Act (1998) in failing to adopt a strategy for addressing poverty, and the subsequent commitment of the Executive to the production of a 'Social Strategy', this has not been forthcoming over the period Northern Ireland was without a government. The New Decade New Approach document included commitments to both an Anti-poverty strategy and a Child Poverty Strategy.

In September 2020 the Minister for Communities announced that the 2016 Child Poverty Strategy would be extended to 2022 in order to allow her to determine whether a separate child poverty strategy was required or whether child poverty should be included in the general Anti-Poverty Strategy.

It is essential that the Anti-poverty strategy adopts a 'lifecycle approach' in a similar way to its predecessor 'Lifetime Opportunities', which considered the causes and impacts of poverty at different ages, and developed actions in relation to early years children;

school age children; working age adults; and pensioners.

## Covid-19 response

As it became clear that there would be a requirement for unprecedented measures to limit the impact of the COVID-19 pandemic, the UK government and NI Executive started to put in place a range of measures to protect household incomes, including providing loans and rates relief for businesses, releasing money for people who had, or would, lose their jobs, and adapting the social security system so as to enhance the protections provided to benefit claimants.

Changes to the social security system focused on ensuring continuity of benefits, and removal of hurdles such as the requirement for face to face meetings. Reviews and reassessments for health and disability benefits were suspended on 24 March for the following three months.<sup>93</sup> Northern Ireland specific enhancements to the Discretionary Support Scheme were announced, introducing a grant payment to assist with short-term living expenses where a person, or a member of their immediate family, has been infected by COVID-19 or told to self-isolate. There is no limit on the amount of an individual award, which is calculated based on individual circumstances, and made either as a loan or a non-repayable grant.<sup>94</sup>

On 26 March, Minister Hargey announced that families with children entitled to free school meals would receive direct payments of £2.70 per child per day. These were automatically processed, and families were not required to apply. This arrangement was specific to Northern Ireland and groups in GB have called for similar arrangements to be put in place. A £400,000 Coronavirus

<sup>92</sup> Life Chances Act 2010, Section 12.

<sup>93</sup> [www.communities-ni.gov.uk/news/hargey-introduces-further-measures-protect-most-vulnerable-and-their-families](https://www.communities-ni.gov.uk/news/hargey-introduces-further-measures-protect-most-vulnerable-and-their-families)

<sup>94</sup> [www.communities-ni.gov.uk/news/minister-announces-further-support-those-affected-by-covid-19](https://www.communities-ni.gov.uk/news/minister-announces-further-support-those-affected-by-covid-19)

Community fund was quickly set up to help provide food and support to vulnerable households.

Over March and April, the number of new applications for Universal Credit spiked from an average of 7,000 per month prior to the pandemic, to 35,440 in March and

20,560 in April.<sup>95</sup> The number of households on Universal Credit rose by almost 90% from 57,910 to 108,620. Of the 93,380 households in payment, 38% were families with children.<sup>96</sup>

## Calls to Government 2020:

The agreement of the political parties to form an Executive, and the 'New Decade, New Approach' commitments opened up the possibilities of prioritising actions to target poverty and to build an economy that would allow all the people of Northern Ireland to prosper. The delays in developing a Poverty Strategy, and an Economic/Industrial Strategy have hampered the creation of new approaches to support the poorest in our society, including a revised 'Welfare Reform' mitigation package. However, just as the Minister for Communities was reaching agreement with Executive colleagues in relation to this, to be in place in time for the 'cliff edge' of 31 March, the COVID-19 crisis hit, with devastating consequences not just in relation to the health of the population, but for businesses, jobs, and family incomes.

At the moment, during the crisis, the UK government, the Executive, government departments and agencies are seeking to minimise its impact on the economy and ensure that the basic needs of the population are met. However, coming out of the crisis, there is an opportunity to harness the renewed focus on working together to rebuild the economy, our health and social security systems to be more robust and to focus on meeting the needs of all within society, particularly the most vulnerable.

Government must take action to prioritise the eradication of child poverty through:

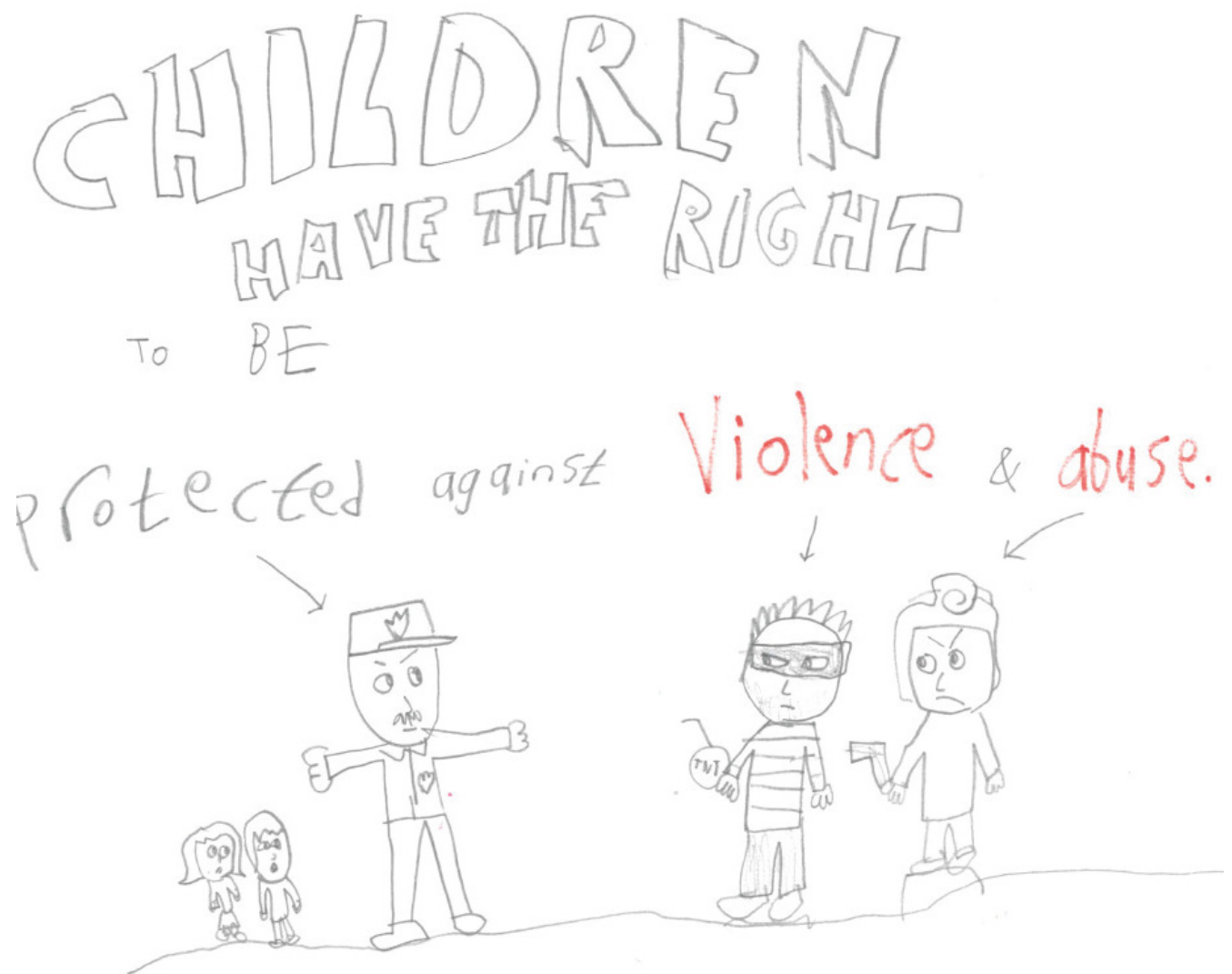
1. Ensuring that the new Executive Economic/Industrial Strategy focuses on rebuilding the economy after the Covid-19 crisis in such a way that all those who can work, including young people and parents, can play a part and receive a decent wage, which enables them to live above the poverty thresholds;
2. Adapting the new mitigation package to include elements to address child poverty and provide support for low income families, including continuing the mitigations relating to the social sector size criteria, the benefit cap, the payment for children transferring from DLA to PIP and the following new elements:

<sup>95</sup> DfC (August 2020), Universal Credit Statistics to May 2020, (Belfast: DfC). [www.communities-ni.gov.uk/system/files/publications/communities/dfc-ni-uc-stats-may-2020.pdf](http://www.communities-ni.gov.uk/system/files/publications/communities/dfc-ni-uc-stats-may-2020.pdf)

<sup>96</sup> *Ibid*

- a. mitigation payments for families affected by the two child limit and removal of the family elements of tax credits;
  - b. grants to address costs associated with employment (as originally advised by the Mitigations Working Group);
  - c. a per-child payment for low income families; and
  - d. an expanded payment for low income families with young children, based on the Scottish Government's 'Best Start' Grant.
3. Transforming the UK Social Security system so that, once again, it becomes an effective 'safety net' for all in society. The government must provide a renewed vision for the social security system, and reverse the harmful policies that have undermined it. Families should be guaranteed a minimum income; and
4. Developing and implementing a new Anti-poverty Strategy without delay. This should adopt a 'lifecycle approach' reflecting the causes and impacts of poverty at different ages, and including actions in relation to early years children; school age children; working age adults; and pensioners. Actions relating to children should include introducing affordable childcare, tackling educational inequalities and social exclusion and addressing homelessness.





## 7.4 SAFEGUARDING

*"Children have suffered adult violence unseen and unheard for centuries. Now that the scale and impact of all forms of violence against children is becoming better known they cannot be kept waiting any longer for the protection to which they have an unqualified right."*<sup>97</sup>

## UNCRC Articles

### Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

### Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices; and
- (c) The exploitative use of children in pornographic performances and materials.

### Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

### Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

### Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

### Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

### Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent

<sup>97</sup> UN (2006) World Report on Violence against Children. Geneva: UN.

intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

The UN Committee's 2016 Concluding Observations made a wide range of recommendations the UK and devolved Governments need to act on in order to better realise children's rights across these articles of the UNCRC. The Committee also made a specific comment that the recommendations of the Marshall (Independent) Inquiry into Child Sexual Exploitation in Northern Ireland must be implemented.

## 2016 Committee on the Rights of the Child Concluding Observations

### Right to life, survival and development

28. The Committee recommends that the State party:
- (a) Address underlying determinants of infant and child mortality, including social and economic deprivation and inequality;
  - (b) Introduce automatic, independent and public reviews of unexpected death or serious injury involving children, including in custody, care and mental health care institutions in all the territory of the State party.<sup>98</sup>

### Violence, abuse and neglect

42. With reference to its general comment No. 13 (2011) and Sustainable Development Goal 16, Target 16.2, the Committee recommends that the State party:
- (a) Revise the Children and Young Persons Act (1933) in order to protect all children under 18 years from child abuse and neglect;
  - (b) Strengthen systematic data collection and recording of information on violence against children, including domestic violence, gender-based violence, abuse and neglect, in all settings, as well as information sharing and referral of cases among relevant sectors;
  - (c) Increase the number of social workers and strengthen their capacity to address violence against children;
  - (d) Give due weight to the views of children concerned in the responses to violence, including in criminal and family law proceedings; and
  - (e) Consider ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence.<sup>99</sup>

### Sexual exploitation and abuse

44. The Committee recommends that the State party, including devolved governments, Overseas Territories and Crown Dependencies:
- (a) Systematically collect and publish comprehensive and disaggregated data on child exploitation and abuse, including through mandatory reporting, in all settings; (b) Develop and implement comprehensive multi-sectoral strategies on child exploitation and abuse, including online, to ensure effective prevention, early detection and intervention, at

<sup>98</sup> Para 28, CRC/C/GBR/CO/5, 12 July 2016

<sup>99</sup> Para 42, CRC/C/GBR/CO/5, 12 July 2016

- national as well as at devolved levels, in Overseas Territories and Crown Dependencies;
- (c) Implement the recommendations of the Marshall Inquiry into child sexual exploitation in Northern Ireland;
  - (d) Further develop comprehensive services to support children who are victims or at risk of sexual exploitation and abuse;
  - (e) Strengthen the capacity of law enforcement authorities and the judiciary to detect and prosecute child sexual exploitation and abuse, and grant effective remedies to the child victims; and
  - (f) Consider ratifying the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.<sup>100</sup>

### **Asylum-seeking, refugee and migrant children**

76. With reference to its general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin, the Committee recommends that the State party:
- (a) Systematically collect and publish disaggregated data on the number of children seeking asylum, including those whose age is disputed;
  - (b) Establish statutory independent guardians for all unaccompanied and separated children throughout the State Party;
  - (c) Conduct age assessments only in cases of serious doubt through multidisciplinary and transparent procedures taking into account all aspects, including the psychological and environmental aspects of the person under assessment;

- (d) Cease the detention of asylum-seeking and migrant children;
- (e) Review its asylum policy in order to facilitate family reunion for unaccompanied and separated refugee children within and outside of the State party, including through implementation of the EU Dublin III regulation;
- (f) Provide sufficient support to migrant, refugee and asylum-seeking children to access basic services;
- (g) Review the Immigration Act (2016) in order to ensure its compatibility with the Convention; and
- (h) Ensure that when the return of children occurs, this happens with adequate safeguards, including a formal best interests determination, effective family tracing that includes individual risk and security assessments, and appropriate reception and care arrangements.<sup>101</sup>

### **Child victims and witnesses of crimes**

82. The Committee recommends that the State party fully implement the Committee's recommendations on the initial report of the State party (CRC/C/OPSC/GBR/CO/1), provided in its concluding observations on the Optional Protocol on the sale of children, child prostitution and child pornography in particular that the State party:
- (a) Ensure that all children up to 18 years of age are protected from all types of offence covered by the Optional Protocol and that domestic legislation throughout the State party, including in its devolved administrations, enables it to establish and exercise extraterritorial jurisdiction, without the dual criminality criterion, over all the

<sup>100</sup> Para 44, CRC/C/GBR/CO/5, 12 July 2016

<sup>101</sup> Para 76, CRC/C/GBR/CO/5, 12 July 2016



- offences covered by the Optional Protocol;
- (b) Strengthen the National Referral Mechanism for identifying trafficked and exploited children which is embedded in existing child protection procedures;
  - (c) Establish mechanisms and procedures to protect the rights of child victims of offences covered by the Optional Protocol, including establishing a clear obligation of non-prosecution, and ensure that they are treated as victims rather than criminals by the law enforcement and judicial authorities;
  - (d) Operationalize the provision of a competent and statutory guardian during the criminal justice process; and
  - (e) Revise its legislation to ensure that all children up to 18 years of age are protected from all types of offence covered by the Optional Protocol.<sup>102</sup>

## Safeguarding – The Context

It is important to acknowledge that the range of articles considered in this section set out some of the most fundamental rights that should be afforded to all children and young people in Northern Ireland – rights to life, to protection from harm, abuse and violence and special protection rights for some of our most vulnerable children, including migrant, asylum seeking and refugee children. There is a weighty obligation on Government to ensure that children's rights and best interests are fully realised across these areas.

This requires Government and statutory agencies to pay particular regard to the groups of children who are more likely to face

barriers in accessing their rights to protection. Examples of this include children exposed to multiple adversities, living in homes affected by domestic abuse, alcohol and substance misuse and mental illness, children in care and children missing from home, care or education. In a time of unprecedented and acute crisis, such as that represented by the COVID-19 pandemic, it is critical that children at risk of abuse and exploitation are effectively safeguarded and that the services and professionals who hold these statutory duties are able to discharge them effectively.

At 31 March 2019, 24,289 children in Northern Ireland were known to social care services as a child in need and 2,211 children were placed on the Child Protection Register.<sup>103</sup> The impact of the COVID-19 crisis on social care statistics is not yet fully known or reported but prior to this, across the UK Northern Ireland had the highest rate per 10,000 of children placed on the Child Protection Register, with the majority of registrations being due to physical abuse, neglect or a combination of both. It is important to remain mindful of the increased likelihood that children who have been exposed to abuse and violence will experience poorer outcomes in both childhood and as adults including poorer relationships, mental health, educational and physical health outcomes.<sup>104</sup> The imperative on Government to take all necessary measures to protect children is clear.

Previously NICCY called on Government to ensure that all children are safe and protected from harm by:

1. Reviewing the arrangements for the Safeguarding Board and Children and Young People's Strategic

<sup>102</sup> Para 82, CRC/C/GBR/CO/5, 12 July 2016

<sup>103</sup> DoH (2019) Children's Social Care Statistics for Northern Ireland 2018/19. Available at: [www.health-ni.gov.uk/sites/default/files/publications/health/child-social-care-18-19.pdf](http://www.health-ni.gov.uk/sites/default/files/publications/health/child-social-care-18-19.pdf)

<sup>104</sup> Meadows P. et al (2011) The Costs and Consequences of Child Maltreatment. London: NSPCC.

Partnership ensuring that a strong, independent, multiagency child protection body is in place;

2. Commencing a statutory multiagency child death review process in line with Section 3(5) of the Safeguarding Board Act (Northern Ireland) 2011; and
3. Publishing Child Sexual Exploitation (CSE) Progress Reports and providing assurance that the Independent Inquiry into CSE recommendations have been fully implemented.

NICCY is of the view that none of the Commissioner's 2018 SOCRNI recommendations to Government have been properly acted upon. The Department of Health has not published further details regarding the review of arrangements for the Safeguarding Board and the Children and Young People's Strategic Partnership; Northern Ireland continues to fail to commence the child death review process set out in Section 3(5) of the Safeguarding Board Act (Northern Ireland) 2011 and in NICCY's 2018 Review of Departmental CSE Progress Reports the Commissioner reiterated concerns that these did not provide evidence of effective implementation of the recommendations of the 2014 Independent Inquiry into Child Sexual Exploitation in Northern Ireland. It is therefore unsurprising that these areas are again reflected in the Commissioner's 2020 recommendations.

A focus on continuity and stability is central to effectively protecting children in times of change and crisis, particularly given the considerable and ongoing strain placed on health and social care during the current pandemic. At this juncture, it is important that

statutory agencies and non governmental organisations who play a critical role in children and young people's safety and protection can continue to undertake this vital work. While agencies and professionals respond to the ongoing medical crisis, Government must properly assess the pressure this may place on safeguarding arrangements and ensure that these are not compromised.

In the immediate response to the crisis, the Department of Health introduced the Children's Social Care (Coronavirus) (Temporary Modification of Children's Social Care) Regulations (Northern Ireland) 2020<sup>105</sup> which sought to reduce pressure on statutory services through the dilution of some statutory obligations across a wide range of areas affecting children, including standards for placing children in foster, emergency and immediate placements and the frequency and methods used in reviewing the care of children in foster, residential and secure care or who have been, or are awaiting, placement for adoption. NICCY wholly accepts the need for the Department to undertake emergency planning to ensure that child protection and social care arrangements can continue to operate during and following on from the COVID-19 pandemic, but highlights that it must only be as a last resort that statutory obligations to protect and support vulnerable children should be weakened.

While the Departmental planning response was undertaken at a point when the breadth and depth of the crisis was still unknown and feared to be within the parameters of worst case modelling and while the Department did consult NICCY and make some modifications to the Regulations and Guidance<sup>106</sup> following this, the Commissioner has remained of the view that the Regulations should not be used

105 Children's Social Care (Coronavirus) (Temporary Modification of Children's Social Care) Regulations (Northern Ireland) 2020: [www.legislation.gov.uk/nisr/2020/78/contents/made](http://www.legislation.gov.uk/nisr/2020/78/contents/made)

106 Guidance to accompany the Children's Social Care (Coronavirus) (Temporary Modification of Children's Social Care) Regulations (Northern Ireland) 2020: [www.health-ni.gov.uk/publications/covid-19-guidance-accompany-children-s-social-care-coronavirus-temporary-modification-children-s](http://www.health-ni.gov.uk/publications/covid-19-guidance-accompany-children-s-social-care-coronavirus-temporary-modification-children-s)

unless a more robust threshold for establishing the need for such use is in place and that a suitably rigorous assessment and reporting process to monitor this is developed. At the time of writing, the Department has produced monitoring reports on the Regulations which have been shared with NICCY and the Northern Ireland Assembly Health Committee and which show an uneven use of the modifications across different areas of social care and different HSCTs.

NICCY is mindful that it may be the case that as current lockdown measures are eased statutory services will experience a significant increase in referrals and demand, including in relation to child protection and children in need cases. In this prolonged period of social distancing and isolation not all family homes are safe places for children and Government must ensure that children who are both living in family environments and also who are in the care of or are accommodated by the state are not allowed to be unheard and invisible. At a time of emergency it is a priority that our most vulnerable children and young people are protected by the highest standards of statutory obligations.

## Child Death Reviews

Approximately 150 children and young people die every year in Northern Ireland<sup>107</sup> and recent analysis by the Office for National Statistics (ONS) has highlighted that the jurisdiction continues to have the highest rate of avoidable child deaths in the UK and, with Scotland, had a substantially higher rate than England and Wales.<sup>108</sup> It is a tragedy when any child dies and it places a grave

responsibility upon Government and statutory agencies to learn from each death in order to ensure that where further deaths may be prevented, this is identified and acted upon. That is the purpose of a child death review process and the ONS figures underline the importance of ensuring that Northern Ireland has a robust and functioning multi-agency child death review mechanism.

In 2011, the Safeguarding Board Act (Northern Ireland) came into force following legislative passage through the Northern Ireland Assembly and in Section 3(5) placed a statutory duty on the Board to review all child deaths. NICCY warmly welcomed this statutory obligation and has repeatedly expressed concern that this important duty has not been commenced. The Royal College for Paediatricians and Child Health professionals has also repeatedly called for child death review to be established in Northern Ireland.<sup>109</sup>

The Inquiry into Hyponatraemia-Related Deaths, which was established following the deaths of a number of children in hospitals in Northern Ireland, published its report and recommendations in 2018, including a recommendation that the merits of introducing a child death overview panel should be reviewed.<sup>110</sup> The Department of Health has developed an implementation programme to progress the Inquiry recommendations, publishes Update Reports on this work and has engaged with NICCY in regard to the recommendation concerning child death overview. However, the Commissioner remains deeply concerned that meaningful

<sup>107</sup> NISRA (2019) Death Statistics: Deaths by Age 1955-2018. Available at: [www.nisra.gov.uk/publications/death-statistics](http://www.nisra.gov.uk/publications/death-statistics)

<sup>108</sup> ONS (2020) Avoidable mortality in the UK: 2018. Available at: [www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/causesofdeath/bulletins/avoidablemortalityinenglandandwales/2018#avoidable-mortality-in-children-and-young-people](http://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/causesofdeath/bulletins/avoidablemortalityinenglandandwales/2018#avoidable-mortality-in-children-and-young-people)

<sup>109</sup> RCPCH (2020) State of Child Health: Northern Ireland. Available at: <https://stateofchildhealth.rcpch.ac.uk/evidence/nations/northern-ireland>

<sup>110</sup> See recommendation 88, The Inquiry into Hyponatraemia-related Deaths (2018) The Report. Available at: [www.ihrdni.org/Full-Report.pdf](http://www.ihrdni.org/Full-Report.pdf)

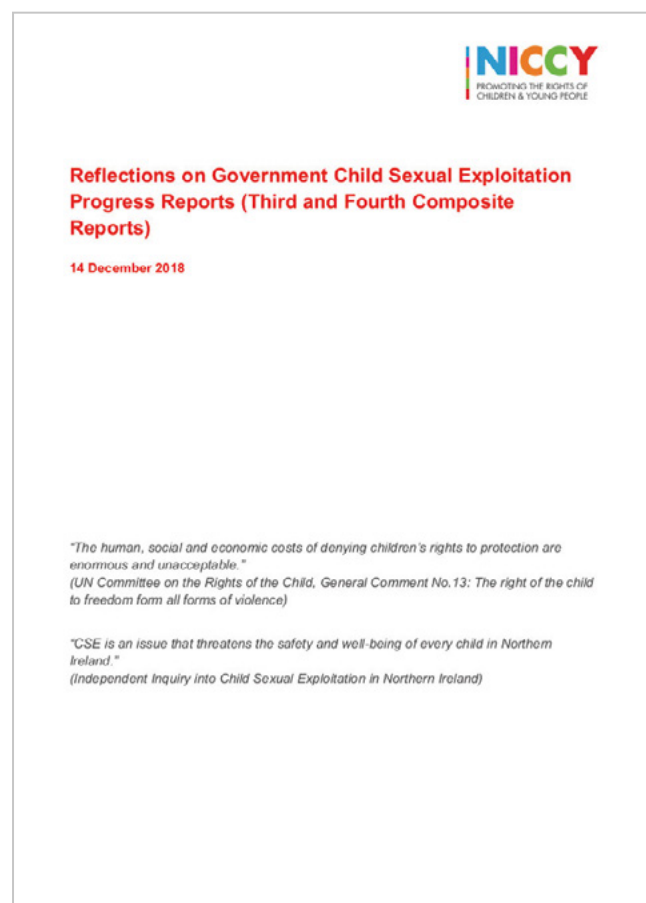
progress has not been made in establishing a child death review mechanism in Northern Ireland and is not of the view that the Department of Health has demonstrated that continued delays in this are appropriate or necessary.

## Child Sexual Abuse and Child Sexual Exploitation

NICCY has continued to focus on how effectively Northern Ireland's safeguarding and justice arrangements protect children in relation to sexual offences and Child Sexual Exploitation (CSE). The Departments of Health, Education and Justice have published third and fourth CSE Progress Reports which aim to demonstrate how the recommendations of the 2014 Independent Inquiry into Child Sexual Exploitation in Northern Ireland have been taken forward. The Inquiry made recommendations across health and social care, policing and justice and education which, if implemented, would better prevent CSE in Northern Ireland; more effectively protect and support young people who had been subject to exploitation; and improve investigations and prosecutions of perpetrators.<sup>111</sup>

NICCY has provided detailed reviews of each of the Department's CSE Action Plans and all four rounds of Progress Reports and remains disappointed that these have not provided a robust framework to take forward learning from the Inquiry or demonstrate that real improvements in tackling CSE have been achieved.<sup>112</sup> It has been of growing concern to NICCY that Departments have assessed an increasing number of recommendations as being fully implemented without substantiating

evidence that safeguarding outcomes have been improved. The Commissioner remains concerned that, because of weaknesses in the reporting process, assurances cannot be given about how effectively our arrangements to protect children are addressing CSE and that a form of independent oversight or review is required.



In 2018, the Criminal Justice Board commissioned Sir John Gillen to undertake a Review of law and procedures in cases of serious sexual offences. Drawing on our work on CSE, NICCY provided advice to the Review including recommending that introduction of the Barnahus model to Northern Ireland be considered.<sup>113</sup> The Barnahus or Child House model was

<sup>111</sup> K. Marshall (2014) Child Sexual Exploitation in Northern Ireland: Report of the Independent Inquiry. Belfast: RQIA.

<sup>112</sup> NICCY's Review of CSE Action Plans and Progress Reports are available at: [www.niccy.org/about-us/our-current-work/high-level-corporate-objectives/children-s-right-to-health-protection-from-violence-or-abuse/child-sexual-exploitation-cse/](http://www.niccy.org/about-us/our-current-work/high-level-corporate-objectives/children-s-right-to-health-protection-from-violence-or-abuse/child-sexual-exploitation-cse/)

<sup>113</sup> NICCY (2018) Advice on the Review of arrangements to deliver justice in serious sexual offence cases. [www.niccy.org/publications/2018/september/07/review-of-sexual-offences-cases/](http://www.niccy.org/publications/2018/september/07/review-of-sexual-offences-cases/)



established in Iceland and now operates in a wide range of countries across Europe. Importantly it is promoted by the Council of Europe as an example of best practice<sup>114</sup> and is identified by the Lanzarote Committee as supporting implementation of the Convention the Protection of Children against Sexual Exploitation and Sexual Abuse<sup>115</sup> which was ratified by the UK Government in 2018. Barnahus seeks to ensure a child centred response to victims of child sexual abuse by providing child protection, medical, therapeutic and criminal justice processes within a single child friendly location at which support to children is provided at both the immediate point of disclosure or reporting and over the longer term.<sup>116</sup>

The 2019 report of the Gillen Review noted profound concern regarding the average of 986 days for sexual offences cases involving child victims in Northern Ireland to reach completion and documented the inconsistent application of special measures in cases.<sup>117</sup> In relation to trial proceedings, the Review highlighted for example that pre-recorded cross-examination has not been introduced; that legal personnel have little contact with child victims prior to court appearances; that the length and nature of cross-examination often failed to reflect that children were vulnerable witnesses and that procedures could be re-traumatising for child victims.

In circumstances where sexual abuse is reported the criminal justice system must as a minimum ensure, within the principles of fairness and due process, that reporting, investigation and court processes enable children to give their best quality evidence, do not cause or exacerbate trauma or distress and deliver a high standard of justice for all involved.

NICCY is of the view that current arrangements and practices in Northern Ireland do not meet this threshold and warmly welcomed the Gillen Review recommendation that urgent consideration should be given to the advantages of Barnahus and that the viability of the model should be assessed. The evidence base and imperative for change was further explored in NICCY's March 2019 'Time for Change' seminar with Sir John Gillen and Bragi Guðbrandsson, Member of the UN Committee on the Rights of the Child and founder of Barnahus.<sup>118</sup> It is important that New Decade New Approach<sup>119</sup> sets out the commitment of the Northern Ireland Executive to address the findings of the Gillen Review and it is timely that proper consideration of Barnahus is now underway.

114 Council of Europe (2018) Protection of children against sexual exploitation and abuse: Child friendly, multidisciplinary and interagency response inspired by the Barnahus model <https://rm.coe.int/protection-of-children-against-sexual-exploitation-and-abuse-child-fri/168079426a>

115 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Available at: [rm.coe.int/protection-of-children-against-sexual-exploitation-and-sexual-abuse/1680794e97](https://rm.coe.int/protection-of-children-against-sexual-exploitation-and-sexual-abuse/1680794e97)

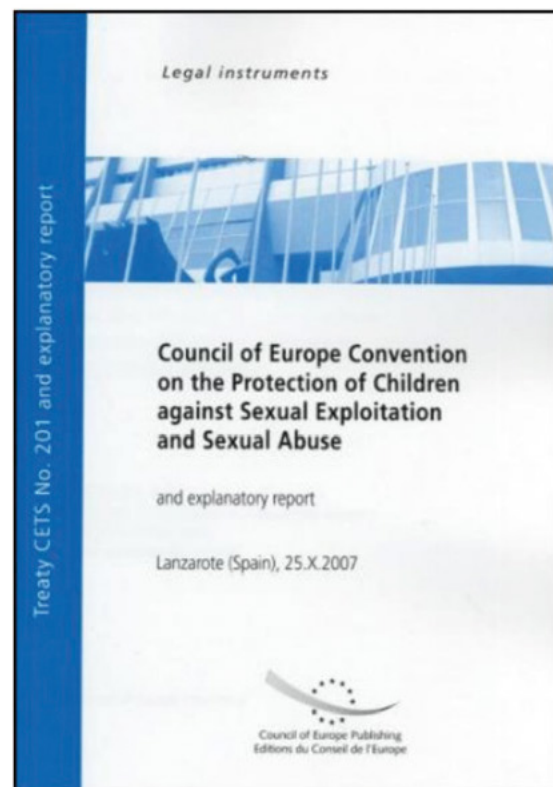
116 D. Wenke (2017) Enabling Child Sensitive Justice, Council of the Baltic Seas. Available at: [www.childrenatrisk.eu/promise/wp-content/uploads/PROMISE-Enabling-Child-Sensitive-Justice.pdf](http://www.childrenatrisk.eu/promise/wp-content/uploads/PROMISE-Enabling-Child-Sensitive-Justice.pdf)

117 Sir John Gillen (2019) Report into the law and procedures in serious sexual offences in Northern Ireland. <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/gillen-report-may-2019.pdf>

118 NICCY (March 2019) Time for Change seminar. Available at: <https://www.niccy.org/timeforchange>

119 (2020) New Decade New Approach. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf)

# Time for Change



Northern Ireland Commissioner  
for Children and Young People

#TimeforChange

**NICCY**  
PROMOTING THE RIGHTS OF  
CHILDREN & YOUNG PEOPLE

## Calls to Government 2020 (Safeguarding):

Government must ensure that all children are safe and protected from harm through:

1. Thorough and ongoing assessment of the impact of the COVID-19 pandemic and Government response to this on safeguarding arrangements and protections for children and young people.
2. Commencing with urgency, the statutory multiagency child death review process in line with Section 3(5) of the Safeguarding Board Act (Northern Ireland) 2011; and
3. Taking forward the Barnahus model to respond to all child victims of sexual offences and revising CSE Progress Reporting to ensure this provides evidence of improved outcomes for children and young people.

## Children and families subject to immigration control: the context

Children and families subject to immigration control may be asylum seeking, refugees or migrants and children may be unaccompanied or 'separated'. They are subject to a complex

range of procedures which require UK and devolved agencies to work effectively across their respective remits, and children and families will need to navigate the asylum and immigration system, as well as seeking access to basic services in Northern Ireland. Separated children should become 'looked

after' and be accommodated by Health and Social Care Trusts.

Official figures indicate that from mid 2017 to mid 2018 there were 13,100 international 'inflows' to NI from outside the UK and 9,200 'outflows' resulting in net migration of 3,900 with migrants most commonly coming from Ireland, Romania and Poland.<sup>120</sup> In 2018, asylum seekers represented 6.3% of this migration. Northern Ireland has tended to see relatively low numbers of Separated Children arrive in the jurisdiction and in 2018-2019 25 Separated Children were identified and referred to health and social care.<sup>121</sup> In 2019, 91 potential victims of trafficking and modern slavery in Northern Ireland were referred to the National Referral Mechanism, 16 of whom were children.<sup>122</sup>

Previously NICCY called for:

1. The UK and Northern Ireland Governments to ensure that the rights of all children, including those of destitute asylum seekers, are fully protected and that they receive the support they need;
2. Government to ensure that all separated children have access to an independent Guardian; and
3. Government to support the transfer of separated children to Northern Ireland in cases where this would meet their best interests.

NICCY remains concerned that significant barriers are faced by asylum seekers and refugees in, for instance, accessing appropriate healthcare, an adequate standard of living and an effective education. We highlight that, in relation to immigration procedures, neither families or Separated Children are provided with access to child friendly interview facilities and we continue to note particular concerns about the vulnerability of appeal rights exhausted and destitute asylum seekers and the negative human consequences of the UK Government's commitment to creating a 'hostile environment' for such groups.

The Commissioner has welcomed Northern Ireland's participation in the Syrian Vulnerable Person's Relocation Programme (VPRS) and the model of collaborative working across Government Departments, statutory agencies and non governmental organisations that has been established to deliver this. The programme in Northern Ireland began in December 2015 and over a phased basis 1,815 refugees have arrived (up to February 2020).<sup>123</sup> NICCY does however highlight that access to UNCRC rights for children and families subject to immigration control should not be contingent on their entry route into Northern Ireland. The procedural and service innovations that have been developed to more effectively support VPRS families, such as, streamlined and timely access to benefits, to primary healthcare and to school placements and educational support, should be in place for all children and their parents or carers. NICCY continues to be disappointed that Northern Ireland has not sought to participate

<sup>120</sup> NISRA (2019) Long term international migration statistics for NI (2018). Available at: [www.nisra.gov.uk/publications/long-term-international-migration-statistics-northern-ireland-2018](http://www.nisra.gov.uk/publications/long-term-international-migration-statistics-northern-ireland-2018)

<sup>121</sup> HSCB (2019) Delegated Statutory Functions Overview Report: 1 April 2018-31 March 2019. Available at: [www.hscboard.hscni.net/download/PUBLIC-MEETINGS/HSC%20BOARD/board\\_meetings\\_2019/september\\_2019/Item-08-02-DSF-Overview-Report-March-2019.pdf](http://www.hscboard.hscni.net/download/PUBLIC-MEETINGS/HSC%20BOARD/board_meetings_2019/september_2019/Item-08-02-DSF-Overview-Report-March-2019.pdf)

<sup>122</sup> NCA (2020) National Referral Mechanism Statistics: End of year summary report 2019: [www.gov.uk/government/statistics/national-referral-mechanism-statistics-uk-end-of-year-summary-2019#history](http://www.gov.uk/government/statistics/national-referral-mechanism-statistics-uk-end-of-year-summary-2019#history)

<sup>123</sup> DoC (2020) Syrian Vulnerable Persons Relocation Scheme: Briefing document. Available at: [www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-svprs-briefing-feb20.pdf](http://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-svprs-briefing-feb20.pdf)

in child transfer programmes, where resettlement to Northern Ireland would be in a child's best interests.

## Separated children

Following NICCY's repeated expressions of concern regarding unnecessary delays in the commencement of Section 21 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015<sup>124</sup> we warmly welcomed the independent Guardianship provision for Separated Children being commenced in April 2018. This statutory provision recognises the particular vulnerabilities of separated children and provides a dedicated safeguard to ensure their rights and best interests are properly considered whether in relation to child protection, accommodation and placement, health and education or immigration status and durable solution.

NICCY recognises that Government and statutory agencies have sought to improve arrangements to protect and support Separated Children in Northern Ireland but remains mindful that the development of specialist resources, such as the regional residential unit, and professional expertise are subject to considerable pressure when there are increases in arrivals of Separated Children. Government must ensure that further measures are taken so provision for Separated Children is robust and can be responsive to increases in arrivals of vulnerable children and young people.

## Border travel

It is imperative that children and families subject to immigration control have timely access to all island services, including

the All Island Congenital Heart Disease Network which provides both scheduled and emergency care for infants and children. In addition to this, children should be able to participate in educational, sporting and cultural pursuits that operate on a 32 county basis or include travel across the border as part of their ongoing activities. UK and Northern Ireland Government agencies must work in collaboration with authorities in the Republic of Ireland to put in place arrangements that, while safeguarding children and vulnerable families, provide timely access and guard against any negative criminal justice or immigration consequences of border travel for such purposes.

## Calls to Government 2020 (children and families subject to immigration control):

- 1. The UK and Northern Ireland Governments must ensure that the rights of all children, including those of destitute asylum seekers, are fully protected and that they receive the support they need.**
- 2. The Government must strengthen current provision for Separated Children so that arrangements can safely and effectively respond to unplanned increases in numbers of children arriving in Northern Ireland.**
- 3. Government must ensure that measures are in place to enable children and families subject to immigration control to travel across the land border to access healthcare services and participate in educational, sporting or cultural activities as necessary.**

<sup>124</sup> Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015: [www.legislation.gov.uk/nia/2015/2/contents#:~:text=Human%20Trafficking%20and%20Exploitation%20%28Criminal%20Justice%20and%20Support,be%20brought%20into%20force%20at%20a%20future%20date](http://www.legislation.gov.uk/nia/2015/2/contents#:~:text=Human%20Trafficking%20and%20Exploitation%20%28Criminal%20Justice%20and%20Support,be%20brought%20into%20force%20at%20a%20future%20date)



## Digital Environment

In 2018, NICCY highlighted the importance of the digital world in relation to children and young people's safety and wellbeing and recommended that:

1. Work on the urgent implementation of the draft e-Safety Strategy and Action Plan for children and young people in Northern Ireland must be taken forward without delay. A comprehensive overarching policy on cyberbullying should also be progressed as a matter of priority in order to keep children safe from harm.

It is deeply disappointing that in 2020 Northern Ireland remains without an Online Safety Strategy, particularly given that work began on this a number of years ago. Indeed, it is important that this is embedded into a broader strategy which aims to promote children's rights in the online world as a whole in accordance with the Council of Europe's 2018 Guidelines to respect, protect and fulfil the rights of the child in the digital environment (Recommendation CM/Rec(2018)7).<sup>125</sup> The Council of Europe identifies the digital environment as "encompassing information and communication technologies (ICTs), including the internet, mobile and associated technologies and devices, as well as digital networks, databases, content and services" and highlights that, across this, Governments must ensure that children's rights are promoted in their entirety.<sup>126</sup>

Children and young people's online and offline lives are intrinsically and deeply interconnected and the digital world is a critical vehicle through which children's rights can and should be realised. This includes, for example, rights to information and freedom of expression and association, rights to privacy and to family life, education and health as well as rights to protection from harm, bullying, violence, abuse and exploitation.

In 2019, the European Network of Ombudspersons for Children (ENOC) developed its annual statement and recommendations on the theme of children's rights in the digital environment and NICCY led this work on behalf of ENOC. The Statement provides a comprehensive set of recommendations to be taken forward by Government, regulators and statutory agencies as well as industry and technology companies and sets out a wide range of measures to progress children's rights to, for instance, non discrimination; participation and education; protection from harmful content and harmful technology; and to reporting procedures in the online world.<sup>127</sup> This recognises the multiple roles children play in the digital environment (as consumers, creators and distributors of content and digital leaders) and is informed by underpinning concerns ranging from the challenges of emerging and connected technologies to informed consent and the 'datafication' of children.<sup>128</sup> The Statement is an important resource for the development of strategies and measures in Northern Ireland.

<sup>125</sup> Council of Europe (2018) Recommendation of the Committee of Ministers to member States on guidelines to respect, protect and fulfil the rights of the child in the digital environment (CM/Rec(2018)7). Available at: <https://rm.coe.int/guidelines-to-respect-protect-and-fulfil-the-rights-of-the-child-in-th/16808d881a>

<sup>126</sup> Council of Europe (2018) Recommendation of the Committee of Ministers to member States on guidelines to respect, protect and fulfil the rights of the child in the digital environment (CM/Rec(2018)7). Available at: <https://rm.coe.int/guidelines-to-respect-protect-and-fulfil-the-rights-of-the-child-in-th/16808d881a>

<sup>127</sup> ENOC (2019) Position statement on children's rights in the digital environment. Available at: <http://enoc.eu/wp-content/uploads/2019/10/ENOC-2019-Statement-on-Childrens-Rights-in-the-Digital-Environment-FV.pdf>

<sup>128</sup> Milovidov E. (2019) Children's Rights in the Digital Environment: paper produced for ENOC on the evidence supporting the drafting of a statement on children's rights in the digital environment. Available at: <http://enoc.eu/wp-content/uploads/2019/10/FINAL-ENOC-Evidence-Paper-Sept-2019.pdf>

## **Calls to Government 2020 (Digital Environment):**

**In order to promote and safeguard children's rights in the digital world Government must:**

- 1. Ensure that Northern Ireland has a robust strategy to protect children's rights in the digital environment in place and urgently deliver a child rights based online safety strategy as part of this.**

## **Restraint and Seclusion**

NICCY has become increasingly concerned about the use of restraint, seclusion and other restrictive practices in a range of settings, most notably in education, and the Commissioner's Legal and Investigations department has been active in this area. The 2016 Concluding Observations of the Committee on the Rights of the Child included the following:

39.
  - (b) Abolish all methods of restraint against children for disciplinary purposes in all institutional settings, both residential and non-residential, and ban the use of any technique designed to inflict pain on children;
  - (c) Ensure that restraint is used against children exclusively to prevent harm

- to the child or others and only as a last resort;
- (d) Systematically and regularly collect and publish disaggregated data on the use of restraint and other restrictive interventions on children in order to monitor the appropriateness of discipline and behaviour management for children in all settings, including in education, custody, mental health, welfare and immigration settings.<sup>129</sup>

## **Calls to Government 2020 (Restraint and Seclusion):**

**In order to protect children's rights Government must, as a matter of urgency:**

- 1. Ban the use of restraint and seclusion for disciplinary purposes, and the use of any technique designed to inflict pain on children;**
- 2. Ensure that restraint and seclusion are only used as a measure of last resort, to prevent harm to the child or others; and**
- 3. Make reporting of the use of restraint and seclusion mandatory across all settings.**

129 Para 39, CRC/C/GBR/CO/5, 12 July 2016



## 7.5 YOUTH JUSTICE

## Context

In accordance with international children rights standards the Youth Justice System in Northern Ireland recognises that children have a different status than that of adults and consequently has separate policies and processes. The purpose of the Youth Justice System in NI is also clear that whilst its main aim is to protect the public through the prevention of offending by children and young people (under the age of 18), a primary aim must be adhering to the best interests of children. There have been significant and positive developments in the Youth Justice system in Northern Ireland since 1998 although developments have slowed considerably in recent years.

Following the devolution of Justice to the NI Assembly the independent “Review of the Youth Justice System in NI”<sup>130</sup> was established. Reporting in 2011 it made 31 recommendations the majority of which were accepted and in 2015 the Criminal Justice Inspectorate NI found that 59% of the recommendations had been achieved. Notwithstanding this ‘optimistic assessment’, some of the most significant recommendations i.e.:

- Raising the age of criminal responsibility (No. 29);
- Reducing the number of non-sentenced young people in custody (No.s 8, 9 and 18);
- Ensuring equity between looked after and non-looked after children when entering custody (No. 19); and
- Reducing delay and introducing statutory time limits for disposal of cases (No.s 14 and 15) remain outstanding.

There have been some attempts to fulfil the outstanding recommendations of the YJR namely the ‘Scoping Study (2015)’, and more recently the repurposing of the secure estate in NI. The lack of an NI Assembly had also hindered the progress of critical policy and legislative developments.

A child rights approach requires the State to see the whole child, taking a tailored approach to children and young people in a manner that protects their dignity. The work undertaken across many agencies in NI raise awareness of the impact of childhood trauma should influence how the rights of children involved in offending are protected. The impact of Adverse Childhood Experiences (ACES) should inform how strategic decisions are made with regards to all children and young people including those in the justice system which has to date viewed them through the prism of victim and offender. Such an approach is more likely to reduce offending and re-offending by children.<sup>131</sup>

In 2018/19 the Youth Justice Agency worked with 1137 young people. 160 individual young people were held in Woodlands Juvenile Justice Centre (the custodial centre for children in NI), and there were 1712 referrals (comprising 977 individual young people) to the community based youth justice services. 78% of all young people involved with the Youth Justice community services and 91% in custody were males.<sup>132</sup>

In November 2019 the UN Committee on the Rights of the Child published General Comment 24<sup>133</sup> on Children’s Rights in the Child Justice System<sup>134</sup> which along with the UNCRC and Concluding Observations, 2016 has informed our work on this area.

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130 A Review of the Youth Justice System, Department of Justice, 2011

131 Key Messages from the Centre for Youth and Criminal Justice, CYCJ, April 2018

132 YJA Annual Workload Statistics 2018/19, YJA Statistical bulletin 2019, DoJ, Nov 2019

133 [www.ohchr.org/Documents/HRBodies/CRC/GC24/GeneralComment24.pdf](http://www.ohchr.org/Documents/HRBodies/CRC/GC24/GeneralComment24.pdf)

134 UNCRC



## Best interests

- (1) The principal aim of the youth justice system is to protect the public by preventing offending by children.
- (2) All persons and bodies exercising functions in relation to the youth justice system must have regard to that principal aim in exercising their functions, with a view (in particular) to encouraging children to recognise the effects of crime and to take responsibility for their actions.
- (3) But all such persons and bodies must also—
  - (a) have the best interests of children as a primary consideration; and
  - (b) have regard to the welfare of children affected by the exercise of their functions (and to the general principle that any delay in dealing with children is likely to prejudice their welfare), with a view (in particular) to furthering their personal, social and educational development.

The above amendment in 2015 of the Justice (NI) Act, 2002 is to be applauded. However, there remains scant evidence as to how this has been effectively implemented across all the relevant criminal justice agencies. Regardless of the number of times that this has been raised with them, the YJA statement of purpose and values does not include this statutory obligation or a commitment to children's rights. This should be amended as a matter of urgency.

It is reassuring that other agencies in the criminal justice system do recognise their responsibility to Article 3 of the UNCRC and that the DoJ continue to engage with NICCY to progress this. However, evidence of effective implementation remains elusive e.g. PSNI recently introduced 'Spit and Bite Guards' on a temporary basis in NI. Although the procedure for the use of this equipment

clearly states that the PSNI recognises its duty to take into account the best interests of the child, this understanding has not translated into implementation with no evidence that there has been sufficient regard to the vulnerability of young people.

## Stop and Search

### Article 16 Right to Privacy

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

## Concluding Observation

38.
  - (b) Ensure that the statutory use of the stop-and-search checks is proportionate, taking into consideration the age and maturity of the child, and non-discriminatory;
  - (c) Regularly collect, analyse and publish data relating to the use of stop-and-search checks on children, disaggregated by age, sex, disability, geographic location, ethnic origin and socioeconomic background.

Many young people continue to believe that they are discriminated against when they are stopped and searched or questioned and are treated with disrespect; this may exacerbate an already tense situation. Whilst PSNI have a clear policy commitment to children's rights, this means nothing if when they engage with young people in routine operations, it has the opposite effect. It is these experiences that shape the views of young people, and will impact on the confidence in the PSNI, if they are victims of crime in the future.

PSNI have improved the quality of their reporting of this power to include a greater level of disaggregated as well as outcome data. The data demonstrates a further drop in the numbers of Stop and Searches although NI has amongst the highest numbers proportionate to the population when compared to forces in England and Wales, only the Metropolitan and Merseyside forces are higher. 13% of all Stop and Search activities involved young people under the age of 18<sup>135</sup> with young people continuing to be stopped mainly for non-terrorist powers, PACE, Misuse of Drugs and Firearms legislation.

The question remains with regards to the purpose of Stop and Search operations. The PSNI reasonably suggest that arrest and prosecution cannot be the only measure used for a successful outcome of such activities. They have stated that prevention and deterrence, alongside supporting young people vulnerable to drug and alcohol misuse as other outcomes<sup>136</sup> however, they continue to not provide any evidence to support this assertion. That gathering of relevant information may be challenging but it is not an impossible task.

Whilst deterrence and prevention are not always measureable other objectives include safeguarding, diversion, disrupting and detecting non-security related crime. The PSNI have improved the quality of the outcome data that they provide. PSNI data shows that of the 3211 young people stop, searched or questioned, in 2019/20, 146 (4.5%) were arrested. These are the second lowest rates when compared with Police Services in England and Wales. However, the figures rise to 20% (for all ages) when other outcomes such as community resolution and fixed penalty notices are taken into account. Whilst information has improved it has done little to

support the assertion that Stop and Search is an effective policing tool, or that it meets a range of objectives and certainly that it is in the best interests of the child.

## Minimum Age of Criminal Responsibility (MACR)

### Article 40 (3) (a)

States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

## Concluding Observations 2016

- 79(a) Raise the minimum age of criminal responsibility in accordance with acceptable international standards.

UN General Comment 24 encourages State parties to take note of the scientific evidence concerning child - and specifically brain - development and subsequently adopt a minimum age of criminal responsibility of 14 years of age.

Regardless of all the evidence and rights standards, children are held to be criminally responsible at 10 years of age in Northern Ireland (as well as in England and Wales). The UK and NI Government continues to not act where the UN Committee on the Rights of the Child have consistently raised the issue of the age of criminal responsibility across the UK.

135 PSNI, Stop and Search Statistics (2019/20), 27th May 2020

136 [www.thedetail.tv/articles/psni-urged-to-reconsider-use-of-stop-and-search-on-children](http://www.thedetail.tv/articles/psni-urged-to-reconsider-use-of-stop-and-search-on-children)

The return of devolution in January 2020 provides an opportunity for the Minister of Justice to finally begin the formal process to implement this and the recommendation in the Youth Justice Review that the Minimum Age of Criminal Responsibility should be increased.<sup>137</sup>

## Diversion

According to article 40 (3) of the CRC, the States parties shall seek to promote measures for dealing with children in conflict with the law without resorting to judicial proceedings, whenever appropriate. In addition to avoiding stigmatization, this approach has good results for children and is in the interests of public safety, and has proven to be more cost-effective. (GC 24)

YJA performance data<sup>138</sup> indicates that a significant amount of the work of the Agency concerns diversionary activity such as youth engagement clinics, community resolution notices and diversionary youth conferences. Whilst the clear emphasis in early intervention and diversion must be applauded, NICCY queries whether this is the best use of YJA resources and expertise. Consideration should be given to whether such work can be more efficiently and effectively undertaken by the voluntary and community sector.

The completion of the diversion by the child should result in a definite and final closure of the case. Although confidential records can be kept of diversion for administrative and review purposes, they should not be viewed as “criminal records” and a child who has been previously diverted must not be seen as having a previous conviction. (GC 24)

It is most welcome that from March 2020 no diversionary disposal given to a child will be automatically disclosed on an Access NI certificate and we look forward to further developments with regard to criminal records.

## Delay

General Comment 24 reminds State Parties that delay to the conclusion of cases runs the risk of losing the desired outcome.

States parties set and implement time limits for the period between the commission of the offence and the completion of the police investigation, the decision of the prosecutor (or competent body) to institute charges and the final decision by the court or other judicial body.

It goes on to say that time limits should be shorter than those set for adults. It was this issue that most concerned the YJR group describing the extent of delay in NI as “unconscionable”. They made a clear recommendation that “Statutory Time Limits (STLs) should be introduced for all youth cases, providing a maximum period from arrest to disposal of 120 days” at the next available legislative opportunity<sup>139</sup>. Since this time there have been several opportunities to introduce STLs for youth justice cases all of which have been rejected with the DoJ preferring to direct their efforts to practice improvements. Piecemeal measures such as summons reform have been introduced, and the latest available statistics indicate that in spite of less cases going through the youth court there has been no sustainable improvement in delays for youth justice cases.<sup>140</sup> Additionally young people continue to wait longer for the resolution of their cases than adults appearing in Magistrates courts.

<sup>137</sup> Rec 29, A Review of the Youth Justice System, Department of Justice, 2011

<sup>138</sup> YJA Annual Report 2019/20

<sup>139</sup> A Review of the Youth Justice System, Department of Justice, 2011

<sup>140</sup> [www.justice-ni.gov.uk/publications/case-processing-time-criminal-cases-dealt-courts-northern-ireland-201920](http://www.justice-ni.gov.uk/publications/case-processing-time-criminal-cases-dealt-courts-northern-ireland-201920)

It should remain a source of deep embarrassment for the relevant criminal justice agencies that 9 years after the most damning recommendations that no progress has been made in this area.

## Custody

### Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the

deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

## Concluding Observations, 2016

- 79 (d) Establish the statutory principle that detention should be used as a measure of last resort and for the shortest possible period of time and ensure that detention is not used discriminatorily against certain groups of children;

All children imprisoned in Northern Ireland are accommodated in the Woodlands Juvenile Justice Centre. In 2018 the Criminal Justice Inspection NI describes the JJC as the “jewel in the crown of the DoJ and the envy of neighbouring jurisdictions.”<sup>141</sup> The CJINI has continued to be impressed by the level of care in the centre.

Article 37 (b) states that imprisonment and detention of children shall be as ‘a measure of last resort’, however it is deeply frustrating that evidence would indicate that there is considerable work still to be done in this area. In 2019-20 only 7% young people in the JJC were sentenced, with the remaining 93% either there on PACE or remand.<sup>142</sup> It is reassuring that following the restoration of devolution the DoJ have stated that is their intention to address the recommendations of the YJA and the now, non-operational, NI Law Commission<sup>143</sup>.

It is also of concern that the proportion of children who are cared for remains unacceptably high at 39%. NICCY is broadly supportive of the joint work being progressed by the DoJ and the Department of Health to

<sup>141</sup> An Announced Inspection of Woodlands JJC, CJINI, June 2018

<sup>142</sup> YJA Annual Workload Statistics 2019/20, Statistical bulletin 28/2017, DoJ, Oct 2020

<sup>143</sup> [www.nilawcommission.gov.uk/bail-law.htm](http://www.nilawcommission.gov.uk/bail-law.htm)



Reform the Regional Facilities for Children and Young People and the proposal to bring secure care and justice into a shared facility. Whilst there is still a lot of detail to clarify, this is a promising approach that will ensure there is no return to previous systems, and one which must be given fresh impetus post-Covid.

## Outcomes and data

General Comment 24 remind state parties of the importance of collecting disaggregated data but also undertaking regular evaluations of their services and of course outcomes.

In June 2017, the NI Audit Office published “Managing Children who Offend” which examined the cost of youth justice alongside the strategies and interventions used to address offending by children. The Auditor General found that whilst first time offending by children had reduced, a lack of reliable data, including reoffending statistics, make long term analysis of effectiveness of the Youth Justice System difficult. He also found that there was a lack of strategic direction and collaboration across government. Crucially the report found that the YJA could not “assess their cost-effectiveness and cannot currently demonstrate that the interventions to reduce offending by young people represent value for money”.<sup>144</sup> At the time of writing we await the outcome of follow work undertaken by NIAO.

The Youth Justice Agency publishes helpful statistics on their workload but it is disappointing that they have yet to provide evidence of outcomes or that they examine their own data and attempt to understand and respond to trends e.g. it has consistently been reported that there is a disproportionate number (67%) of children who identify as Catholic in the JJC<sup>145</sup>. Whilst the YJA is not responsible for who is placed with them, they and partners in both the Criminal Justice

and Social Care Systems must be able to understand the cause of these disparities and attempt to address them.

As established by the NIAO report, there is insufficient evidence with regard to how the YJA supports young people to reduce or cease offending both in custody and in the community.

The Agency’s Annual reports not only consistently fail to mention its responsibility to uphold the best interests of children and young people but also its commitment to Outcome 12 - Giving Our Children the Best Start - of the draft Programme for Government preferring instead to focus solely on Outcome 7 – We have a safe community where we respect the law and each other.

There has been a positive development with regards to publishing outcome data regarding the effectiveness of the interventions with young people in the latest annual report. This has been a promising start but there remains work to be done to provide robust evidence regarding how they have incorporated the best interests principle into their work, demonstrating not only how they have reduced the likelihood of offending but also addressed other issues in young people’s lives. It is only by doing so that any assessment of the implementation of children’s rights will be possible.

## Covid-19 Pandemic

NICCY engaged both with Hydebank Wood YOC and Woodlands JJC (meeting with young people and visiting the JJC) during the Covid response period on their arrangements and the impact on children and young people. Appropriate sanitising procedures were put in place; visiting restricted and socially distancing guidelines implemented. In both

<sup>144</sup> Managing Children Who Offend, NIAO, July 2017

<sup>145</sup> YJA Annual Workload Statistics 2019/20, Statistical bulletin 28/2017, DoJ, Oct 2020

Institutions, external providers of services were reduced and kept to a minimum and all family visits and court appearances conducted remotely.

It was reassuring that every effort appears to have been made to enable young people to experience as few restrictions as possible in the daily routine. However, there were concerns with regard to the levels of education made available to the young people during the lockdown which must be addressed by both the Education Authority and the Youth Justice Agency.

The PSNI issued 102 Community Resolution Notices against children and young people who broke Covid Restrictions up to August, 2020<sup>146</sup>.

The temporary use of 'Spit and Bite Guards' were introduced by the PSNI in March 2020<sup>147</sup> for use during the Covid period. Since this time the PSNI have accepted that these Guards do not protect Staff against Covid-19<sup>148</sup>. NICCY has yet to see evidence as to why these measures have been introduced for use with children and young people (aged 10 and above) nor how their best interests are being taken into account as is required by the service procedure.

## Calls to Government 2020:

The lack of a NI Assembly and Executive since the first 'SOCRNI' report in 2018 until it's resumption in January 2020, has meant that there has been little significant progress in the implementation of children's rights in the Youth Justice System. There must be an increased impetus to ensure that the system is child rights compliant.

1. The Youth Justice System must address the substantial outstanding issues concerning the implementation of the best interests principle. This must include:
  1. Custody as a last resort and for the least possible time;
  2. Outcomes data on the impacts on / changes in the lives of young people who have received services from the YJA;
  3. Diversion from the formal system;
  4. Statutory time limits for the processing of youth court cases of 120 days; and
  5. Participation of children and young people in design and delivery of services.
2. Introduce proposals to raise the minimum age of criminal responsibility to 14 years immediately;
3. The PSNI must demonstrate the purpose and outcomes of all Stop and Search operations involving children and young people, and must also improve the quality of engagement with young people.

146 Report to PSNI Youth Champions Forum, Sept 2020

147 [www.nipolicingboard.org.uk/sites/nipb/files/publications/Northern%20Ireland%20Policing%20Board%20Board%20Minutes%2019%20March%202020.pdf](http://www.nipolicingboard.org.uk/sites/nipb/files/publications/Northern%20Ireland%20Policing%20Board%20Board%20Minutes%2019%20March%202020.pdf)

148 [www.bbc.co.uk/news/uk-northern-ireland-53155638](http://www.bbc.co.uk/news/uk-northern-ireland-53155638)



## 7.6 UK WITHDRAWAL FROM THE EU - 'BREXIT'

The UK withdrawal from the European Union (EU) continues to have profound ramifications for the realisation and protection of children's rights in Northern Ireland. Having exited in January 2020, we are currently in the 'transition year' – the interim period of (increasingly tense) negotiations between the UK Government and the EU. At time of writing, the Internal Market Bill<sup>149</sup> (IMB) has been passed (on 29/09/20 by 340 votes to 256) and will now go to the House of Lords<sup>150</sup> amid much concern as to its implications.<sup>151</sup>

NICCY shares the concerns of many that the Bill undermines Article 2(1) of the Protocol on Ireland/Northern Ireland which addresses the commitment to rights protections:

*The United Kingdom shall ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination, as enshrined in the provisions of Union law listed in Annex 1 to this Protocol, and shall implement this paragraph through dedicated mechanisms.*<sup>152</sup>

The Northern Ireland Human Rights Commission (NIHRC) and Equality Commission for Northern Ireland (ECNI) have both issued a briefing<sup>153</sup> on the IMB advising of the inherent risks of undermining Article 2(1), the Good Friday (Belfast) Agreement commitment to ensure incorporation of the ECHR, and regressive measures which risk

diminishing their mandate as the 'dedicated mechanism' to oversee the UK Government's commitment<sup>154</sup> to 'no diminution of rights....'.

Others across civic society here have also raised concerns with the IMB including the provisions to prevent legal challenge asserting the 'potential damage' not only to the Good Friday (Belfast) Agreement frameworks but also to the devolution settlement as well as the implications of this.

We continue therefore to be faced with a range of 'unknowns' in relation to the eventual outcome at the end of 2020 and the actual impacts on children and their rights.



149 <http://dcubrexitinstitute.eu/2020/09/the-internal-market-bill-and-northern-ireland/>

150 [www.theguardian.com/politics/2020/sep/29/internal-market-bill-passed-by-commons-despite-tory-concerns](http://www.theguardian.com/politics/2020/sep/29/internal-market-bill-passed-by-commons-despite-tory-concerns)

151 Grave concerns have been raised that it would "undermine the UK's negotiating position in any future treaties with other countries and destroy our reputation for being trustworthy" (Professor Philippe Sands QC); and "drives a 'coach and horses' through the UK's international obligations and would do us "massive reputational damage" (MP Dominic Grieve QC former Conservative Attorney General). *Ibid*.

152 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/840230/Revised\\_Protocol\\_to\\_the\\_Withdrawal\\_Agreement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840230/Revised_Protocol_to_the_Withdrawal_Agreement.pdf)

153 Para's 1.12, 1.13.1.14 September 2020 Briefing on the Internal Market Bill NIHRC & ECNI.

154 Schedule 3 of the EU (Withdrawal Agreement) Act 2020

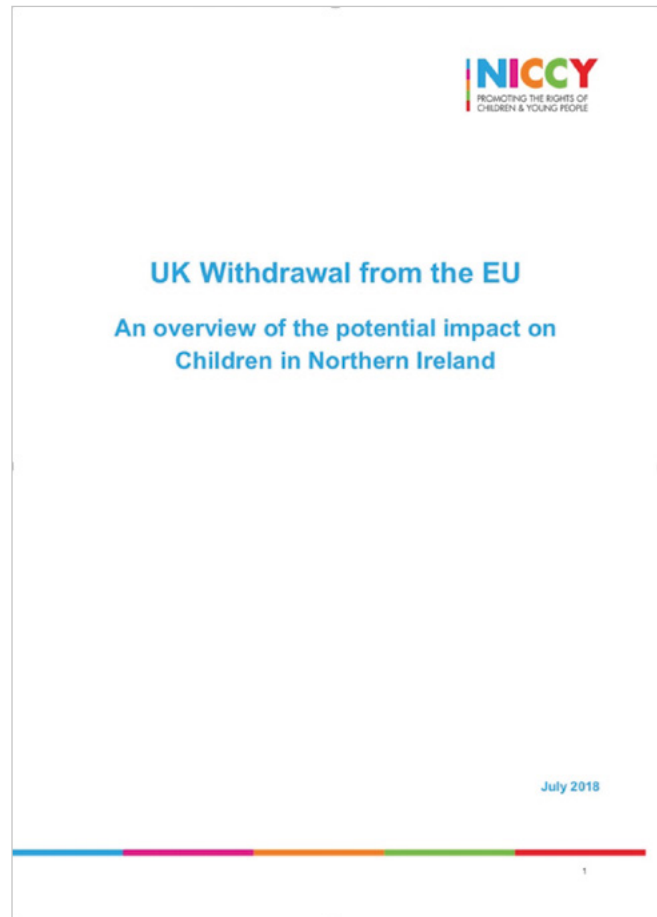


In the previous 'SOCRNI', we highlighted the concerns around potential erosion of rights and concerns in the joint work carried out by children and young people from across Northern Ireland / Ireland – facilitated by NICCY and our Ireland counterpart the Ombudsman for Children (OCO) – resulting in "It's Our Brexit Too: Children's Rights, Children's Voices" report<sup>155</sup> ([www.niccy.org/brexit](http://www.niccy.org/brexit)). This was widely disseminated and members of the young people's steering group visited Westminster and Brussels to speak with key stakeholders and decision makers, including Members of the Brexit Committee, House of Lords, Members of the European Parliament and Taskforce 50. Young people reiterated their issues as well as their sense of 'exclusion' from decision making over which they had no vote and no say in, but which will impact their futures.

Since then NICCY has continued to engage with NI Government Departments on arrangements for 1 January 2021 following the end of the transition period on 31 December 2020 (the UK Government stated it would not seek an extension<sup>156</sup>; though the Northern Ireland Assembly, Scottish and Welsh Governments wanted this - particularly in the context of ongoing responses to the Covid-19 pandemic).

## Children's and Young People's Rights

As stated, the Protocol to the Withdrawal Agreement (WA) which became UK domestic law in January 2020, affirms the protection of rights which has been a focus for NICCY



during this time. Much debate had ensued over the 'loss' of rights including that of the EU Charter of Fundamental Rights. As stated last time, following a meeting with our Young People's delegation in 2018, Baroness Lister<sup>157</sup> in a House of Lords debate, had voiced her strong opposition to its removal and proposed an amendment providing for full incorporation of the UN Convention on the Rights of the Child ratified by the UK. At a recent evidence session<sup>158</sup> with the Ad Hoc Committee on a Bill of Rights for Northern Ireland<sup>159</sup>, NICCY called again for its incorporation, in line with the UNCRC

<sup>155</sup> [www.niccy.org/brexit](http://www.niccy.org/brexit)

<sup>156</sup> [www.bbc.co.uk/news/uk-northern-ireland-52906604](http://www.bbc.co.uk/news/uk-northern-ireland-52906604)

<sup>157</sup> [https://hansard.parliament.uk/lords/2018-03-05/debates/AE7EB742-4BCD-4D00-B43D-AD7ED9A21911/EuropeanUnion\(Withdrawal\)Bill](https://hansard.parliament.uk/lords/2018-03-05/debates/AE7EB742-4BCD-4D00-B43D-AD7ED9A21911/EuropeanUnion(Withdrawal)Bill)

<sup>158</sup> Ad Hoc Committee on the Bill of Rights for Northern Ireland: NICCY Session 2 July 2020

<sup>159</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf) Para' 28.

Committee's 2016 Concluding Observations<sup>160</sup> to:

*'Expedite bringing in line with the Convention its domestic legislation, at the national and devolved levels and in the overseas territories and the Crown dependencies, in order to ensure that the principles and provisions of the Convention are directly applicable and justiciable under domestic law;'* 7(a).

The commitment to 'no diminution of rights' caused by the UK's departure from the European Union, including the protection against forms of discrimination enshrined in EU law, is reflected in Article 2 ('Rights of individuals') of the Ireland/Northern Ireland Protocol to the Withdrawal Agreement. It is therefore binding on the UK Government and Parliament, the Northern Ireland Executive and the Assembly as a matter of international law (notwithstanding concerns regarding the Internal Market Bill; on 1 October 2020 the European Commission announced it was launching an infringement procedure against the UK)<sup>161</sup>.

The UK Government has also committed to 'facilitating the related work of the institutions and bodies, established by the Good Friday Agreement (GFA), in upholding human rights and equality standards.'<sup>162</sup> The Protocol affirms that:

*The Good Friday or Belfast Agreement of 10 April 1998 between the Government of the United Kingdom, the Government of Ireland*

*and the other participants in the multi-party negotiations (the '1998 Agreement'), which is annexed to the British-Irish Agreement of the same date (the 'British-Irish Agreement'), including its subsequent implementation agreements and arrangements, should be protected in all its parts'*<sup>163</sup>

This was further 'explained' in a UK Government document issued in August 2020:

*The UK Government's approach to withdrawal from the European Union (EU) has been underpinned by our steadfast commitment to upholding the Belfast ('Good Friday') Agreement ("the Agreement") in all its parts. This includes its provisions on citizenship and identity. We acknowledge the importance of the rights and equality protections set out in the Agreement, which recognise the unique circumstances of Northern Ireland's history and the need to put rights and equality central to creating a peaceful and shared future in Northern Ireland.'*<sup>164</sup>

Young people had consistently voiced concerns around identity rights given the legacy of the conflict and 'particular circumstances' pertaining in Northern Ireland at meetings with decision makers at Westminster and EU levels.

In 2017 the UK 'Northern Ireland and Ireland position paper' stated:

*As long as Ireland remains a member of the EU, Irish citizenship also confers EU*

160 <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsKHOj6VpDS%2F%2FJqg2Jxb9gncnUyUgbnuttBweOlylfyYPkBBwffitW2JurgBRuMMxZqnGgerUdpixij3uZ0bjQBOLNTNvQ9fUIEOvA5LlW0GL>

161 [www.instituteforgovernment.org.uk/explainers/brexit-deal-infringement-procedure](http://www.instituteforgovernment.org.uk/explainers/brexit-deal-infringement-procedure)

162 <https://www.gov.uk/government/publications/joint-report-on-progress-during-phase-1-of-negotiations-under-article-50-teu-on-the-uks-orderly-withdrawal-from-the-eu>

163 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/840230/Revised\\_Protocol\\_to\\_the\\_Withdrawal\\_Agreement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840230/Revised_Protocol_to_the_Withdrawal_Agreement.pdf)

164 'Explainer\_UK\_Government\_commitment\_to\_no\_diminution\_of\_rights\_safeguards\_and\_equality\_of\_opportunity\_in\_Northern\_Ireland'. [www.gov.uk/government/publications/protocol-on-ireland-and-northern-ireland-article-2](http://www.gov.uk/government/publications/protocol-on-ireland-and-northern-ireland-article-2)

*citizenship, with all the rights that go with this.’ This is as true for the people of Northern Ireland who are Irish citizens – or who hold both British and Irish Citizenship – as it is for Irish citizens in Ireland.*<sup>165</sup>

There remains however, the ongoing concerns that Brexit will undermine the ‘equivalence of rights’ due to ‘differentials’ in EU rights (assuming these are available) and UK rights, for those who identify as British citizens. As such, this could over time exacerbate divisions between the two main identities in Northern Ireland despite the GFA stated birthright for people here ‘to identify as British or Irish or both, as they may so choose; to equal treatment irrespective of their choice’.

*‘For example, a British citizen here should not feel compelled to assume a national identity (Irish) that she has no wish to ascribe to. Yet that is the precise long-term risk in a context where British citizens will be third country nationals for EU purposes. It is as potentially offensive to tell a British person that she is really Irish (and should just get an Irish passport) as it is to tell an Irish person that she is British... That is the wrong way forward. What we need is a process of levelling up, in other words, a sustained effort to improve guarantees for everyone in ways that respect constitutional differences, and acknowledge the fact that Irish citizens will remain EU citizens.’*<sup>166</sup>

As noted previously, the Good Friday Agreement effectively brought an end to Northern Ireland’s violent conflict and

established a number of co-operation mechanisms i.e. North-South and East-West bodies, one of which was the Joint Committee.<sup>167</sup> Set up to consider human rights issues on the island of Ireland, the Committee sought assurances from both Governments that no rights would be diluted, outlined areas to be addressed to mitigate concerns around citizenship rights and North-South equivalent equality and human rights protections.

The restoration of the NI Assembly in January 2020 and issue of ‘New Decade, New Approach’ agreement saw a reaffirmation of Parties’ commitment to the principles of power-sharing and cross community protection contained in the Belfast (Good Friday) Agreement.<sup>168</sup>

*An Ad-Hoc Assembly Committee will be established to consider the creation of a Bill of Rights that is faithful to the stated intention of the 1998 Agreement...further that the Panel should initially seek to advise the Ad-Hoc Committee on what constitutes our “particular circumstances” drawing upon, but not bound by, (our emphasis) previous work on a Bill of Rights and should review and make recommendations on how the UK’s withdrawal from the EU may impact on our “particular circumstances”.*<sup>169</sup>

Hence NICCY’s call for incorporation of the UNCRC and similarly again the UN Committee on the Rights of the Child had recommended that the UK State Party: ‘Expedite the enactment of a bill of rights for Northern Ireland, agreed under the Good

<sup>165</sup> HM Government ‘Northern Ireland-Ireland Position Paper’ 16 August 2017

<sup>166</sup> [www.newsletter.co.uk/news/politics/colin-harvey-members-unionist-community-are-likely-suffer-result-brexit-little-conversation-about-959716](http://www.newsletter.co.uk/news/politics/colin-harvey-members-unionist-community-are-likely-suffer-result-brexit-little-conversation-about-959716)

<sup>167</sup> Press release by IHREC from the Joint Committee on Human Rights 14 March 2018.

<sup>168</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf) Annex C. Para’ 3.1

<sup>169</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf) S.5.26 & 5.28.

*Friday Agreement.*<sup>170</sup>

It is to be hoped that progress can be made towards these goals to embed rights protections for our children and young people and their futures.

## The Economy and impact on standard of living

The Brexit transition period, during which the UK has kept to EU trading rules, ends on 31 December. The UK and EU are yet to agree a deal that will govern their future trade. The Northern Ireland protocol is to be operational by January 2021 (even if the UK and EU do not reach a trade deal). Northern Ireland will continue to follow EU customs rules, even though it remains part of UK customs territory. The 'New Decade, New Approach' deal in January 2020 notes the challenges facing the 'restored' NI Executive stating:

*An immediate and significant challenge facing the Executive is in relation to dealing with the impact of Brexit. In recognising the potential for widespread and significant implications across all aspects of social and economic life.*<sup>171</sup>

In our previous SOCRNI, we noted the potential concerns facing Northern Ireland's economy and the impact/s on families' income levels and subsequent standards of living. These included potential increases to the already concerning levels of child poverty, loss of EU funding streams, farming CAP subsidies, and the impact on businesses. Recently acknowledging the impact of the Covid-19 pandemic on business and jobs,

the CBI commended the Government's job retention 'furlough' scheme which

*'has been a lifeline for thousands and firms and millions of workers, helping minimise levels of unemployment as the economy responding to the immediate impacts of the COVID-19 pandemic.'*<sup>172</sup>

In the context of Brexit, this is of vital concern for reasons noted above. Northern Ireland has been a major beneficiary of a number of EU funding streams, including the EU Social Fund, PEACE funding and INTERREG funds. The UK Government EU structural funding is worth about £2.1 billion per year - used for 'boosting several aspects of economic development, including support for businesses, employment and agriculture' and administered by the different jurisdictions of the UK. Northern Ireland receives €500million per annum – given NI also contributes to monies paid by the UK to the EU, 'A more complete statement would be to say that Northern Ireland receives €55/£45million more than we pay to the EU.'<sup>173</sup> In the absence of PEACE and INTERREG funding, the SEUPB plans are 'at an advanced stage of preparation.'<sup>174</sup> The UK Government is proposing a 'Social Prosperity Fund'<sup>175</sup> and we await the details in a forthcoming consultation.

Concern remains that gaps in funding could result in subsequent adverse impacts on employment, family income levels and community services.

In September 2020, the UK Government introduced the Internal Market Bill designed

170 <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhskHOj6VpDS%2F%2FJag2Jxb9gncnUyUgbnuttBweOlylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxi3uZ0bjQBOLNTNvQ9fUIEOvA5LtW0GL>

171 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/856998/2020-01-08\\_a\\_new\\_decade\\_a\\_new\\_approach.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf) S4.6.8

172 [www.cbi.org.uk/articles/westminster-update-11-september/](http://www.cbi.org.uk/articles/westminster-update-11-september/)

173 <https://factcheckni.org/articles/does-the-eu-send-ni-e500m-annually/>

174 [www.seupb.eu/PEACE-PLUS-UPDATE](http://www.seupb.eu/PEACE-PLUS-UPDATE)

175 <https://commonslibrary.parliament.uk/research-briefings/cbp-8527/>



to prevent trade barriers between the four nations of the UK after the transition period has ended. However, that the Internal Market Bill ‘expressly enables the UK to override the provisions of the Withdrawal Agreement (and therefore) may increase the likelihood of a no-deal outcome’<sup>176</sup> is of grave concern to many in Northern Ireland – not least because of its potential impact on employment and family income levels.

## The Land Border on the island of Ireland

As stated in our previous SOCRNI, the border between Northern Ireland and the Republic of Ireland is the UK’s only land border with the EU. Moreover, it is a border which in the past has been a source of contention and had been heavily militarised during the conflict in Northern Ireland. However, since the Good Friday Agreement, considerable resources and efforts have been put into normalising the border region, removing the military infrastructure and ensuring the ‘4 fs’ i.e. freedom of movement of people, goods, services and capital, facilitated by membership of the EU. The border has become ‘seamless’, allowing such movement on either side of the border.

The Withdrawal Agreement settled issues of citizens’ rights, determined the UK’s ‘divorce’ settlement and put in place long-term arrangements to avoid the re-emergence of a hard border between Northern Ireland and the Republic of Ireland by introducing a regulatory and customs border in the Irish Sea.

*The Protocol was originally devised precisely to ensure that, even if there was no UK–EU*

*deal, there would be no physical border on the island of Ireland and the Good Friday Agreement would be upheld. If the UK explicitly rejects the Protocol that it has signed, it is hard to see an outcome that does not lead to significant political turbulence.*<sup>177</sup>

A ‘hard border’ would limit the ‘4 fs’ as well as damaging local border economies. Children and young people (and their families) currently travel across the border for a wide range of reasons, e.g. to attend school or college, to access vital health services, to spend time with friends and family (particularly in cases of separated families) to go shopping, socialise or for leisure activities. Approximately 2000 children and young people cross the border to attend school, college or university every day. Access to specialist healthcare services such as those in paediatric cardiology based in Dublin is vital. The ‘Brexit Health Alliance’ has highlighted that key agreements are necessary to protect patients from 1 January 2021. Further,

*‘new border arrangements and additional requirements on goods, as well as regulatory barriers, could cause delays in release of medicines and medical technologies on to the UK market.’*<sup>178</sup>

If no agreements around medicines are in place, the UK will have to set up its own regulatory processes outside of the EU’s regulatory network. Similarly if no agreement similar to the European Health Insurance Card (EHIC) is reached, the UK will ‘need to seek reciprocal healthcare deals with each individual EU country, who may or may not be inclined to agree’.

176 <https://ukandeu.ac.uk/wp-content/uploads/2020/09/UKICE-What-would-no-deal-mean.pdf>

177 <https://ukandeu.ac.uk/wp-content/uploads/2020/09/UKICE-What-would-no-deal-mean.pdf>

178 Brexit Health Alliance: \_ BHS\_How do we protect patients\_Brexit transition FNL (002) pdf. *The Association of British HealthTech Industries estimates that 70 per cent of products, wherever manufactured, coming to the NHS are ultimately imported from the EU, and one in five devices used in specialised procedures arrive overnight or ‘just in time’.*

In 2017 the UK Government had stated that it and the EU 'must agree an "ambitious" new security treaty to combat terrorism and organised crime or the continent will face "increased risks" post-Brexit<sup>179</sup>.'

In their second report the IRC noted:

*The real issue about the dangers for peace in Northern Ireland, therefore, is not that Brexit itself could be the direct cause of a renewal of violence, but rather that it has the potential to add fuel to the fire of continued paramilitarism. That is what Brexit has exposed and highlighted*<sup>180</sup>.

In a recent report to the NI Policing Board, the Chief Constable Simon Byrne – who has submitted a funding bid for a three-year plan around the NI Protocol to the Treasury stated:

*There is still a high level of uncertainty in relation to the UK Government's ongoing negotiations with the EU and the potential for non-negotiated outcomes (NNOs) remains.*<sup>181</sup>

## Security, Policing and Child Protection

Currently there are approximately 80 EU instruments which entitle children to protection and welfare. Our land border exposes vulnerabilities to child abductions, child sexual exploitation, children going missing, and/or being trafficked to and through NI. A high degree of co-operation across the EU exists in relation to tackling crime through ECRIS (European criminal records information sharing), Europol, SIS II (a database of real-time crime alerts), Eurojust and the use of the European Arrest Warrant. It is recognised that a 'Future Security Partnership' (FSP) is

necessary which would include the UK's relationships with the rest of the EU in terms of such mechanisms.

At time of writing negotiations including arrangements for an FSP continue and indeed are dependent on their outcome. It is NICCY's understanding that the ambition of the UK is to achieve this and that it would replicate many of the measures mentioned above, so the fight on crimes against children, including missing and trafficked children, could continue as it does currently.

The PSNI and An Garda Síochána also collaborate and share intelligence across the island of Ireland; this is particularly important in safeguarding and protecting children and young people and it is vital that such arrangements are in place to do so. In the event that UK/EU negotiations are unsuccessful then reliance on older Council of Europe conventions may become a 'fall back' position whilst it is recognised this would be a 'sub-optimal' situation.

We also noted previously that during and since the referendum there has been some evidence of increased racism and hostility towards ethnic minorities and migrants in Northern Ireland (and across the UK). Many EU/EEA nationals reported facing anxiety and uncertainty as they consider the potential impact of Brexit on their future status.<sup>182</sup> Our young people have been particularly concerned about this issue.

*'In Northern Ireland, as elsewhere in the UK, there has been a significant public debate concerning an increase in attacks and harassment directed against migrant, asylum*

179 [www.ft.com/content/112c25f2-9c75-11e7-9a86-4d5a475ba4c5](https://www.ft.com/content/112c25f2-9c75-11e7-9a86-4d5a475ba4c5) Helen Warrell Financial Times September 2017

180 [www.ircommission.org/sites/irc/files/media-files/IRC%20-%202nd%20Report%202019\\_0.pdf](https://www.ircommission.org/sites/irc/files/media-files/IRC%20-%202nd%20Report%202019_0.pdf)

181 [www.belfasttelegraph.co.uk/news/brexit/psni-chief-simon-byrne-warns-of-high-level-of-uncertainty-in-brexit-talks-39501210.html](https://www.belfasttelegraph.co.uk/news/brexit/psni-chief-simon-byrne-warns-of-high-level-of-uncertainty-in-brexit-talks-39501210.html)

182 Institute for Conflict Research. 'Brexit and eYou': information for EU/EEA nationals

*seekers and minority ethnic communities since the referendum vote.’<sup>183</sup>*

In the recent review of Hate Crime legislation, the Equality Commission for Northern Ireland (ECNI) reiterated its call that *‘policy responses to tackling hate crime should also take into account the potential for an increase in hate crime, particularly racist crime, post Brexit’<sup>184</sup>.*

Further they recommended measures be put in place to tackle any increase due to e.g. Brexit and the Covid-19 pandemic.

In conclusion NICCY can see the potential for the UK withdrawal from the EU (‘Brexit’) to adversely impact on the rights of children and young people here across the range of areas – many of which are addressed elsewhere in this ‘Statement’.

## Calls to Government 2020:

**Government must ensure no adverse impacts on children’s and young people’s rights and access to services as a result of UK withdrawal from the EU (‘Brexit’) through the following:**

1. All aspects of the Good Friday Agreement must be protected including the right of people in Northern Ireland to identify as British, Irish or both. Moreover, the commitment to safeguarding human rights and the principle of equivalency of rights across the island of Ireland must be ensured;
2. The UK Government, Irish Government and European Union must work together to avoid physical infrastructure being located at or around the UK-EU border on the island of Ireland;
3. Safeguarding children and young people must be ensured through maintaining current security, policing and justice mechanisms similar to those provided through Europol, Eurojust, ECRIS, European Arrest Warrant and Data protocols in a ‘Future Security Partnership’;
4. The UK and Irish Governments must co-operate to ensure freedom of movement of people across the border is not impeded so that children, young people and their families continue to access services and facilities on either side of the border e.g. in relation to health, education, family life, sports, cultural and leisure activities;
5. The UK Government (post-Brexit) should commit to the continuation of financial support currently provided to Northern Ireland by the EU including through agricultural subsidies, structural funds and grants which contribute significantly to the Northern Ireland economy and alleviate child poverty / promote adequate standards of living – with a particular focus on disadvantaged groups and communities; and
6. Incorporation of the United Nations Convention on the Rights of the Child must be actioned to safeguard and promote the rights of all Children and Young People in Northern Ireland.

<sup>183</sup> <https://brexitlawni.org/themes/brexit-xenophobia-racism-northern-ireland/>

<sup>184</sup> [www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2020/DoJ-HateCrimeLawReview.pdf?ext=.pdf](http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2020/DoJ-HateCrimeLawReview.pdf?ext=.pdf)







## 7.7 LEGACY OF THE CONFLICT

**Article 13(1)** of the UNCRC states that:

The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

**Article 19** of the UNCRC states that:

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

The Committee on the Rights of the Child in its examination of the UK Government's compliance with its obligations under the UNCRC, expressed its concern at the fact that in Northern Ireland, children face violence, including shootings, carried out by non-State

actors involved in paramilitary-style attacks, and recruitment by such non-State actors.<sup>185</sup>

The Committee recommended that the Government,

*"Take immediate and effective measures to protect children from violence by non-State actors involved in paramilitary-style attacks and from recruitment by such actors into violent activities, including through measures relating to transitional and criminal justice."*<sup>186</sup>

## Context

The impact of the Northern Ireland Conflict and the divisions underlying it continue to significantly impact on the lives of our children and young people, all of whom were born after the Good Friday Agreement. The communities most deeply affected by the Northern Ireland conflict are also those in areas with the highest rates of mental ill-health and child poverty, and the lowest levels of educational attainment. On a daily basis the children living in these communities deal with the ongoing impacts of a conflict not of their making and which ended before they were born.

NICCY previously made the following calls to address the legacy of the conflict on children and young people in Northern Ireland:

1. Ensuring the full and effective protection of children and young people from trauma, violence or mistreatment in their communities, including from all forms of violence by non-State forces as well as from recruitment by such forces;
2. Addressing the continuing impacts of the conflict, including mental ill health, family breakdown, child poverty and educational under attainment and the provision of

185 Para 48(b), CRC/C/GBR/CO/5, 12 July 2016

186 Para 49(c), CRC/C/GBR/CO/5, 12 July 2016

adequate support services to children and young people in their communities;

3. Supporting children and young people to play a central role in building a peaceful future in Northern Ireland, recognising that over many years, children have acted as human rights defenders; and
4. Information about the conflict should be provided to children and young people with a view to achieving a shared narrative about the conflict.

NICCY is of the view that little progress has been made in addressing the 2018 recommendations.

Segregation continues to be a part of daily life for children and young people in Northern Ireland, in accessing services with segregated living significantly impacting on how they live their lives.<sup>187</sup> In Belfast, the vast majority of public housing is segregated into Protestant or Catholic areas.<sup>188</sup> Children are largely educated in separate schools, with only 7% of children attending integrated schools.<sup>189</sup>

The effects of the conflict are still largely felt, including amongst our younger generation. A recent report by NCB<sup>190</sup> highlighted the influence of paramilitary organisations on young males and the contribution to poor emotional wellbeing is of particular concern. It also reflected that those living in interface

areas are at increased risk of poor emotional wellbeing and of mental illness<sup>191</sup>. Parental history of mental illness is a strong predictor of mental ill-health in a child or young person and, again, is strongly linked in NI to the legacy of the troubles and the impact this had and continues to have on mental health<sup>192</sup>.

A PSNI analysis of statistics between April 1998 and June 2015 showed in this period there were 2,732 casualties as a result of paramilitary style attacks. Of those, 89 were suffered by children aged 16 years or under. 1,297 were suffered by young people aged between 18 and 24<sup>193</sup>. In February 2017 representation was made to NICCY following 'paramilitary style' shootings of two young people. These and broader 'contextual' issues were addressed with all relevant authorities – in line with our statutory duties – and also with political representatives and community organisations. Our work on this is ongoing.

In NICCY's 2018 Statement on Children's Rights in Northern Ireland, the Commissioner called for action to be taken to ensure the full and effective protection of children and young people from trauma, violence or mistreatment in their communities, including from all forms of violence by non-State forces as well as from recruitment by such forces.

NICCY is of the opinion that there has not been sufficient progress made in addressing this recommendation.

187 O. Hargie, A. O'Donnell, and C. McMullan Constructions of Social Exclusion Among Young People From Interface Areas of Northern Ireland, Youth Society, (2011).

188 *Ibid*

189 NI Statistical Bulletin 3/2019 Enrolments at schools and in funded pre-school education in Northern Ireland 2019/20 Department of Education 3rd March 2020.

190 NCB (2019) Informing the development of an emotional health and wellbeing framework for children and young people in Northern Ireland. Available at: [www.ncb.org.uk/sites/default/files/field/attachment/news/Informing%20the%20Development%20of%20an%20Emotional%20Health%20and%20Wellbeing%20Framework...pdf](http://www.ncb.org.uk/sites/default/files/field/attachment/news/Informing%20the%20Development%20of%20an%20Emotional%20Health%20and%20Wellbeing%20Framework...pdf)

191 *Ibid*.

192 *Ibid*,

193 Answer to Fol request 2015/02350 reported in 'Human Rights Annual Report 2015' Monitoring the compliance of the PSNI with the Human Rights Act 1998. [www.nipolicingboard.org.uk/sites/nipb/files/media-files/Human-Rights-Annual-Report-2015.PDF](http://www.nipolicingboard.org.uk/sites/nipb/files/media-files/Human-Rights-Annual-Report-2015.PDF)

PSNI's recorded security situation statistics<sup>194</sup> in the period from 1 April 2019 to 31 March 2020 show that there were 13 casualties of paramilitary style shootings; this was the lowest number of such shootings since 2007/08. However, there were 67 casualties of paramilitary style assaults, compared to 59 in the previous year. This is the highest number of such attacks since 2009/10 and a reversal of the small decline that was witnessed during 2017/18 and 2018/19. Of the 67 casualties, three were under 18 years of age.

There is evidence of paramilitaries encroaching on young people's lives, either directly or indirectly.<sup>195</sup> Young people across different communities here have reported 'activity by non-state forces' to NICCY. They have stated that there is increasing recruitment to paramilitary organisations, often through coercion, as well as threats, intimidation and/or assaults.

A report<sup>196</sup> using figures obtained from the Northern Ireland Housing Executive (NIHE) showed that from 2015-2018 there were almost 1,500 cases of paramilitary intimidation which forced people out of their homes. A further 135 cases were linked to sectarianism. The report also highlighted that an average of eight families a week present themselves as homeless due to paramilitary threats. This does not take into account incidents of forced paramilitary intimidation from other types of accommodation including private housing.

## Tackling Paramilitarism – Government Response

The NI Executive Action Plan on 'Tackling Paramilitarism' in response to the 'Fresh Start' 3 person panel on the disbandment of paramilitaries (report published June 2016) contains 43 recommendations<sup>197</sup>. Delivery on these is ongoing following the NI Executive and Westminster Government each committing £25 million over five years - a total of £50 million.

In its response to NICCY's request for progress on the UNCRC 2016 Concluding Observations, the Department of Justice reported that work is ongoing to develop a number of pilot projects to test cross-agency working to prevent vulnerable young people from being involved in paramilitary activity and from being harmed from paramilitary violence.

The Tackling Paramilitarism Programme is funding youth outreach workers to build relationships with young people who are identified as being at higher risk of involvement in paramilitary activity, and to deliver programmes that develops the young people's resilience and awareness of risk factors. It is intended that resilience will be increased by developing new skills, building knowledge and examining the attitudes of young people to law and order. There are currently 13 youth workers in place working across the 10 areas with high levels of paramilitary style activity.

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194 Police Recorded Security Situation Statistics 1st April 2019 to 31st March 2020, PSNI Statistics Branch, 15th May 2020

195 'Paramilitaries still cast shadows over lives of young people in Northern Ireland' <http://theconversation.com/paramilitaries-still-cast-shadows-over-lives-of-young-people-in-northern-ireland-10620>

196 2,000 households forced out of their homes- paramilitaries blamed for 73% of cases [www.belfasttelegraph.co.uk/news/northern-ireland/exclusive-2000-households-forced-out-of-their-homes-paramilitaries-blamed-for-73-of-cases-37676384.html](http://www.belfasttelegraph.co.uk/news/northern-ireland/exclusive-2000-households-forced-out-of-their-homes-paramilitaries-blamed-for-73-of-cases-37676384.html)

197 [www.justice-ni.gov.uk/articles/executive-programme-tackling-paramilitary-activity-and-organised-crime](http://www.justice-ni.gov.uk/articles/executive-programme-tackling-paramilitary-activity-and-organised-crime)



The Tackling Paramilitarism Programme Team engaged with Communications colleagues from NIO, PSNI and Executive Departments to support community initiatives such as the 'Stop Attacks Forum'. NICCY also welcomes the multi-agency effort to develop and produce Practice Guidance which outlines actions to be taken when a child or young person is subject to a threat to life<sup>198</sup>.

NICCY recognises the initiatives aimed at highlighting the devastating impact of paramilitary style attacks' on victims, their families, local communities and wider society, such as through the 'Ending the Harm' public awareness campaign first launched in October 2018<sup>199</sup>, and a second phase which ran in 2019-20. The Department of Justice reported on research to evaluate the success of the first phase of the campaign. This found there were substantial shifts in attitude between 2017 and 2019 on whether people agreed/strongly agreed with the following statements, however, it is not clear whether the findings reflect young people's views.

Statement	2017	2019	Change
PSAs are justified/ justified in certain circumstances	35%	19%	46%
PSAs just involved a good kicking	25%	18%	28%
PSAs deliver swift justice	34%	15%	56%
A PSA is a good way of giving an offender a warning	35%	17%	51%
There is normally a good reason for a PSA	44%	20%	55%

PSA – Paramilitary-style attack

CCEA have developed multiple resources to promote and support the teaching of active citizenship as a way of tackling paramilitarism and promoting lawfulness. These include eight animated online resources, a short film and a stage play with accompanying teaching activities and guidance which can be used as an educational resource for Key Stage 3.

Whilst the efforts by Government to progress the aforementioned initiatives is positive, as yet, NICCY hasn't seen evidence of the impact of such initiatives on the lives of children and young people.

## Education Policy Initiatives

In NICCY's 2018 Statement, the Commissioner concluded that children's knowledge of the Northern Ireland conflict and opportunities to discuss and make sense of 'the Troubles' are limited. While school appears to be an important source of information for learning about the past, unless young people study GCSE History they will learn little specifically about the Troubles in school. We previously called for information about 'the Troubles' to be provided to children and young people with a view to achieving a shared narrative about the conflict but no decisive action has been taken to address this.

The Departmental response to UNCRC monitoring did, however, make it clear that issues such as human rights, respecting diversity, conflict-resolution and bullying are covered within the statutory curriculum under the Personal Development and Mutual Understanding (primary) and the Learning for Life and Work (post-primary) Areas of Learning. At post-primary level (Key Stage 3), under the Learning for Life and Work Area of Learning, schools are required by law to provide pupils with opportunities to:

<sup>198</sup> Practice Guidance on Actions to be Taken when a Child or Young Person is Subject to a Threat to Life. PSNI & HSC. 2019

<sup>199</sup> [www.endingtheharm.com/](http://www.endingtheharm.com/)

# For Every Child



## the Right to PLAY!

- Investigate how and why conflict, including prejudice, stereotyping, sectarianism and racism may arise in the community;
- Investigate why it is important to uphold human rights standards in modern democratic societies, including meeting basic needs, protecting individuals and groups of people; and
- Explore how inequalities can arise in society including how and why some people may experience inequality or discrimination on the basis of their group identity, for example, groups named in Section 75, The Northern Ireland Act 1998.

In the pre-school sector, through the delivery of the Curricular Guidance for Pre-school Education which was refreshed in 2018, practitioners are encouraged to help young children to understand and respect the culture, beliefs and lifestyles of all children

in the setting, model and nurture respect for diversity and foster good personal, social and emotional development.

The Government's Community Relations, Equality and Diversity (CRED) policy aims to contribute to improving relations between communities by educating young people to develop self-respect and respect for others. The CRED policy, which applies to all Section 75 groups, encourages formal and non-formal education providers to deliver in a way that provides opportunities for young people to build relationships with those of different backgrounds and traditions. CRED complements and underpins the good relations, respect for identity, diversity and community cohesion aspects of Shared Education. However, NICCY has not yet seen evidence of the impact of this policy on children's and young people's attitudes to one another nor on community relations.

## Calls to Government 2020:

NICCY welcomes the educational initiatives and pilot programmes which have been introduced to tackle paramilitarism. However, the most recent data show an increase in paramilitary style assaults from previous years. More work clearly needs to be done to expunge the scourge of paramilitarism from Northern Irish society and its continued impact on children and young people.

Government should continue to address the legacy of the conflict by:

1. Ensuring the full and effective protection of children and young people from trauma, violence or mistreatment in their communities, including from all forms of violence by non-State forces as well as from recruitment by such forces.
  - This should involve full monitoring and evaluation of the pilot programmes which are currently in place to tackle paramilitarism. The Government should invest more in those programmes that are particularly efficacious and lead to positive outcomes.
2. Addressing the continuing impacts of the conflict, including mental ill health, family breakdown, child poverty and educational under attainment and the provision of adequate support services to children and young people in their communities. Information about the conflict should be provided to children and young people with a view to achieving a shared narrative about the conflict;
3. Making wider and earlier use of the whole school curriculum to promote tolerance and a mutual understanding of community identities. Efforts must be made to encourage integrated education and collaborative projects between Catholic and Protestant schools to give children in both communities more opportunities to work together and integrate;
4. Supporting children and young people to play a central role in building a peaceful future in Northern Ireland, recognising that over many years, children have acted as human rights defenders. This should involve ensuring that children and young people are supported to explore and celebrate their culture, and to recognise the right of others to celebrate theirs.







## 7.8 PARTICIPATION

Article 12 of the Convention on the Rights of the Child states that children have the right to participate in decision-making processes that may be relevant in their lives and to influence decisions taken on their behalf.

Article 13 (Freedom of expression): Children have the right to get and share information, as long as the information is not damaging to them or others. In exercising the right to freedom of expression, children have the responsibility to also respect the rights, freedoms and reputations of others.

Articles 14 (Freedom of thought, conscience and religion), 15 (Freedom of association) and 17 (Access to information; mass media) also relate to their right to have a say in decisions affecting them.

The Concluding Observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, 3rd June, 2016 made a series of recommendations relating to participation including:

Establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services at the local and national level, including in relation to discrimination, violence, sexual exploitation and abuse, harmful practices, alternative care, sexual and reproductive education, leisure and play. Particular attention should be paid to involving younger children and children in vulnerable situations, such as children with disabilities;

Fully involve children in planning, designing and monitoring the implementation of play policies and

activities relevant to play and leisure, at community, local and national levels.

Ensure that children are not only heard but also listened to and their views given due weight by all professionals working with children.

Expedite the establishment of Youth Parliaments in all devolved administrations for children's effective engagement with national legislative processes on issues that affect them; and

Encourage the Government and devolved administrations to conduct consultations with children on the voting age. Should the voting age be lowered, the Committee recommends that the State party ensure that it is supported by active citizenship and human rights education in order to ensure early awareness of children that rights are to be exercised as part of citizenship, with autonomy and responsibility, and that the measure does not lend itself to undue influence.

## Context

"Working together means.... Government Departments actively listening to the voice of children and young people, parents and guardians and stakeholders when considering children and young people's issues."<sup>200</sup>

In these unprecedented times when the impact of the corona virus has made many of the normal processes of engagement null and void – schools, youth organisations and clubs, youth councils and youth fora all being closed – it is more vital than ever to be creative, to reach out and hear the voice of children and young people. We have to give young people time and space to raise their voices and also for those in charge to enable they have the time and space for those in charge to hear them and respond to them.

## 2018 Calls to Government

The 2018 report recognised that in the previous 20 years there has been an increase in the recognition and acceptance of children and young people's right to participate, and have their voice heard in the decision making process. Legislators, government departments and statutory agencies have been increasingly acknowledging the UNCRC and the fact that, when listened to, children and young people can play a vital role in the planning and delivery of services.

However, it was also recognised that there was still a distance to go. Engaging with children and young people in public consultation is still inconsistent and often an afterthought. Engagement with children and young people in the development of legislation, strategies and policies is sporadic, inconsistent and often relies on the individual rather than organisational practice.

Therefore, the calls made in 2018 included:

1. The development of measurable outcomes to provide a 'progression framework' from local to national participation, including exemplar models of engagement and examples of good practice;
2. Establishing structures (including a NI Youth Assembly) for the meaningful participation of children and young people in the development of policies, strategies, legislation and service delivery and monitoring of same; and
3. Establishing benchmarked levels of children's and young people's participation.

## Developments since 2018

Despite the absence of a working NI Executive and Assembly, there has been examples of positive development for the participation of children and young people in the decision making process, specifically on a strategic level.

The Children and Young People's Strategy and its implementation/delivery plan will be instrumental in progressing children's rights in Northern Ireland.<sup>201</sup> The Strategy states when considering what actions are required to deliver on it (the Strategy), children and young people's views must be taken into account. This will involve ongoing engagement with a diverse range of children and young people, including those who are difficult to reach or whose voice is seldom heard. Engagement must include informing them about how their views have been taken into account – in other words, the impact of the engagement should be evidenced and feedback.

To facilitate this the CYPS Team has initiated their Participation in Decision Making Project.

Positively, the key purpose of this Project is to develop a policy on participation in decision making that will be the NI Government's policy on ensuring the voice of the child is heard and acted upon. The project will identify suitable options and put in place effective participation and engagement structures across NI to promote dialogue with children and young people that is accessible to all and meaningful for those who participate, with a focus on regular, inclusive, two-way engagement. This policy needs to be supported by appropriate guidance.

This includes developing and providing participation structures to seek the views of a wide range of children and young people

201 Section 6.121, pg 84, Children and Young People's Strategy, 2020-30, DENI

and provide opportunities for them to engage, participate and contribute to the development and implementation of policies, programmes and services for them. Additionally, as called for in our 2018 SOCRNI report, a benchmarking exercise to review the extent of engagement with children and young people will be carried out.

With regard to the development of a NI Youth Assembly, the Assembly Commission has proactively explored details relating to a potential Youth Assembly model, liaising with NICCY for guidance and advice. With the reestablishment of the Assembly and Executive, further positive progression has been achieved.

NICCY has continued with its partnership with DfC's Local Government Policy Division, linking in to promote the engagement with C&YP through the Community Planning process following the publication of the Statutory Community Planning Guidance<sup>202</sup> which highlighted the need to involve C&P in the decision making process.

In October 2019, NICCY followed up its 2018 Community Planning Conference with an 'Engaging with Children and Young People' Community Planning seminar for key community planning leads. This event showcased three examples of good participative practice in Belfast City Council, Derry City & Strabane District Council and Lisburn & Castlereagh City Council. The seminar highlighted the potential for shared learning to support further development of children and young people's participation structures across the region and the opportunity for participants to meet their peers from the different council areas.

DfC recognises that collaborative working is fundamental to Programme for Government

(PfG). Community Planning and the 11 district Community Planning Partnerships have a role to play in supporting the realisation of PfG outcomes and the Executive vision of improving wellbeing for all.

Moving forward, DfC will review the current community planning guidance and will develop further guidance to support community planning in 2020/2. It will do this in cognisance of DE's Participation in decision-making policy approach.

### Other participative initiatives:

- The joint Department of Health/Department of Education draft Strategy for looked after children: 'A Life Deserved' recommends the establishment of formal mechanisms, including a biennial survey, to enable looked after children and care-experienced young people, those on the edges of care and those responsible for their care to be involved in policy, service and practice development on a co-design/co-production basis. This includes working with young people to review current arrangements for providing them with advice, guidance and representation to determine that the most effective and consistent model is in place;
- Article 3 of the Children (Northern Ireland) Order 1995 requires that in any proceedings in which any question with respect to the upbringing of a child arises, the court shall have regard to the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding). The Report of the Review of Family Justice led by Lord Justice Gillen, published in September 2017, includes a number of recommendations for enhancing how the voice of the child is heard in family



cases including that judges receive training in interviewing children and in every case, give consideration to meeting the child;

- The Department of Education's 'Sharing Works' policy, commits the Department and its arms-length bodies to encourage schools and other education setting to continue to develop meaningful ways of giving children and young people a voice, and to listen and respond to their views. The policy is further supported by the Shared Education Frameworks for Partnerships self-assessment and planning tool, which promotes the inclusion of children and young people's views in developing a shared education programme for an individual setting. The ETI, in its report *The Shared Education Signature Project Evaluation Report (October 2018)*<sup>203</sup>, commented that *"in the best practice, the views of the pupils were listened to, valued and acted upon. Joint school councils played an important role in shaping the development of the partnerships" whilst also noting that "in a small number of partnerships, the views of the children were not given sufficient consideration in the planning, delivery and evaluation of Shared Education"*. The report includes a recommendation for Shared Education partnerships to ensure that the pupils' views and ideas are a key feature of the planning, delivery and evaluation of shared learning;
- The Special Educational Needs and Disability – SEND - Act (NI) 2016, when commenced, will place a specific duty on the Education Authority (EA) to, so far as reasonably practicable, seek and have regard to the views of the child in terms of the Special Educational Needs provision for that child. DE intends to commence this duty on the EA in 2020; and

- The draft Adoption and Children Bill contains provision that will place the requirements for Personal Educational Plans (PEPs) for all looked after children on a statutory basis. The voice of the child is a key component in this revised approach to ensure looked after children have a greater involvement in the development of their PEP.

## Conclusion

Since the first SOCRNI report, it's positive to report that there has been progress in developing structures that will mainstream the voice of children and young people in the decision making process. The co-ordination between the DE's Participation in Decision Making initiative, ongoing community planning guidance and practice, the development of the NI Youth Assembly will be instrumental in establishing a statutory framework of participation along with a 'progression framework' from local to national participation.

It is noted that DE commissions modules in Kids Life and Times survey and the Young Life and Times survey to ensure young people's views can inform policy development. It is vital these young people, and the wider population of children and young people who are involved in participatory initiatives as highlighted above, receive appropriate feedback on the impact of their thoughts and ideas, how their engagement has been evidenced and implemented, and if not, why not.

There is still no explicit DE policy in place to require that children and young people are involved in having a say in decisions that affect their lives within the school environment. This absence has been remarked on by both NICCY and the Committee for the Rights of the Child on a regular basis, The

UN Committee stated that Government should 'strengthen children participation in all matters of school, classroom and learning which affect them'<sup>204</sup>.

NICCY's most recent report on the issue, produced in partnership with the NI Youth Forum – #Pupil Voice: Making A

Difference<sup>205</sup>, reviewed pupil participation in schools. It reiterated the need for DE to encourage more meaningful pupil participation in schools, including through requiring schools to establish a schools council and for children's rights education to be integrated into the curriculum.

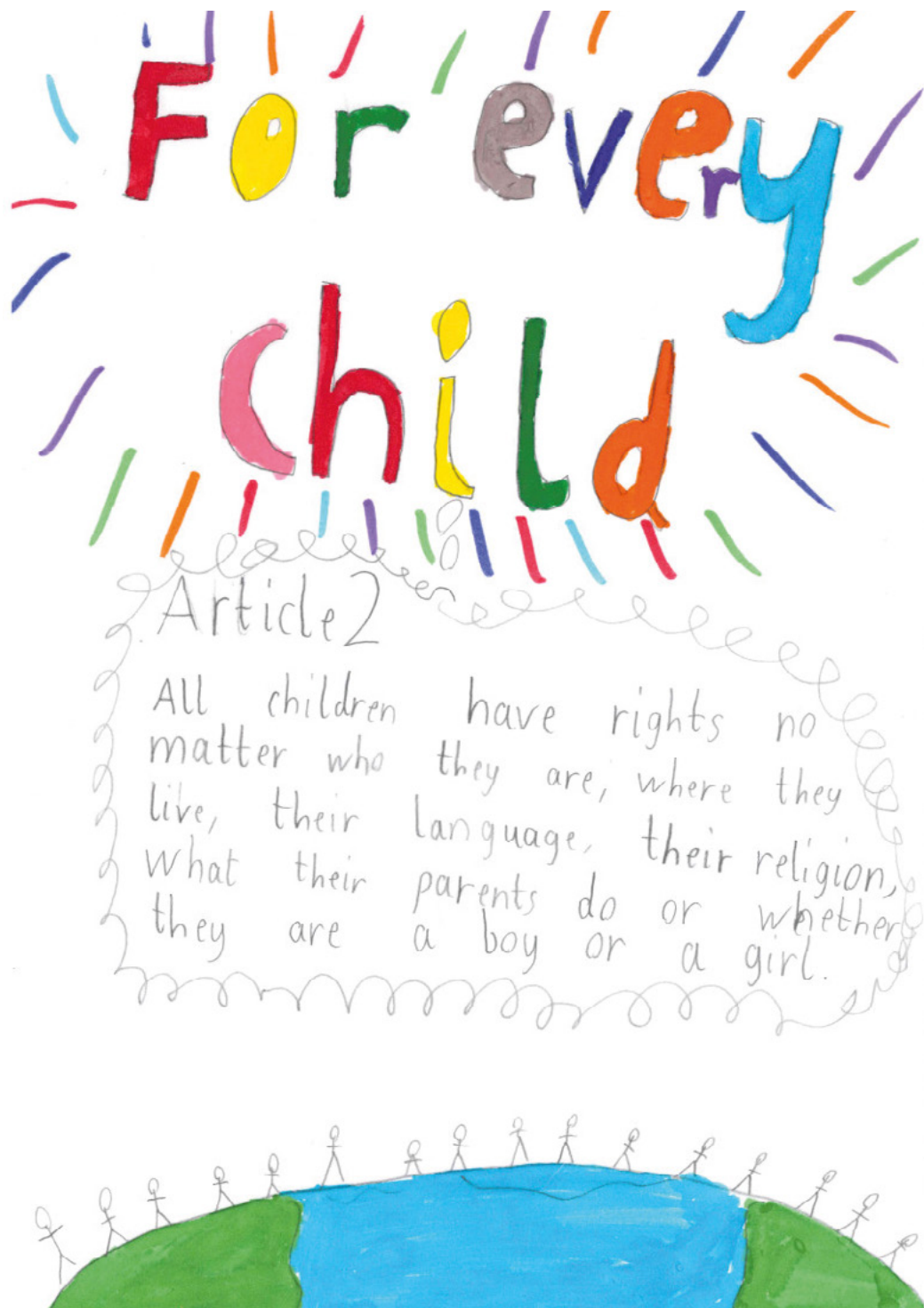
## **Calls to Government 2020:**

**Government must continue to prioritise the participation of children and young people through:**

- 1. Ensuring DE's Participation in Decision Making initiative is endorsed and supported by all relevant public bodies and delivers a structure for meaningful participation of children and young people, especially those most vulnerable.**
- 2. Ensuring that collaboration between Departments and their agencies establishes appropriate structures for the meaningful participation of children and young people in the development, implementation and evaluation of policies, strategies, legislation and services.**
- 3. The development of a DE policy to ensure meaningful pupil participation in schools, including through requiring schools to establish a schools council/forum. This should be supported by an appropriate inspection process.**

204 UN Committee on the Right of the Child, Para. 67, Pg 16, 2008 Concluding Observations

205 #Pupil Voice: Making A Difference (2015)



## 7.9 CHALLENGING DISCRIMINATION

Article 2 of the UNCRC provides protections for all children from discrimination of any kind.

## Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

In its most recent examination of the UK Government in 2016, the UN Committee on the Rights of the Child recommended that the Government,

*“Consider the possibility of expanding legislation to provide protection of all children under 18 years of age against discrimination on the grounds of their age.”*<sup>206</sup>

The Committee also highlighted the need for the Government to strengthen its awareness-raising and other preventive activities against discrimination and stigmatization<sup>207</sup>, and recalled its previous recommendation that the

State party take urgent measures to address the “intolerance of childhood” and general negative public attitude towards children, especially adolescents, within society, including in the media.<sup>208</sup>

## Context

### Access to Goods, Facilities and Services

In Northern Ireland, it is proposed to introduce legislation to protect against discrimination on grounds of age when accessing goods, facilities and services (Age GFS). It is also proposed to apply these protections only to those aged over 16. There is significant evidence that children and young people experience discrimination. NICCY has provided a wealth of compelling evidence to Government which clearly highlights the need to include children and young people of all ages within the scope of the Age GFS legislation.<sup>209</sup>

NICCY does not believe that any of the comprehensive evidence it has provided has been taken into account in developing the current proposals regarding under 16s. Children and young people already enjoy protection from discrimination on the basis of their age in employment and vocational training<sup>210</sup> and on the grounds of sex, sexual orientation, religion and political opinion, race and disability when accessing goods, facilities and services in Northern Ireland.

NICCY welcomes the proposal under the New Decade, New Approach deal to bring an Age, Goods and Facilities and Services Bill forward by the Executive as basis for ensuring that no one is discriminated against

206 Para 22(a), CRC/C/GBR/CO/5, 12 July 2016

207 Para 22(c), CRC/C/GBR/CO/5, 12 July 2016

208 Para 23, CRC/C/GBR/CO/5, 12 July 2016

209 [www.niccy.org/about-us/our-current-work/high-level-corporate-objectives/respecting-the-rights-of-vulnerable-groups-of-children/gfs-goods-facilities-and-services](http://www.niccy.org/about-us/our-current-work/high-level-corporate-objectives/respecting-the-rights-of-vulnerable-groups-of-children/gfs-goods-facilities-and-services)

210 As provided for by the Employment Equality (Age) Regulations (Northern Ireland) (2006). These protections apply to children from the age of 13 as this is the age at which children are legally allowed to work in Northern Ireland.



because of their age. NICCY also welcomes that the parties agreed that the Executive should commit to becoming a Living Wage employer, that the Executive should move to ban zero hours contracts, and that powers to set minimum wage levels should be made a devolved matter. All efforts are required to end the discrimination faced by children and young people when accessing goods, facilities and services.

## Mental Capacity

The Mental Capacity Act 2016 will, when fully commenced, fuse together mental capacity and mental health law for those aged 16 years and over as recommended by the Bamford Review. The MCA was partially commenced on 2 December 2019.

The parts of the MCA that are currently in force provide a statutory framework to deprive anyone of the age of 16 and above of their liberty in Northern Ireland if certain conditions apply. The MCA does not apply to any decisions made about the care or treatment of the person in the place to which the authorisation relates.

The Mental Health Order (Northern Ireland) 1986 is focused on compulsory admission to hospital either for assessment or treatment. Not every hospital admission will amount to a deprivation of liberty e.g. in circumstances where the young person is receiving life-saving medical treatment.

There is overlap between the MCA and MHO 1986 in respect of in-patient admissions for assessment and treatment of mental disorders. In Northern Ireland the legislation and associated Code of Practice make clear that if a person can be detained under the 1986 Mental Health Order, then it is the MHO which must be applied.

On the 26th September 2019, the Supreme Court ruled on Case D. The issue under

consideration was whether it was within the scope of parental responsibility to consent to the living arrangements for a 16/17 year old which in effect deprived him of his liberty or whether a child of this age had the mental capacity to make that decision for himself. The Supreme Court made clear in the case of re D that no person can consent on behalf of a young person aged 16/17 and, that unless that young person gives consent to that confinement, there will be a deprivation of liberty requiring authorisation.

## Issues Relating to the Mental Capacity Act

The Department of Health NI in the development of the MCA have been clear that the inclusion of 16 and 17 years olds in the Act would mean that the legislation would apply to this age group in the same way as adults. Our understanding at the time was that, due to the Age of Majority Act 1969, responsibility for the provision of consent would transfer to their parents. NICCY argued that 16 and 17 year olds who come within the scope of the MCA due to their lack of capacity will be unable to access any of the protections and safeguards in the Act, unless they are deemed to be able to give consent. As noted above, the recent Supreme Court judgement in respect of re D made clear that no person can give consent on behalf of a young person aged 16/17.

Throughout the development of the Mental Capacity Act (Northern Ireland) 2016, NICCY consistently expressed concern regarding the proposed application of the Mental Capacity Act (Northern Ireland) 2016 only to those aged 16 and over, thus denying young people under 16 access to the protections and safeguards under the Act. In the recent case of re D, Lady Hale recognised that the conclusion she reached in relation to those over 16 years of age would logically also apply to younger children whose liberty was restricted to an extent which was not normal for his or her age.

In re D, Lady Hale concluded that it was not within the scope of responsibility of Child D's parents to consent to a placement which deprived him of his liberty. However, the judges made clear that they were not pronouncing on the operation of parental responsibility in relation to other matters in respect of children aged under 18 (e.g. serious and irreversible medical treatment).

The Supreme Court judgement in respect of re D goes some considerable way towards addressing NICCY's concerns around the application of the legislation to young people under the age of 16 and consent resting with 16 and 17 year olds, and demonstrates that further action is required.

### Equal Protection

*"The distinct nature of children, their initial dependent and developmental state, their unique human potential as well as their vulnerability, all demand the need for more, rather than less, legal and other protection from all forms of violence."*<sup>211</sup>

#### Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention

and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

## 2016 Concluding Observations

### Corporal punishment

40. With reference to its general comment No. 8 and its previous recommendations, the Committee urges the State party, in all devolved administrations, Overseas Territories and Crown Dependencies, to:
  - (a) Prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences, such as "reasonable chastisement";
  - (b) Ensure that corporal punishment is explicitly prohibited in all schools and educational institutions and all other institutions and forms of alternative care;
  - (c) Strengthen its efforts to promote positive and non-violent forms of discipline and respect for children's equal right to human dignity and physical integrity, with a view to eliminating the general acceptance of the use of corporal punishment in child-rearing.

The articles of the UNCRC are understood to be indivisible, interrelated and interdependent and this can be clearly seen when examining children and young people's right to non-discrimination, particularly in the area of legal protection from all forms of violence and assault, including physical punishment.

While the law regarding physical punishment in Northern Ireland was reformed to restrict the defence of 'reasonable punishment'

<sup>211</sup> UN Committee on the Rights of the Child (2006) General Comment 8, para 21.

in the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006, the defence is still available to parents in certain circumstances in regard to the offence of common assault. It is notable that in jurisdictions immediate to Northern Ireland a more progressive and child rights compliant approach has been taken with legal reform now secured in Wales through the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020<sup>212</sup>, in Scotland through the Children (Equal Protection from Assault) (Scotland) Act 2019<sup>213</sup> and in the Republic of Ireland through the Children First Act (2015)<sup>214</sup>. In all cases, legislative reform removed the common law defence of reasonable punishment, justifiable assault or reasonable chastisement respectively. The Commissioner has continued to engage with a range of Government, statutory and non governmental organisations on this important issue, highlighting that children in Northern Ireland should not be left behind and be subject to lower standards of legal protection than adults in Northern Ireland or their peers in other parts of the UK and Ireland.

The international evidence base documenting the negative outcomes associated with physical punishment is now well established and shows that the use of physical punishment: is not effective in achieving parenting goals; is detrimental to children's health and development (including

associations with increased childhood aggression, antisocial behaviour and mental health problems); and carries a serious risk of escalation into injurious abuse and maltreatment. Further to this, research indicates that the use of physical punishment declines more quickly in countries where it has been prohibited.<sup>215</sup>

The case for change in Northern Ireland is further supported by NICCY's 2017 survey findings which explored adult attitudes towards physical punishment and legal reform.<sup>216</sup> Research results highlighted that the majority of adults (70% of adults and 76% of parents) viewed positive parenting as more effective than physical punishment and that just under one in four adults (24%) and only 18% of parents reported that physical punishment was acceptable as a method of discipline. This demonstrates a large decrease in the acceptability of physical punishment recorded in previous research. It is concerning that survey results also identified that there had been a significant decline in the number of parents being provided with information about positive parenting and alternatives to physical punishment since 2008. In relation to reforming the law, a majority of adults (63%) reported that they would support change to ensure children are given the same protection from all forms of assault, including hitting and smacking, that is currently afforded to adults. This indicates an increase in support from similar questions in earlier studies.

212 [www.assembly.wales/laid%20documents/pri-ld12454/pri-ld12454-e.pdf](http://www.assembly.wales/laid%20documents/pri-ld12454/pri-ld12454-e.pdf)

213 [www.legislation.gov.uk/asp/2019/16/enacted](http://www.legislation.gov.uk/asp/2019/16/enacted)

214 [www.irishstatutebook.ie/eli/2015/act/36/enacted/en/html](http://www.irishstatutebook.ie/eli/2015/act/36/enacted/en/html)

215 Heilmann A., Kelly Y. and Watt R. (2015) Equally Protected? A Review of the Evidence on the Physical Punishment of Children, Children and Young People's Commissioner Scotland, Children 1st, Barnardo's and NSPCC. Available at: [www.nspcc.org.uk/services-and-resources/research-and-resources/2015/equally-protected/](http://www.nspcc.org.uk/services-and-resources/research-and-resources/2015/equally-protected/). Bunting L., Webb M.A. and Healy J. (2008) The 'Smacking Debate' in Northern Ireland – Messages from Research, Belfast: NICCY. See for example, Gershoff E.T. and Grogan-Kaylor A. (2016) Spanking and child outcomes: Old controversies and new meta-analyses, *Journal Family of Psychology* June 30(4):453-469

216 NICCY (2017) Changing Perceptions: Equal Protection for Children, NICCY's work and survey results on attitudes to physical punishment. Available at: [www.niccy.org/publications/2017/june/29/changing-perceptions-equal-protection-for-children/](http://www.niccy.org/publications/2017/june/29/changing-perceptions-equal-protection-for-children/)

It is time for Government to both reform the law to ensure children in Northern Ireland have Equal Protection and to better support parents and families with high quality positive parenting information and support. Equal Protection must be directly

addressed by the Family and Parenting Support Strategy currently under development. NICCY's 2018 recommendations have not been progressed in Northern Ireland and are again repeated.

## **Calls to Government 2020:**

**Government must act to protect children and young people from discrimination through:**

- 1. 'Age GFS' legislation which covers all age groups to include the protection of children and young people from discrimination when accessing goods, facilities and services;**
- 2. Consideration to further the application of the Mental Capacity Act to children under the age of 16 and consider further the operation of child/parental consent in respect of medical interventions; and**
- 3. Legislative reform to ensure children have Equal Protection from all forms of assault, including physical punishment, and strengthened commitment to supporting families, including through dedicated and effective positive parenting support.**



## SOCIAL MEDIA

EVERY CHILD, EVERY RIGHT



### GOOD REASONS

- : Social Media Makes It Easier to Make Friends. ...
- : Social Media Fosters Empathy. ...
- : Social Media Allows for Speedy Communication. ...
- : Social Media Makes the World Seem Smaller. ...
- : Social Media Helps You Build Relationships

#### Social Media Can Benefit Mental Health Too

Emotions expressed online affect your mood. It not only helps to relieve **social** isolation but also open new communication pathways and offers much-needed support. It allows people to share their thoughts without revealing their identity

#### Pros of Social Networking

- : Ability to connect to other people all over the world. ...
- : Easy and instant communication. ...
- : Real-time news and information discovery. ...
- : Great opportunities for business owners. ...
- : General fun and enjoyment. ...
- : Information overwhelm. ...
- : Privacy issues. ...
- : Social peer pressure and cyber bullying

#### Why is social media so important?

78 % of small businesses use **social media** to attract new customers. **Social media** marketing helps to validate your brand. A company's **social media** presence, when done correctly, tells consumers that their brand is active and focused on thriving communication with consumers. 27 Mar 2016

### BAD REASONS

Teenagers try to change their personality by wearing lots of make-up and getting plastic surgery and they are step it up to another level by not eating to looking like the ones they see on social media .

There is a code FOMO (FEAR OF MISSING OUT)

Snapchat is an image messaging and multimedia mobile application created by Evan Spiegel, Bobby Murphy, and Reggie Brown, former students at Stanford University, and developed by snap Inc, originally Snapchat Inc Snapchat was made in September 2011.

Cyberbullying is a way to make someone unwanted Cyberbullying includes sending hateful messages or even death threats to children, spreading lies about them online, making nasty comments on their **social networking** profiles, or creating a website to bash their looks or reputation

The Internet, particularly **social media**, is another outlet for possible downfall. When it comes to technology and teens normally the **dangerous** things that come to mind are sexting, online predator, and cyberbullying. All are incredibly damaging, more common than people think, and should be talked about.

## 8. SUMMARY OF NICCY CALLS TO GOVERNMENT (2020)

## Educational Inequalities

It is essential that Government ensures that all children and young people experience their right to an effective education by addressing the following recommendations:

1. Ending the educational attainment gap between specific groups of children and young people and removing all barriers to every child's full participation in, and access to, a child rights compliant education system including supporting LGBTQ+, newcomer, children in care, and children with SEN. This must include full implementation of the recommendations from 'Too Little, Too Late', NICCY's rights based review of SEN provision in mainstream schools, and immediate commencement of the new SEN Framework.
2. Government must prioritise the promotion and monitoring of mental health and wellbeing of children and young people in schools, and protect against factors negatively impacting on well-being in schools by:
  - Implementing the 'Addressing Bullying in Schools Act (Northern Ireland) 2016' as a matter of urgency;
  - Ensuring that all children who require access to counselling services can do so. This must include ensuring access to ICSS in primary school settings;
  - A prevention and early intervention approach to emotional health and wellbeing. This must include prioritising the implementation of the Emotional Health and Wellbeing Framework in schools; and
  - Implementing a measure of well-being across all schools in Northern Ireland and ensuring that this measure is completed by every pupil.
3. Government must move towards a single education system that is UNCRC Article 28 and 29 compliant, fit for purpose, provides greater efficiency and addresses the cost of education for families. This must involve a proper review of our segregated system and addressing the fundamental flaws and inequalities that arise from academic selection.
4. Ensuring thorough and ongoing assessment of the impact of the Covid-19 pandemic and Government response to this on all children and young people's access to education, including the most vulnerable such as those attending special schools.

## Mental Health

Government must prioritise children and young people's mental health by taking the following measures:

1. Implement the recommendations of the Still Waiting Review and ensure its findings inform all current and future strategies to reform services. This must include long term investment to sustain services and improve outcomes.
2. Prioritise investment in those areas which reflect the most egregious breaches of children's rights, ensure that all funding decisions are transparent and equality impact assessed and establish robust monitoring and evaluation processes to allow for effective measurement of impact.
3. Ensure adequate mental health provision is in place to meet the needs of children and young people affected by the Covid-19 public health crisis. To include a proactive response to reducing pandemic-related adversities that are known to harm mental health, for example, those with pre-existing mental health problems or disabilities, those affected by domestic violence, abuse and poverty.

## Child Poverty

The agreement of the political parties to form an Executive, and the 'New Decade, New Approach' commitments opened up the possibilities of prioritising actions to target poverty and to build an economy that would allow all the people of Northern Ireland to prosper. The delays in developing a Poverty Strategy, and an Economic/Industrial Strategy have hampered the creation of new approaches to support the poorest in our society, including a revised 'Welfare Reform' mitigation package. However, just as the Minister for Communities was reaching agreement with Executive colleagues in relation to this, to be in place in time for the 'cliff edge' of 31 March, the COVID-19 crisis hit, with devastating consequences not just in relation to the health of the population, but for businesses, jobs, and family incomes.

At the moment, during the crisis, the UK government, the Executive, government departments and agencies are seeking to minimise its impact on the economy and ensure that the basic needs of the population are met. However, coming out of the crisis, there is an opportunity to harness the renewed focus on working together to rebuild the economy, our health and social security systems to be more robust and to focus on meeting the needs of all within society, particularly the most vulnerable.

Government must take action to prioritise the eradication of child poverty through:

1. Ensuring that the new Executive Economic/Industrial Strategy focuses on rebuilding the economy after the Covid-19 crisis in such a way that all those who can work, including young people and parents, can play a part and receive a decent wage, which enables them to live above the poverty thresholds;

## Child Poverty *Continued*

2. Adapting the new mitigation package to include elements to address child poverty and provide support for low income families, including continuing the mitigations relating to the social sector size criteria, the benefit cap, the payment for children transferring from DLA to PIP and the following new elements:
  - a. mitigation payments for families affected by the two child limit and removal of the family elements of tax credits;
  - b. grants to address costs associated with employment (as originally advised by the Mitigations Working Group);
  - c. a per-child payment for low income families; and
  - d. an expanded payment for low income families with young children, based on the Scottish Government's 'Best Start' Grant.
3. Transforming the UK Social Security system so that, once again, it becomes an effective 'safety net' for all in society. The government must provide a renewed vision for the social security system, and reverse the harmful policies that have undermined it. Families should be guaranteed a minimum income; and
4. Developing and implementing a new Anti-poverty Strategy without delay. This should adopt a 'lifecycle approach' reflecting the causes and impacts of poverty at different ages, and including actions in relation to early years children; school age children; working age adults; and pensioners. Actions relating to children should include introducing affordable childcare, tackling educational inequalities and social exclusion and addressing homelessness.

## Calls to Government 2020 (Safeguarding):

Government must ensure that all children are safe and protected from harm through:

1. Thorough and ongoing assessment of the impact of the COVID-19 pandemic and Government response to this on safeguarding arrangements and protections for children and young people.
2. Commencing with urgency, the statutory multiagency child death review process in line with Section 3(5) of the Safeguarding Board Act (Northern Ireland) 2011; and
3. Taking forward the Barnahus model to respond to all child victims of sexual offences and revising CSE Progress Reporting to ensure this provides evidence of improved outcomes for children and young people.



## **Calls to Government 2020 (children and families subject to immigration control):**

1. The UK and Northern Ireland Governments must ensure that the rights of all children, including those of destitute asylum seekers, are fully protected and that they receive the support they need.
2. The Government must strengthen current provision for Separated Children so that arrangements can safely and effectively respond to unplanned increases in numbers of children arriving in Northern Ireland.
3. Government must ensure that measures are in place to enable children and families subject to immigration control to travel across the land border to access healthcare services and participate in educational, sporting or cultural activities as necessary.

## **Calls to Government 2020 (Digital Environment):**

In order to promote and safeguard children's rights in the digital world Government must:

1. Ensure that Northern Ireland has a robust strategy to protect children's rights in the digital environment in place and urgently deliver a child rights based online safety strategy as part of this.

## **Calls to Government 2020 (Restraint and Seclusion):**

In order to protect children's rights Government must, as a matter of urgency:

1. Ban the use of restraint and seclusion for disciplinary purposes, and the use of any technique designed to inflict pain on children;
2. Ensure that restraint and seclusion are only used as a measure of last resort, to prevent harm to the child or others; and
3. Make reporting of the use of restraint and seclusion mandatory across all settings.



## Youth Justice

The lack of a NI Assembly and Executive since the first 'SOCRNI' report in 2018 until it's resumption in January 2020, has meant that there has been little significant progress in the implementation of children's rights in the Youth Justice System. There must be an increased impetus to ensure that the system is child rights compliant.

1. The Youth Justice System must address the substantial outstanding issues concerning the implementation of the best interests principle. This must include:
  - a) Custody as a last resort and for the least possible time;
  - b) Outcomes data on the impacts on / changes in the lives of young people who have received services from the YJA;
  - c) Diversion from the formal system;
  - d) Statutory time limits for the processing of youth court cases of 120 days; and
  - e) Participation of children and young people in design and delivery of services.
2. Introduce proposals to raise the minimum age of criminal responsibility to 14 years immediately;
3. The PSNI must demonstrate the purpose and outcomes of all Stop and Search operations involving children and young people, and must also improve the quality of engagement with young people.

## UK Withdrawal from the EU ('Brexit')

Government must ensure no adverse impacts on children's and young people's rights and access to services as a result of UK withdrawal from the EU ('Brexit') through the following:

1. All aspects of the Good Friday Agreement must be protected including the right of people in Northern Ireland to identify as British, Irish or both. Moreover, the commitment to safeguarding human rights and the principle of equivalency of rights across the island of Ireland must be ensured;
2. The UK Government, Irish Government and European Union must work together to avoid physical infrastructure being located at or around the UK-EU border on the island of Ireland;
3. Safeguarding children and young people must be ensured through maintaining current security, policing and justice mechanisms similar to those provided through Europol, Eurojust, ECRIS, European Arrest Warrant and Data protocols in a 'Future Security Partnership';
4. The UK and Irish Governments must co-operate to ensure freedom of movement of people across the border is not impeded so that children, young people and their families continue to access services and facilities on either side of the border e.g. in relation to health, education, family life, sports, cultural and leisure activities;
5. The UK Government (post-Brexit) should commit to the continuation of financial support currently provided to Northern Ireland by the EU including through agricultural subsidies, structural funds and grants which contribute significantly to the Northern Ireland economy and alleviate child poverty / promote adequate standards of living – with a particular focus on disadvantaged groups and communities; and
6. Incorporation of the United Nations Convention on the Rights of the Child must be actioned to safeguard and promote the rights of all Children and Young People in Northern Ireland.

## Legacy of the Conflict

NICCY welcomes the educational initiatives and pilot programmes which have been introduced to tackle paramilitarism. However, the most recent data show an increase in paramilitary style assaults from previous years. More work clearly needs to be done to expunge the scourge of paramilitarism from Northern Irish society and its continued impact on children and young people.

Government should continue to address the legacy of the conflict by:

1. Ensuring the full and effective protection of children and young people from trauma, violence or mistreatment in their communities, including from all forms of violence by non-State forces as well as from recruitment by such forces.
  - o This should involve full monitoring and evaluation of the pilot programmes which are currently in place to tackle paramilitarism. The Government should invest more in those programmes that are particularly efficacious and lead to positive outcomes.
2. Addressing the continuing impacts of the conflict, including mental ill health, family breakdown, child poverty and educational under attainment and the provision of adequate support services to children and young people in their communities. Information about the conflict should be provided to children and young people with a view to achieving a shared narrative about the conflict;
3. Making wider and earlier use of the whole school curriculum to promote tolerance and a mutual understanding of community identities. Efforts must be made to encourage integrated education and collaborative projects between Catholic and Protestant schools to give children in both communities more opportunities to work together and integrate;
4. Supporting children and young people to play a central role in building a peaceful future in Northern Ireland, recognising that over many years, children have acted as human rights defenders. This should involve ensuring that children and young people are supported to explore and celebrate their culture, and to recognise the right of others to celebrate theirs.

## Participation

Government must continue to prioritise the participation of children and young people through:

1. Ensuring DE's Participation in Decision Making initiative is endorsed and supported by all relevant public bodies and delivers a structure for meaningful participation of children and young people, especially those most vulnerable.
2. Ensuring that collaboration between Departments and their agencies establishes appropriate structures for the meaningful participation of children and young people in the development, implementation and evaluation of policies, strategies, legislation and services.
3. The development of a DE policy to ensure meaningful pupil participation in schools, including through requiring schools to establish a schools council/forum. This should be supported by an appropriate inspection process.

## Challenging Discrimination

Government must act to protect children and young people from discrimination through:

1. 'Age GFS' legislation which covers all age groups to include the protection of children and young people from discrimination when accessing goods, facilities and services;
2. Consideration to further the application of the Mental Capacity Act to children under the age of 16 and consider further the operation of child/parental consent in respect of medical interventions; and
3. Legislative reform to ensure children have Equal Protection from all forms of assault, including physical punishment, and strengthened commitment to supporting families, including through dedicated and effective positive parenting support.

## 9. ACKNOWLEDGEMENTS

The artwork presented on the cover and throughout this Report was captured from children at a celebratory event on the 20th November 2019 to mark the 30th Anniversary of the UNCRC. It depicts what children's rights mean to them, including the importance of the right to have a voice.

NICCY would like to acknowledge the support of the Department of Education in collating progress updates against the UN Committee's 2016 Concluding Observations, following the fifth Periodic Examination of the UK State Party. We would also like to thank all NI Government Departments for their input to this NICCY monitoring table.







**For further information:**

**Email:** [info@niccy.org](mailto:info@niccy.org)

**Phone:** 028 9031 1616

Please contact the communications team at NICCY if you require an alternative format of this material.

**Northern Ireland  
Commissioner  
for Children and  
Young People**

**Equality House**  
7-9 Shaftesbury Square  
Belfast  
BT2 7DP

**T:** 028 9031 1616  
**E:** [info@niccy.org](mailto:info@niccy.org)  
**W:** [www.niccy.org](http://www.niccy.org)

**f** [nichildrenscommissioner](https://www.facebook.com/nichildrenscommissioner)  
**t** [@nichildcom](https://twitter.com/nichildcom)  
**@** [niccy\\_yp](https://www.instagram.com/niccy_yp)

**NICCY**  
PROMOTING THE RIGHTS OF  
CHILDREN & YOUNG PEOPLE