



STATEMENT ON CHILDREN'S RIGHTS IN NORTHERN IRELAND 3

MAIN REPORT

November 2022

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LIST OF ABBREVIATIONS

A&E	Accident and Emergency
ACEs	Adverse Childhood Experiences
ADHD	Attention Deficit Hyperactivity Disorder
Age GFS	Age Discrimination (Goods, Facilities and Services) legislation
BHSCT	Belfast Health and Social Care Trust
BSO	Business Services Organisation
CAMHS	Child and Adolescent Mental Health Services
CCEA	Council for the Curriculum Examinations and Assessment
CEDAW	Committee for the Elimination of Discrimination Against Women
CJINI	Criminal Justice Inspectorate NI
COP	Conference of Parties (to the UN Framework on Climate Change)
CPD	Continuing Professional Development
CRIA	Child Rights Impact Assessment
CSCA	The Children's Services Cooperation Act (Northern Ireland) 2015
CSE	Child Sexual Exploitation
CYPS	Children and Young People's Strategy
DAERA	Department for Agriculture, Environment and Rural Affairs
DE	Department of Education
DfC	Department for Communities
DHSSPS	Department of Health, Social Services and Public Safety
DLA	Disability Living Allowance
DoJ	Department of Justice
DOL	Deprivation of Liberty
DOH	Department of Health
EA	Education Authority
ECHR	European Convention on Human Rights
ECNI	Equality Commission for Northern Ireland
ED	Emergency Department
ENOC	European Network of Ombudsmen for Children
ENYA	European Network of Young Advisers
EOTAS	Education Other than in School
EQIA	Equality Impact Assessment
ETI	Education Training Inspectorate
EU	European Union
EUSS	EU Settlement Scheme
FSM	Free School Meals

FSME	Free School Meals Entitlement
GC	General Comment
GP	General Practitioner
HSC	Health and Social Care
HSCB	Health and Social Care Board
ICESCR	International Convention on Economic, Social and Cultural Rights
ICSS	Independent Counselling Service for Schools
IDG	Inter-Departmental Group
IEF	Integrated Education Fund
IHRI	Independent Human Rights Institution
IRC	Independent Reporting Commission
JJC	Juvenile Justice Centre
KLT	Kids Life and Times survey
LGBTQ	Lesbian, Gay, Bisexual, Transgender or Queer/Questioning
LLW	Learning for Life and Work
MACR	Minimum Age of Criminal Responsibility
MCA	Mental Capacity Act (Northern Ireland) 2015
MDTs	Multi-Disciplinary Teams
MHO	Mental Health (Northern Ireland) Order 1986
MLA	Member of the Legislative Assembly
NDNA	New Decade, New Approach
NGOs	Non-Governmental Organisations
NIAO	Northern Ireland Audit Office
NICCY	Northern Ireland Commissioner for Children and Young People
NICE	National Institute for Health and Care Excellence
NICIE	Northern Ireland Council for Integrated Education
NICS	Northern Ireland Civil Service
NIHE	Northern Ireland Housing Executive
NIHRC	Northern Ireland Human Rights Commission
NIPB	Northern Ireland Policing Board
NISRA	Northern Ireland Statistics and Research Agency
NIYF	Northern Ireland Youth Forum
NRPF	No Recourse to Public Funds
NSPCC	National Society for the Prevention of Cruelty to Children
NYP	NICCY Youth Panel
OFMDFM	Office of the First Minister and deputy First Minister
PACE	Police and Criminal Justice Act
PD&MU	Personal Development and Mutual Understanding

PfG	Programme for Government
PIP	Personal Independence Payment
PSNI	Police Service of Northern Ireland
RQIA	Regulation and Quality Improvement Authority
RSE	Relationships and Sexuality Education
S75	Section 75 of the Northern Ireland Act 1998
SDP	Strategic Development Programme
SEN	Special educational needs
SEND	Special educational needs and disability
SFYJ	Strategic Framework for Youth Justice
SOCRNI	Statement on Children's Rights in Northern Ireland
STLs	Statutory Time Limits
SWAP	Still Waiting Action Plan
T:BUC	Together: Building a United Community
TEO	The Executive Office
TLTL	NICCY's report 'Too Little, Too Late'.
UC	Universal Credit
UNCRC	United Nations Convention on the Rights of the Child
UNCRPD	UN Convention on the Rights of Persons with Disabilities
WHO	World Health Organisation
WSP	Welfare Supplementary Payments
YJA	Youth Justice Agency
YLT	Young Life and Times survey



FOREWORD

“Overcoming poverty is not a gesture of charity. It is the protection of a fundamental human right, the right to dignity and a decent life.” – Nelson Mandela



A very warm welcome to NICCY’s third Statement on Children’s Rights in Northern Ireland, a comprehensive overview of our jurisdiction’s performance against key rights for children and young people. I appreciate that this is a long read, but it was impossible to narrow it further as the issues and subjects are serious and often complex. The report contains 52 carefully considered calls backed by evidence and hundreds of recommendations. The detail and heft are a result of many issues, some of which are UK and worldwide, and others specific to Northern Ireland.

Our first report was published in June 2018 when we had **no NI government**, the second in November 2020 **during COVID**, the government having returned at the beginning of that year, and here we are two years later, at the time of writing, with **no Assembly and no Executive**. In the aftermath of the pandemic and the depths of the poverty crisis, our children, young people and families are facing the biggest challenges to their health, education and wellbeing since the worst times of the conflict.

Children in Northern Ireland look to their counterparts in other jurisdictions across these islands and see their rights being progressed. We need progress here that is right for us and our context, and only a NI government can achieve that. We need progress to make sure that children get the best start in life. Nothing can be more important.

As a NICCY, it is our job to highlight what more needs to be done, and this report does just that. However, it would be remiss if as I entered the last few months of my term in office we did not reflect on the positive changes that we have seen since 2015, and again these are highlighted in this report. I believe that there is a different attitude towards the rights of children and young people, the beginning of a recognition that children are partners in the decisions made about them individually and collectively. I have also seen positive moves in a range of areas, particularly mental health and special educational needs (SEN).

The challenge remains to turn this into tangible actions where children and young people experience better outcomes and feel that they are respected and valued. SOCRNI 3 demonstrates that we still have a long way to go.

I became Commissioner in 2015 and very quickly got involved in UN reporting on the UK government's implementation of the UNCRC and monitoring the concluding observations and recommendations was a key feature of the two previous SOCRNIs. My term will end in the middle of the 6th periodic examination process. This report demonstrates the extent of the work still to be done.

It is important that NI incorporates the United Nations Convention on the Rights of the Child (UNCRC) into legislation through a NI Bill of Rights and embeds key processes to ensure its realisation. We will only be paying lip service to children's rights if we do not deliver on the key structures.

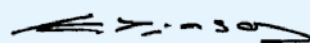
When you look at the chapter headings of this report you will see a common thread – poverty. Children who do less well at school are likely to be poorer children, families with a child with a disability are over-represented in the poverty statistics, and children who find themselves in the care of the State are more likely to come from communities that are considered socially deprived. Children with mental health issues are much more likely to be living in poorer families, armed groups target and abuse children living in working-class communities, and children and families subject to immigration control are deprived of an adequate standard of living. Poverty is the tarnished thread that runs through the most egregious breaches of the rights of children and young people. A government,

whether in Westminster or Stormont, that wilfully chooses not to tackle poverty does not deserve the name.

Being appointed the third NI Commissioner for Children and Young People has been the honour of my professional life; nothing can top that. For eight years I have spoken directly with thousands of children, which is, without a doubt, the best part of this role. They are optimistic, funny and determined to make a difference. I have sometimes left meetings with young people feeling worried, often excited and enthused, but always determined to do the best job.

As I reflect on my term, I am proud of the work the amazing team at NICCY has achieved and grateful for their professionalism, commitment and support. I am also grateful to all of you who have given us your time and advice to make sure that we are on the right track. I look at the work of the last eight years with enormous pride, and I know that it will continue.

This wonderful place is on a journey that will take time, and the choice of roads must be made with children and young people. I am, however, gutted that we are not further along than we are.



Koulla Yiasouma

The Northern Ireland Commissioner for Children and Young People



1. INTRODUCTION

Welcome to this biennial Statement on Children's Rights in Northern Ireland 3, the purpose of which is to focus on those key issues prioritised by NICCY and advise the government on necessary calls to address the same. This is our third Statement to be issued to mark International Children's Day.

Since our last Statement in 2020, Northern Ireland has continued to experience the impact of the COVID-19 global health crisis,¹ which NICCY reported on in 2021; while this threat has not been wholly eradicated and we continue to see it receding, we currently face an unprecedented crisis in the cost of living, increasing at its fastest rate in 40 years.² The Westminster Chancellor introduced a budget on 23 September 2022 but did not name it as such, thus avoiding the usual scrutiny of the Office for Budget Responsibility, causing further grave concerns amid a context of increasing food and energy costs for families, inflation, pressures on public services, a falling pound, mortgage deals being withdrawn and ongoing reliance on foodbanks.³

The Northern Ireland Assembly and Executive had 'resumed' in January 2020 after a three-year 'absence'. This year, however, Northern Ireland remains without a functioning Executive since the outcome of the elections held in May 2022, as Brexit still casts a grave shadow and the NI Protocol is cited by one of our political parties as a reason for not taking up their seats in the NI Assembly. Northern Ireland may face another election in late 2022 if the NI Assembly is not in place by the end of October. The NI

Protocol Bill brought forward at Westminster aims to unilaterally override parts of the protocol, thereby breaching international law. Members of the House of Lords have expressed grave concern over what is referred to as 'Henry VIII powers' in that they will effectively allow Ministers to do as they want, i.e., through amending primary legislation using secondary legislation. NI's 'dedicated monitoring mechanism', i.e., the Northern Ireland Human Rights Commission (NIHRC) and the Equality Commission for Northern Ireland (ECNI), have recently issued their first annual report⁴ on the implementation of Protocol Article 2 and have 'already identified ways in which new laws risk undermining the rights, safeguards and equality protections' set out therein and weakening the commitment to non-diminution of rights. We maintain a watching brief on developments as they relate to the rights of children and young people.

Such economic pressures and political uncertainties have exacerbated and will undoubtedly continue to exacerbate public anxiety and tensions for wider society here and our families, children and young people.

As an Independent Human Rights Institution (IHRI) for children, NICCY's role in scrutinising, advising and indeed challenging the government is more vital than ever in ensuring the rights and best interests of our children are being protected. We remain mindful of a range of concerning developments regarding the potential erosion of human rights, including

1 NICCY (2021), 'A New and Better Normal', (Belfast: NICCY).

2 www.bbc.co.uk/news/business-63033110

3 www.irishnews.com/news/northernirelandnews/2022/06/02/news/food-bank-feels-the-rumbling-of-demand-ahead-as-cost-of-living-rises-2730754/

4 www.nihrc.org/publication/detail/annual-report-of-the-nihrc-and-ecni-on-the-implementation-of-protocol-article-2-2021-2022

the Conservative government's proposed replacement of the Human Rights Act (on which NICCY has provided advice), undermining of the European Convention on Human Rights (ECHR) and the passing of the Nationality and Borders Act in April 2022. In our role as a "Prescribed Person" under the Public Interest Disclosure Order (NI) 1998 and subsequent amendments, NICCY has received a notable number of 'protected disclosures' to bring attention to circumstances that have presented or could present a risk to the rights, safety or wellbeing of children or young people. These have included possible failures in treatment, policies, processes, or conduct in public agencies that were duly investigated. Part of our work has focused on child rights impact assessments (CRIA) and having this 'good practice' embedded in the work of NI departments and agencies so that children's rights are considered at the outset of developing laws, policies and strategies.

Throughout this report on each of the key issues as set out, we have referenced the relevant UNCRC articles (as per NICCY's statutory duty), assessed the current context concerning children's rights and followed this with NICCY's recommendations to redress breaches of these to government.

While previously we have published our 'Monitoring Table' on the UNCRC Committee's Concluding Observations in parallel with this report, given that the current UN (joint 6th and

7th) periodic examination process is nearing completion, we await the Committee's next set of Concluding Observations early in 2023.

It is pertinent to highlight that the term of our current Commissioner, Koulla Yiasouma, ends on 2 March 2023, having completed two four-year terms in office. While much has been achieved during her eight years, in such changing global, national and local contexts, much will remain to be done in our mission:

'to safeguard and promote the rights and best interests of children and young people in NI'.



A stylized handwritten signature in black ink, appearing to read 'Mairéad McCafferty'.

Mairéad McCafferty
Chief Executive

NICCY's Statutory Duties

Promote

Awareness and understanding of The rights and best interests of children & young people

Awareness of function and 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



2. IMPLEMENTING CHILDREN'S RIGHTS IN NI

The General Measures of Implementation

Article 4 of the UNCRC reflects the commitment of State parties to take all the necessary actions to implement children's rights:

'States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.'

In 2003, the UN Committee on the Rights of the Child (the Committee) provided more detail through **General Comment 5 (GC5)** on the 'general measures' required to implement the UNCRC, and these are relevant to the development of child rights-compliant strategies and policies.⁵ These are split into three areas: legislative measures, justiciability of rights and administrative measures. We will review the Committee's advice on each and assess Northern Ireland's governmental delivery.

1. Legislative Measures

GC5 outlines that States Parties need to ensure, by all appropriate means, that the provisions of the Convention are given legal effect within their domestic legal systems. All relevant domestic law, including local or customary law, must be brought into compliance with the Convention. Incorporation is fundamental to giving the UNCRC legal effect and should mean that the provisions of the Convention can be directly invoked before the courts and applied by

national authorities. Where there is a conflict with domestic legislation or common practice, the UNCRC should prevail.

In 2016, the Committee provided advice to the UK government concerning taking legislative measures to ensure that the provisions of the UNCRC would be given legal effect in UK legal systems, including specific advice concerning the NI **Bill of Rights**:

"The Committee recommends that the State party:

- (a) Expedite bringing its domestic legislation, at the national and devolved levels as well as in the Overseas Territories and the Crown Dependencies, in line with the Convention in order to ensure that the principles and provisions of the Convention are directly applicable and justiciable under domestic law,*
- (b) Expedite the enactment of a Bill of Rights for Northern Ireland, agreed under the Good Friday Agreement."*⁶

In June 2020, NICCY provided advice to the Ad Hoc Committee on a Bill of Rights for Northern Ireland,⁷ strongly recommending that the Northern Ireland Bill of Rights should include full incorporation of the UNCRC. Disappointingly, after two years of deliberation, the Ad Hoc Committee reported that they had not been able to reach a consensus on recommendations for a Bill of Rights for Northern Ireland, although its report did indicate that one of the areas where the strongest agreement had been achieved was for children's rights to be included.⁸

5 UN Committee on the Rights of the Child, 2003, General Comment 5: General measures of implementation of the Convention on the Rights of the Child, (Geneva: OHCHR). CRC/GC/2003/527

6 UN Committee on the Rights of the Child, July 2016, 'Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland', (Geneva: OHCHR), CRC/C/GBR/CO/5.

7 NICCY, June 2020, Briefing to the NI Assembly Ad Hoc Committee on the Bill of Rights for Northern Ireland, [nicky-committee-briefing-bor-june-2020.pdf](#)

8 NI Assembly, (Feb 2022), [Report of the Ad Hoc Committee on a Bill of Rights](#), (Belfast).

While the UNCRC is yet to be incorporated into legislation in Northern Ireland, NICCY has been monitoring the delivery of significant legislative development for children in the form of the **Children's Services Co-operation Act (Northern Ireland) 2015 (CSCA)**.⁹ It provides a statutory framework to improve the wellbeing outcomes of our children and young people within a rights-based context.

The eight wellbeing outcomes as set out in Section 1 of the legislation 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
- 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

Section 1(4) states 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.

The Act places obligations on government departments and agencies to co-operate with each other to contribute to the improvement of the specified wellbeing outcomes. It places a further statutory obligation on the government to adopt a Children and Young People's Strategy, outlining how this will be achieved. Section 3 of the CSCA states the NI Executive must set out in its **Children and Young People Strategy (CYPs)** how it intends to improve the wellbeing of children and the actions to be taken by Northern Ireland departments, children's authorities and children's service providers to realise those outcomes.

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.

While not the incorporation of the UNCRC per se, NICCY advised on and welcomed the introduction of the CSCA and has also subsequently advised on its implementation, through the development of the Children and Young People's Strategy and Delivery Plan. As noted below, there have been considerable delays in meeting the legislative timetable for the Strategy, and the first report on the CSCA due in June 2022 has also been delayed due to the absence of an Executive.

2. Justiciability of Rights

In addition to ensuring that all articles of the UNCRC are given legal effect through domestic legislation, for this to be meaningful also requires effective remedies to redress violations. As GC5 explains,

'Children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights. So States need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives. These should include the provision of child-friendly information, advice, advocacy, including support for self-advocacy, and access to independent complaints procedures and to the courts with necessary legal and other assistance. Where rights are found to have been breached, there should be appropriate reparation, including compensation, and, where needed, measures to promote physical and psychological recovery, rehabilitation and reintegration, as required by Article 39.'

⁹ [Children's Services Co-operation Act \(Northern Ireland\) 2015 \(legislation.gov.uk\)](https://legislation.gov.uk)

In NI, children have access to legal aid concerning taking cases, and child-friendly justice processes have been a developing focus over recent years. It is up to the courts to rule on appropriate reparation, compensation and so on as stipulated in UNCRC Article 39.

This speaks to the role of NICCY and the Commissioners and Ombuds for Children and Young People. Among our other legal functions, we can and do take complaints and have a legal team addressing rights breaches. So we provide *'child-friendly information, advice, advocacy, including support for self-advocacy'* as part of our complaints casework service. We also provide legal assistance and support, including small amounts of financial support, and can take judicial reviews and/or intervene in cases, following our legislative criteria. NICCY can also conduct formal investigations, the first of which is nearing completion, as set out in Schedule 3 of the 2003 Order. This obligates relevant public authorities to implement the report recommendations with periodic updates on their progress.

3. Administrative Measures

A. A Comprehensive National Strategy Rooted in the Convention

In GC5 the Committee recommended the development of a comprehensive national strategy or national plan of action for children, built on the framework of the Convention. This should take account of the recommendations in the Committee's Concluding Observations on periodic State reports and should relate to the situation of all children and all the rights in the Convention. The strategy should be developed through a process of consultation, including with children and young people and those living and working with them. Once drafted, the strategy should be widely disseminated throughout the government and to the public, including children, and should include arrangements for monitoring and continuous review, regular

updating and periodic reports to Parliament and the public.

As outlined above, the CSCA set out the legislative basis for a CYPS, requiring its publication within 12 months of the legislation receiving royal assent, in December 2016. Unfortunately, shortly after this deadline was missed, Northern Ireland entered a period of three years without a government or an Executive to publish the Strategy. Almost a year after it returned in December 2020, the Strategy was signed off by the Executive and went live, exactly four years after the date the legislation had required.¹⁰ The CYPS period now covers 2020-2030.

Work on the development of the Strategy's Delivery Plan and Participation Mechanisms also resumed. Earlier this year, the Department of Education published its first three-year Delivery Plan for consultation. This impressive document demonstrated the wide range of actions being taken forward by the government for children, across all eight of the wellbeing outcomes set out in the CSCA. While this was very welcome, perhaps due to the number of actions recorded, it was not possible to identify how the government departments and agencies were co-operating to deliver on children's rights. It was also unclear whether any of the actions were in place as a result of the Strategy, or if the Strategy simply provided a mechanism to record the activities that were already underway.

Addressing breaches of children's rights in Northern Ireland requires a cross-departmental and cross-agency approach. NICCY is hopeful that the statutory obligation on government departments and agencies through the CSCA to co-operate in the provision of children's services will go some way to ensuring that deeper societal issues that impact the ability of all children to develop to their maximum potential will be more fully addressed. NICCY strongly recommends clear, transparent and

¹⁰ NI Executive, (December 2020), [Children and Young People's Strategy 2020-30](#).

regular monitoring of the commitments in the next Programme for Government (PfG) linked to the children's strategy high-level outcomes and the legislative requirements of the CSCA.

B. Coordination of Implementation of Children's Rights

In GC5, the Committee emphasised the importance of having a unit close to the heart of the government to be responsible for making children more visible and the coordination of delivery for children across government departments and agencies. It should ensure respect for children's rights and effective implementation through coordination of planning and delivery among central government departments, across regions, between central and other levels of government and between government and civil society. This unit could lead to the development of a comprehensive children's strategy, the monitoring of its implementation, and the coordination of reporting under the Convention.¹¹

The Children's and Young People's Unit holds responsibility for the coordination of the implementation of children's rights across government and originally sat within the Office of the First Minister and deputy First Minister (OFMDFM). However, following the Review of Public Administration in 2016, the number of departments decreased to nine and some areas of responsibility were moved from OFMDFM (renamed The Executive Office, or TEO) to other departments. The Children's and Young People's Unit was moved to the Department of Education, and this arguably has impacted its authority to coordinate joint action for children across the government. The CYPS is the overarching strategic framework for the delivery for children across government, effectively a PfG for Children, and as such should be the responsibility of a government department with authority to lead its strategic implementation

across government, i.e., the responsibility for this should return to TEO.

C. Decentralization, Federalisation and Delegation

*'The Committee has found it necessary to emphasize to many States that decentralization of power, through devolution and delegation of government, does not in any way reduce the direct responsibility of the State party's Government to fulfil its obligations to all children within its jurisdiction, regardless of the State structure.'*¹²

The efficient delivery of public services in Northern Ireland has been significantly impaired over the past five years by periods where local political parties have not been able to reach an agreement, and therefore an Executive has not been formed. The first period ran from January 2017 to January 2020, and more recently from May 2022 to the current time. Without an Executive, and previously without Ministers, important decisions have not been made, including some on budgetary spending, undermining the effectiveness of public services that were, in many cases, already struggling to continue. As a result, Northern Ireland faced the COVID pandemic with large numbers of schools overspent on their budgets and health services with record-long waiting lists. Now the Northern Ireland administration seeks to rebuild after COVID, in the face of a cost-of-living crisis, and again without an Executive. As the Committee has clearly stated, devolution does not absolve the UK government from its obligations to children in Northern Ireland.

D. Privatisation

In GC5, the Committee emphasised that State party obligations under the UNCRC include ensuring that non-State service providers operate following its provisions, thus creating indirect obligations on such actors. It defined the private sector as including businesses, NGOs

¹¹ Op Cit, GC5, paras 37-39.

¹² Ibid para 40

and other private associations, both for-profit and not-for-profit. It particularly noted the requirement for the establishment of appropriate standards in the areas of health and rigorous inspection to ensure compliance with the Convention.

It is pertinent to note that the NI Department of Finance published public procurement notice PPN 05/21 on Human Rights in Public Procurement (November 2021), outlining departments' actions to consider the same in these processes.

E. Monitoring Implementation – The Need for Child Impact Assessment and Evaluation

*'Ensuring that the best interests of the child are a primary consideration in all actions concerning children (art. 3 (1)), and that all the provisions of the Convention are respected in legislation and policy development and delivery at all levels of government demands a continuous process of child impact assessment (predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights) and child impact evaluation (evaluating the actual impact of implementation). This process needs to be built into government at all levels and as early as possible in the development of policy.'*¹³

While the Committee commended States that placed legislative requirements for CRIA to be undertaken it emphasised that each State party should determine how best to ensure compliance with this general measure of implementation.

There is not a strong practice of government undertaking CRIAs in the development of legislation and policy in Northern Ireland, and until recently, none had been undertaken. However, there is a growing recognition of the importance of conducting CRIAs,

and a limited number have been taken forward, albeit of variable quality. NICCY has supported this work. Following our work across NI departments and agencies disseminating the CRIA Tool, Framework and Position Statement agreed upon at the annual European Network of Ombudsmen for Children (ENOC) General Assembly 2020, we took on board suggestions and comments from stakeholders and developed training modules on this and children's rights. Having obtained agreement for these to be made available on the NI Civil Service 'LINKS' training platform, we are pleased that these will enable and embed a child rights proofing approach in the development of proposed laws, policies, budgets and other administrative decisions affecting children and young people. At this stage, we view this as incorporating good practice, i.e., 'getting it right at the outset' and in compliance with the UN Committee's 2016 concluding observations.¹⁴

F. Data Collection and Analysis, and Development of Indicators

The Committee emphasised that an essential part of implementing children's rights included the collection of adequate, robust data on children, disaggregated to allow identification of disparities in the realisation of their rights. This should be coordinated across the jurisdiction, include children from birth up to the age of 18, and be used to inform policy development, assess progress and identify problems in implementation. Data collection should include qualitative data, gathering views from children and young people themselves as to how effectively their rights are being realised.

NICCY depends on adequate and accessible data to assess and advise on government delivery across a range of services. While a large amount of data has been collected, we find that often important pieces of information are not, for example, allowing top-line statistics

¹³ Ibid para 45

¹⁴ Op cit, UNCRC 2016.

to be disaggregated to identify differences in gender, age, socioeconomic status, ability or disability, or ethnic background etc. Only a small proportion of the data gathered is published, leading to a lack of transparency in terms of the delivery and effectiveness of services. Critically, there is little evidence of the evaluation of services on an ongoing basis; evaluations tend to focus on small-scale pilots. Without regular, ongoing evaluation being built into service delivery, it is not possible to determine whether they are achieving what they are funded to deliver and meeting the obligations set out in the UNCRC.

A critical role of the CYPS is monitoring the effectiveness of government delivery for children using a robust and disaggregated set of indicators. However, the Strategy was published without indicators, committing to a 'data development agenda' at a later stage. This must be progressed without any further delay.

G. Making Children Visible in Budgets

In GM5 and repeatedly in its Concluding Observations following the examination of State party reports, the Committee has emphasised the importance of identifying and analysing the resources dedicated to children, stating that economic policies are never neutral in their effect on children's rights. It is particularly important to ensure that children, particularly marginalised and disadvantaged children, are protected from the adverse impacts of economic policies or financial downturns.

No State can tell whether it is fulfilling children's economic, social and cultural rights "to the maximum extent of ... available resources", as it is required to do under Article 4, unless it can identify the proportion of national and

other budgets allocated to the social sector and, within that, to children, both directly and indirectly. Some States have claimed it is not possible to analyse national budgets in this way. But others have done it and publish annual "children's budgets".¹⁵

In the absence of government information on its spending on children, this is an area NICCY has undertaken significant work over the years, including commissioning a fund mapping analysis from Dartington Social Research Unit on the overarching government investment in children in Northern Ireland.¹⁶ In 2018, as part of its Still Waiting report, NICCY also conducted a fund mapping process for a specific area of children's services: emotional and mental health services for children and young people.¹⁷ NICCY undertook both pieces of work to demonstrate that this was possible and recommended that government repeat the process, using these reports as baselines to demonstrate how spending on children changed over time. Disappointingly, these have not been repeated.

H. Training and Capacity Building

The Committee highlighted the obligation of State parties to develop training and capacity building for all those working with children and involved in the implementation of children's rights. This should emphasise the status of the child as a rights holder, increase knowledge and understanding of the Convention, and encourage active respect for all its provisions.

While the general understanding of children's rights has improved over recent years, with pockets of good practice, no systematic training process exists for all those working across government and children's services. To remedy

¹⁵ Op cit, GC5, paras 51-52.

¹⁶ This was taken forward in partnership with Atlantic Philanthopies and with the support of OFMDFM, and published in 2015. [Children's Services Budgets 'Mapped' in Northern Ireland \(niccy.org\)](https://www.niccy.org/childrens-services-budgets-mapped-in-northern-ireland)

¹⁷ NICCY, (Sept 2018), *Still Waiting, A Rights Based review of Mental Health Services and Support for Children and Young People in Northern Ireland*, (Belfast: NICCY). [Mental Health Review - Still Waiting \(niccy.org\)](https://www.niccy.org/mental-health-review-still-waiting)

this, NICCY has developed online training modules on CRIA and children's rights that are available to officials and professionals through the Northern Ireland Civil Service (NICS) LInKS training platform.

NICCY provides training to legal professionals and other practitioners working with children and young people through its legal continuing professional development (CPD) events, in a range of specific areas including SEN, the use of restraint and seclusion, and the application of the UNCRC to other Commissioners' offices on strategic litigation. We have also provided materials for teachers and youth workers to use in school and club settings to raise the awareness of children about rights, e.g., through their inclusion on the Council for the Curriculum, Examinations and Assessment (CCEA) Rights Hub and via schools' C2K platform.

I. Co-operation with Civil Society

While only States are Parties to the UNCRC, the Committee made it clear that implementation requires close co-operation with a wide range of individuals and organisations, including families, communities, businesses, professionals, and NGOs, while also respecting their autonomy.¹⁸

The CSCA recognises the importance of a range of actors in delivering on children's wellbeing and requires government departments and agencies to work not only with other statutory bodies but with non-governmental *children's authorities*. We look forward to the first report on the CSCA to assess the degree to which statutory bodies have co-operated with NGOs and other civil society organisations to improve children's wellbeing.

J. Independent Human Rights Institutions

In GC5, the Committee referred back to its General Comment 2, which focused entirely on the role of independent national human rights institutions in the protection and promotion of the rights of the child. It emphasised the complementary role of independent human rights institutions in effective government structures for children, and that independence is essential:

*"The role of national human rights institutions is to monitor independently the State's compliance and progress towards implementation and to do all it can to ensure full respect for children's rights. While this may require the institution to develop projects to enhance the promotion and protection of children's rights, it should not lead to the Government delegating its monitoring obligations to the national institution. It is essential that institutions remain entirely free to set their own agenda and determine their own activities."*¹⁹

NICCY's role as outlined earlier is defined in its founding legislation,²⁰ i.e., 'to safeguard and promote the rights and best interests of children and young people'. NICCY was also obliged under the 2003 Order to conduct a review of the legislation within three years of operation. Reviews were externally commissioned in 2007 and again, following no commitment to action by the government, in 2011. Both Reviews were carried out by Professors Brice Dickson and Barry Fitzpatrick and resulted in the same recommendations for change to the legislation. In 2015, the Commissioner endorsed her predecessor's Article 24²¹ Report and subsequently condensed the 12 recommendations to seven in 2019.

18 The Committee also highlighted the importance of international co-operation, for example in relation to international development assistance and in recognising expertise in implementing children's rights. GC5 paras 60-64.

19 UNCRC. (2002), General Comment 2: *The role of independent national human rights institutions in the protection and promotion of the rights of the child*, Geneva, para 25.

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

21 www.niccy.org/media/3307/niccy-article-24-report-april-2015.docx

Having been moved to the sponsorship of the Department for Communities (DfC) in 2016, the Minister committed to progressing work in addressing this.

Chief among the recommendations are those relating to NICCY's independence as an International Human Rights Institution (IHRI). In line with Paris Principles compliance, i.e., international standards that should apply to bodies such as ours to safeguard independence, NICCY should be made an institution of the NI Assembly.

The issue of victim status is also addressed as this limits NICCY's effectiveness in that a victim is required to bring legal proceedings. A recommendation is the insertion of a clause stating that to bring legal proceedings, *'the Commissioner need not be a victim or potential victim of the act in question'*. This gap has adversely impacted areas of children's rights as since losing a judicial review in 2006 that would have benefited many children due to the lack of a victim, NICCY has been unable to take further cases that would ultimately protect the rights of greater numbers of children and also save public monies, time and resources. We await the outcome of the Department's work on this.

L. Raising Awareness of Children's Rights

Article 42 of the UNCRC requires that *'States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.'* This includes disseminating the text of the UNCRC and including learning about children's rights and the convention in school curricula.

Although currently not mandatory, children's and young people's rights are reflected in the NI school curriculum throughout Key Stages 1 to 4. Ensuring that young people understand their rights through the UNCRC is a key element

of the Personal Development and Mutual Understanding (PD&MU) and Learning for Life and Work (LLW) curricula. It provides an understanding for young people of how their lives are governed and how they can participate to improve the quality of their own lives and those of others through democratic processes.

Pupils should have opportunities to consider issues of diversity and inclusion, equality and justice, human rights and social responsibility and to make reasoned value judgements about desirable action in particular situations, especially where democracy is under challenge or where values are in conflict and compromise may be required. Reflective of Article 42, the 2016 Concluding Observations recommended that children's rights education should become a mandatory part of the curriculum.

M. Making reports under the Convention Widely Available

Article 44(6) of the UNCRC requires that *'States Parties shall make their reports widely available to the public in their own countries.'* In GC5 the Committee notes that:

*'The reporting process provides a unique form of international accountability for how States treat children and their rights. But unless reports are disseminated and constructively debated at the national level, the process is unlikely to have substantial impact on children's lives.'*²²

The Committee encourages governments to widely disseminate all documentation relating to the periodic reporting process, notably the Committee's Concluding Observations, particularly to children, to promote debate and inform implementation. They should be the subject of detailed debate in Parliament.

For each periodic review process, the UK State party report is prepared by a UK government department, with input from each of the

²² Op Cit, GC5, para 71.

devolved administrations. Given the word limit, the range of issues addressed and the different jurisdictions included in the report, it cannot provide a very detailed picture of the implementation of the UNCRC in Northern Ireland. To remedy this, in previous reporting cycles, the Scottish and Welsh governments have published separate reports on their

delivery of the UNCRC to inform debate in their jurisdiction, and they have committed to do the same for the current reporting process.²³ This has not been the case in Northern Ireland and, again, no NI jurisdictional report will be produced by the government in this reporting round.

Calls to Government

1. The UNCRC should be incorporated through a Bill of Rights for Northern Ireland.
2. The Children's Services Co-operation Act 2015 must be effectively implemented with regular reporting on co-operation between bodies and outcomes for children.
3. The CYPS must be a mechanism by which actions to target the most persistent children's rights breaches are developed and their impact monitored. Children and young people must be actively involved in advising on and monitoring implementation.
4. The rights of children and young people must be protected in every environment they are in, including within the private sector.
5. Government departments and public bodies should undertake CRIsAs when developing policies, legislation, budgets, and services or when making decisions affecting children.
6. The Northern Ireland Statistics and Research Agency (NISRA) and Child and Young People's Unit (CYPU) should lead a process of developing a robust, comprehensive set of indicators on all articles of the UNCRC, to both inform the development of actions under the CYPS and measure their impact.
7. The Northern Ireland Executive should produce children's budgets, indicating the resources allocated to delivering children's services across Northern Ireland. Departments and agencies should also use the CSCA provisions for the pooling of budgets to join up delivery for children.
8. Following the completion of the UK government UNCRC periodic reporting process, the Executive should take forward a process of awareness raising of children's rights, along with dissemination of the Committee's Concluding Observations to government officials and professionals working with children, and to the general public, including children. Implementation of the recommendations must be incorporated into the CYPS.
9. Children's rights education should be a mandatory part of the school curriculum at all Key Stages.
10. NICCY's legislation as per Article 24 recommendations should be amended accordingly.

²³ The UK state party report for this reporting cycle was submitted in June 2022, and the presessional meetings are scheduled for February 2023.



3. NICCY KEY CHILDREN'S RIGHTS PRIORITIES

Over the eight years of Koulla Yiasouma's term, we have worked on a total of eleven priority areas of work, these are:

- 3.1 EDUCATIONAL INEQUALITIES**
- 3.2 HEALTH**
- 3.3 CHILD POVERTY**
- 3.4 SAFEGUARDING**
- 3.5 LEGACY OF THE CONFLICT**
- 3.6 YOUTH JUSTICE**
- 3.7 PARTICIPATION**
- 3.8 ENVIRONMENTAL JUSTICE**
- 3.9 HOMELESSNESS**
- 3.10 CHALLENGING DISCRIMINATION**
- 3.11 CHILDREN AND FAMILIES SUBJECT TO IMMIGRATION CONTROL**

The following sections address each of these in turn.



3.1 EDUCATIONAL INEQUALITIES

Child Rights Context

The main UNCRC articles that relate to the child's right to education are:

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 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 co-operation 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 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 several 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.²⁴

NICCY’s work on education has been extensive and has covered a wide range of areas. Unable to address all of these areas in this report, we have focused on four key areas:

- Educational inequalities, including SEN and restrictive practices
- Mental health and wellbeing in schools
- The move towards a single education system
- The impact of COVID-19 and the government’s response to this

Addressing Educational Inequalities

In NICCY’s 2020 Statement on Children’s Right’s in Northern Ireland, the Commissioner called for government action to end educational attainment gaps that have persisted over many years between specific groups of children in NI. In 2017, the Equality Commission’s Key Inequalities in Education identified six key inequalities:

- Bullying, including prejudice-based bullying, in schools.
- Lower levels of attainment among males than females, beginning in primary school and continuing throughout schooling to GCSE and A-level. Fewer male school leavers enter higher education than females.
- Lower levels of attainment among Protestants than Catholics at GCSE, GCSEs including English and Maths, and A-level. Fewer Protestant school leavers than Catholics enter higher education.
- Persistent underachievement and lack of progression to further and higher education

²⁴ Para 73, CRC/C/GBR/CO/5, 12 July 2016.

of school leavers entitled to free school meals, particularly Protestants, notably Protestants males.

- Children from the Traveller community and Roma children have some of the lowest levels of attainment of all equality groups.
- Students with special educational needs and disabilities (SEND) have lower attainment levels than students without any SEND and are less likely to go on to higher education.²⁵

Gaps in educational attainment are evident across a range of groups, but the most pronounced differences are between the GCSE attainment of free school meal entitlement (FSME) and non-FSME pupils. In 2020-21, only 59.8% of school leavers with FSME achieved at least five GCSEs, including English and Maths, compared to an 83.8% attainment rate for non-FSME school leavers.²⁶ Notably, the attainment gap between non-FSME and FSME school leavers has not changed significantly in the last 15 years, demonstrating that much more work is needed to ensure that all young people experience their right to effective education.

Significant challenges in educational attainment also persist for a range of Section 75 groups, particularly where multiple S75 categories such as gender, religion, race and sexual orientation are involved.²⁷

Since our previous Statement in 2020, NICCY has also continued to call for the removal of barriers that hinder children's learning and full participation in a child rights-compliant education system. Previously, children and young people have identified key barriers such as exam pressure, the cost of education, academic selection, insufficient mental health and wellbeing support in school, and not having a voice in school about the issues that affect

them.²⁸ Newcomer pupils may face additional educational barriers related to language for both pupils and parents, cultural barriers, unfamiliarity with the NI education system, experiences of disrupted education, and experiences of racism.

Analysis of Progress

NICCY recognises that some, albeit slow, progress has been made by the government in taking action to address our previous call to tackle educational attainment inequalities and the range of barriers that hinder children's and young people's participation in a child rights-compliant education.

In 2020, an expert panel was commissioned by the Department of Education (DE) to examine the links between persistent educational underachievement and socioeconomic background. The panel's Final Report and Action Plan, titled *A Fair Start*, was published on 1 June 2021 and is currently in the early stages of implementation. The Action Plan contains 47 costed actions for change across eight key areas, with a particular emphasis on early years education and emotional health and wellbeing. All 47 actions are designed to work together and, according to the expert panel, must be implemented in full, over six years, to effectively tackle the education gap. This will require sustained financial commitment of an estimated £73m funding per year once the actions are fully implemented across a range of government departments.

While still in the early stages of implementation, NICCY welcomes the government's commitment to implement the Action Plan in full and notes initial progress in 2021/22 (designated as Year 0), including the allocation of £4m to initiate actions across the following key areas:

25 [EducationInequality-FullReportQUB.pdf \(equalityni.org\)](#)

26 [Qualifications and destinations of Northern Ireland school leavers infographic 2020-21.PDF \(education-ni.gov.uk\)](#)

27 [A Fair Start \(education-ni.gov.uk\)](#)

28 [niccy-socrni-2-main-report-web-nov-20.pdf](#)

Key Area 1 – Redirecting the focus to Early Years: a review of Sure Start staffing, expansion of Early Years SEN Inclusion Service and support for children with visual impairment.

Key Area 2 – Championing Emotional Health and Wellbeing: expansion of Nurture Groups 2 years earlier than planned and delivery of a range of interventions to support looked-after children, children with English as an additional language and children with SEN by Health and Social Care (HSC) Trusts.

Key Area 3 – Ensuring the relevance and appropriateness of curriculum and assessment, including the provision of digital devices to children who need them.

Key Area 5 – Maximising Boys’ Potential, a new Horizons programme, will, over two years, produce well-skilled, qualified and experienced youth work volunteers.

Overall, 22 actions were initiated in 2021/22, two of which were delivered in full. These were reporting by schools in respect of the use of Targeting Social Need funding and a new advertising campaign entitled “Try and Stop Me” focused on instilling hope and aspiration in our children and young people.

A further £6.1 m has been allocated to Year 1 of the programme, which commenced in April 2022. Going forward, the Education Minister has approved 45 actions to be progressed in 2022/23, comprising 39 original actions plus six new actions.

NICCY recognises that the long-term strategic nature of the Action Plan will mean that positive impacts, particularly in areas such as GCSE attainment and wellbeing outcomes, will take considerable time. We will continue to scrutinise progress made in the implementation of A Fair

Start’s actions and the impact on children’s educational and wellbeing outcomes.

Other measures to tackle educational disadvantage include an increase of £2.3m in the 2021/22 Sure Start budget to provide additional support to children and their families in disadvantaged areas. While this is welcome, we share concerns raised by the Northern Ireland Audit Office about the need for greater clarity of the Sure Start Programme’s long-term benefit and, in particular, the requirement for a robust evaluation of the programme’s contribution to narrowing the attainment gap.²⁹

In terms of educational barriers, since the publication of NICCY’s Review of the Cost of Education five years ago, we have repeatedly called for funding to meet the educational needs of each child, including the costs of school uniforms, books, equipment, materials and educational trips.³⁰ More recently, the cost associated with education has become an increasing concern as a growing number of families contend with the spiralling cost of living.

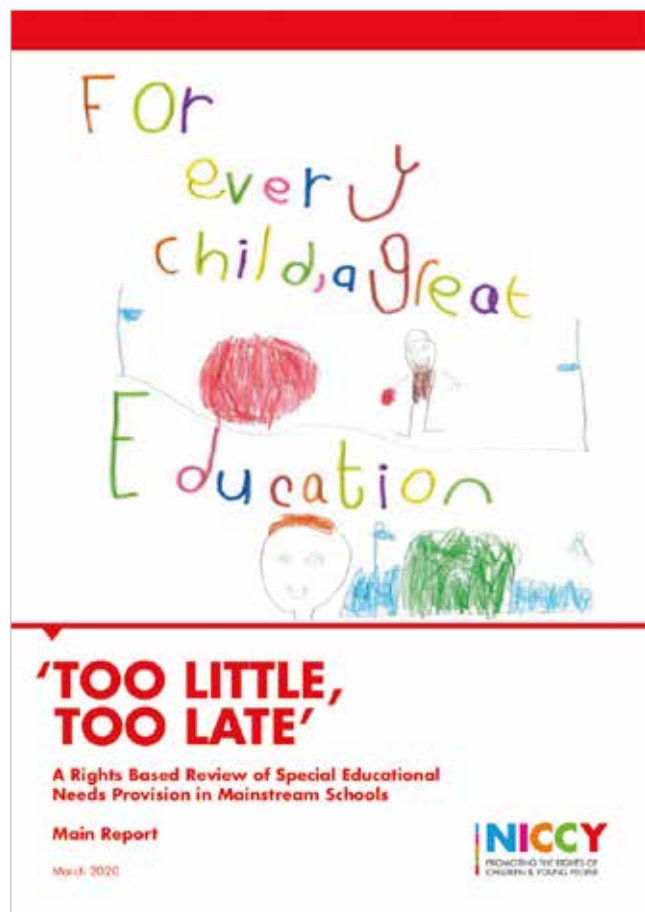
NICCY welcomes that a review of free school meals (FSMs) and uniform grant eligibility criteria is underway in Northern Ireland. The review will consider different options for FSMs and uniform grants, including options for universal FSM provision for certain year groups or pupils. We also note an increase of 20% in the school uniform grant, announced by the Education Minister in June 2022. This will mean, for example, that uniform grant rates will rise from £51 to £61.20 for pupils under 15. While this is welcome, the Commissioner considers that the grant is wholly inadequate to cover school uniform costs of up to £600 for a single uniform in some schools and does not agree with government policy that places the responsibility of managing requirements within the remit of Boards of Governors.

29 [249503 NIAO Closing the Gap report Final WEB.pdf \(niauditoffice.gov.uk\)](#)

30 [niccy-costs-of-education-key-findings-report-and-recommendations-18-oct-17.pdf](#)

NICCY also welcomes the DE's Review of Newcomer Policy, which resumed in January 2022, and looks forward to the progression of the ten proposals for change to the Newcomer Policy, associated actions and proposed high-level outcomes.

Children with SEND in Mainstream Schools



In our 2020 Statement, NICCY called for the government to remove all barriers to every child's full participation in and access to a child rights-compliant education system, including full implementation of the recommendations from 'Too Little, Too Late', NICCY's rights-based review of SEN provision in mainstream schools' (TLTL), and immediate commencement of the new SEN Framework.

Since 2009, the number of pupils with SEN in Northern Ireland has been growing at a rate proportionally higher than the general school population.³¹ In 2021/22, almost 65,000 pupils had some form of SEN (equivalent to 18.2 % of the school population), including 22,198 pupils with a statutory statement of SEN. Pupils with SEN are increasingly being educated in mainstream schools, including learning support centres attached to mainstream schools. In 2021-22, 71% of pupils with a statement of SEN attended mainstream schools.³² Notably, although Northern Ireland has a higher rate of SEN than other UK jurisdictions, the reasons for this and the scale of unmet needs remain unknown.

Niccy's Actions to Promote and Safeguard Children's Rights

Children with SEND face specific barriers that prevent them from fully experiencing their right to effective education. In March 2020, NICCY published TLTL, highlighting a range of barriers that included:

- Insufficient, poor quality and inadequately resourced services and support provision,
- A lack of early identification and assessment of need and delays in the statutory assessment and statementing process,
- Poor communication, engagement with and involvement of children and young people, their parents or carers, and other key stakeholders, by relevant authorities,
- Poor coordination and communication between education and health concerning identification, diagnosis, assessment and implementation of support.

Furthermore, the Review identified a range of negative impacts on children's education, mental health and wellbeing when their needs are not met, including social isolation, anxiety,

31 [A_profile_of_special_educational_needs_and_disability_in_Northern_Ireland_using_educational_and_social_data.Final_Report.pdf \(ulster.ac.uk\)](#)

32 [annual-enrolments-at-schools-and-in-funded-pre-school-education-in-northern-ireland-2020-21 \(education-ni.gov.uk\)](#)

self-harming, suicidal thoughts, delayed social development and academic progression, and negative impacts on self-esteem and self-confidence.

Comhairle na Gaelscolaíochta have pointed out that Irish Medium pupils with SEN face particular challenges due to insufficient statutory supports tailored towards their needs. They have highlighted the disparity between pupil support services that are delivered in English to the English Medium sector and those delivered through Irish to the Irish Medium sector, leading to significant barriers to delivery of services and educational outcomes in the area of SEN.

Based on TLTL's findings, NICCY made 40 recommendations aimed at addressing identified weaknesses in the SEND system and ensuring the delivery of a more responsive and effective support system. All 40 recommendations were accepted by the DE. In addition to the implementation of our recommendations, NICCY considers that the commencement of the new SEND Framework is integral to addressing systemic failures in the SEND system.

In March 2022, NICCY published our first TLTL monitoring report assessing progress made by relevant authorities in response to our recommendations. Our analysis found good progress in the case of only one recommendation relating to the implementation of robust consultation mechanisms by the DE and the Education Authority (EA), while fledgling progress was evident for the majority (32) of our recommendations. Disappointingly, we found no evidence of progress in seven of our recommendations.

Greater clarity is required in terms of the work that will be taken forward to ensure the realisation of each recommendation. This

includes the need for clear timelines, specific actions and details of interim measures that will be initiated while we await the full implementation and impact of Special Educational Needs and Disability Strategic Development Programme (SEND SDP) projects. NICCY will continue to closely monitor developments in this area for evidence of improvements and will publish our next assessment of progress in January 2023.

Analysis of Progress

In 2020, SEND SDP was established by the DE to coordinate all SEND development work, including the SEND Act implementation. The SEND SDP will also oversee the implementation of TLTL recommendations and those of other Reviews of SEND.

While NICCY welcomes the work undertaken by the SEND SDP so far, we are very disappointed that funding uncertainty has impeded the timely commencement of some SEND SDP projects, effectively hindering progress in the implementation of TLTL recommendations.

The ongoing delay in commencing the revised SEN Regulations and statutory Code of Practice, following a process of consultation, is disappointing. That said, NICCY considers that proposed amendments to the content of the revised SEN Regulations and new Code of Practice must be fully addressed before their commencement, to ensure that the SEN Framework can effectively meet the needs of children and young people with SEN, suspected SEN and/or disabilities. NICCY has been advised that the DE plans to bring the SEN Regulations to the Assembly in autumn 2022 for ratification and that phased commencement of the SEND Act will follow in 2022/23.³³ The Commissioner will continue to closely monitor and scrutinise progress in this area.

³³ Subject to the NI Executive and Assembly being operational

NICCY welcomes that the DE has commissioned an Independent Review of SEN to examine 'whether SEN provision and processes are fit for purpose in terms of the progress made by children, impact on children's outcomes and whether services can be delivered more effectively and efficiently'.³⁴ The review will explore a range of themes, including why the proportion of children with SEN is higher in NI than in England, and evaluate work progressed to date under the SEND SDP.

The Use of Restraint and Seclusion in Educational Settings

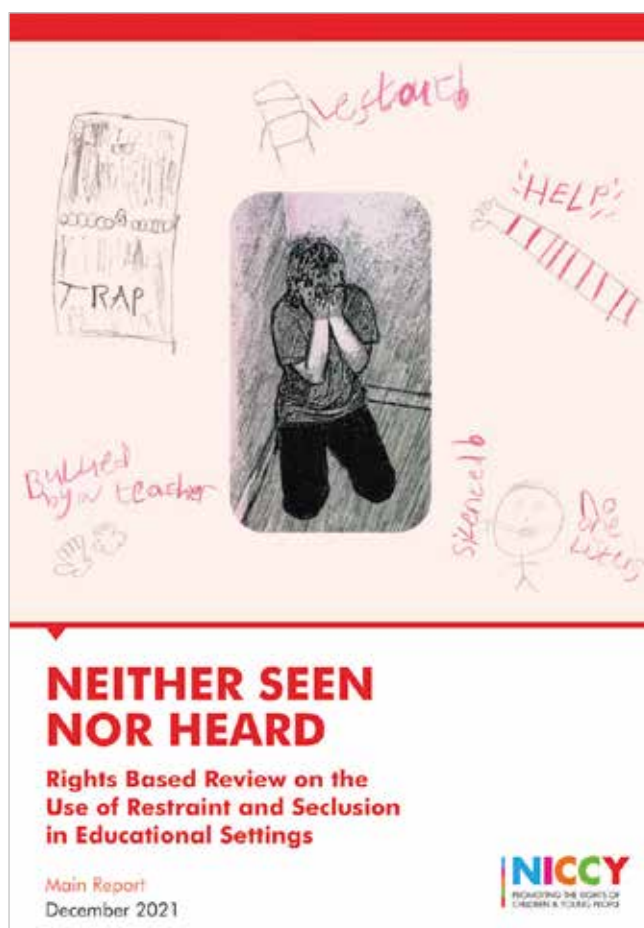
The use of restraint and seclusion (collectively known as restrictive practices) on children and young people in educational settings is an extremely grave matter, engaging children and young people's human rights. Restrictive practices are those that intentionally limit a person's freedom of movement or function. This can be through restraint (mechanical, physical or chemical, with or without the use of force) or seclusion.

In 2016, the Committee on the Rights of the Child, in reviewing the UK periodic report on its implementation of the UNCRC, made the following Concluding Observations concerning the use of restraint and seclusion on children in schools:³⁵

- 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.³⁶
- Ensure that restraint is used against children exclusively to prevent harm to the child or others and only as a last resort.

- Systematically and regularly collect and publish disaggregated data on the use of restraint and other restrictive interventions on children to monitor the appropriateness of discipline and behaviour management for children in all settings, including in education.
- Ensure that corporal punishment is explicitly prohibited in all schools and educational institutions and all other institutions and forms of alternative care.
- Abolish the use of isolation rooms.

The 2016 Concluding Observations from the UNCRC included concerns about the use of restraint and seclusion on children with psychosocial disabilities, including children with autism, in schools.³⁷



³⁴ [Independent Review of Special Education Needs | Department of Education \(education-ni.gov.uk\)](#)

³⁵ CRC/C/GBR/CO/5 (2016)

³⁶ Ibid. Para. 40. With reference to the Committee's General Comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and to target 16.2 of the Sustainable Development Goals.

³⁷ Ibid. Paragraph 38 (d)

In 2021, NICCY undertook a Rights-Based Review on the Use of Restraint and Seclusion in Educational Settings titled *Neither Seen Nor Heard*. At that time, there was no statutory obligation on schools in Northern Ireland to record incidents involving restraint or seclusion, which is recognised internationally as critical to ensuring that practice is rights-compliant and appropriately monitored and scrutinised. There was also no statutory requirement to inform parents when restraint or seclusion is used on their child, although the DE guidance specified that informing parents of incidents involving their children is always advisable.³⁸ Without a regional policy that includes guidelines and a rights-based training framework, NICCY was seriously concerned about the risk of restrictive practices being misapplied and, related to this, the risk of traumatic impacts on children who experience these practices.

In this context, NICCY's Review *Neither Seen Nor Heard* (2021) aimed to:

1. Gather the experiences of children and young people through their parents and carers on the use of restraint and seclusion within educational settings and the impact it has on them,
2. Highlight shortcomings in regional policy, monitoring, reporting or recording, decision-making and training on the use of restraint and seclusion,
3. Identify good practices and produce a range of recommendations directed at key government departments and agencies for improving policy, guidance and legislation, and
4. Identify guidance on the use of deprivation of liberty (DOL) within an educational setting.

The Review's findings identified a clear need for urgent changes in policy, guidance, and legislation on restraint and seclusion. In our survey, 72% of school respondents stated they

had never received guidance on creating a policy on physical interventions. Related to this, a clearer understanding of restrictive practices, their use in educational settings and the policy and legislative context was identified. In terms of the impacts of restrictive practices, our Review showed that their use often results in extremely negative, long-lasting traumatic experiences for all involved, especially for the child who directly experiences the practice.

Neither Seen Nor Heard made 15 recommendations to improve, policy, legislation, training, communication, reporting and monitoring of restrictive practices. In particular, we strongly recommended that restraint should only be used as a measure of last resort after all alternative therapeutic interventions have been exhausted and when there is a direct risk to the child or an individual around and that the use of seclusion should not be used in an educational setting.

The DE directly responded to each of NICCY's 15 recommendations and, in March 2022, published its Review of the Use of Restraint and Seclusion in Educational Settings.³⁹ Drawing on *Neither Seen Nor Heard* findings and other sources, their review acknowledged the need to create changes that ensure a consistent child-centred approach is taken across all educational settings and made six key recommendations for change. The DE's six recommendations aim to ensure that education, legislation, and guidance on the use of restrictive practices in educational settings protect children from harm and comply with the UNCRC.

NICCY warmly welcomes the DE's work in this area so far, including their commitment to issuing statutory guidance in the 2022/23 school year on the use of restrictive and support practices for educational settings under Article 18 1(c) of the Education and Libraries (Northern Ireland)

38 DE (2021) Circ/2021/13 Interim Guidance on the Use of Restraint and Seclusion in Educational Settings.

39 [Report on the Review of Restraint and Seclusion in Educational Settings.pdf \(education-ni.gov.uk\)](https://education-ni.gov.uk/reports-and-publications/review-of-restraint-and-seclusion-in-educational-settings/)

Order 2003. We look forward to continued engagement with the DE on the formation of this critical statutory guidance and will closely scrutinise its application once implemented.

Mental Health and Wellbeing in Schools

In our Statement of Children's Rights NI 2020, NICCY called on the government to prioritise the promotion and monitoring of mental health and wellbeing of children and young people in schools and protect against factors negatively impacting wellbeing 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 Independent Counselling Service for Schools (ICSS) in primary school settings.
- Implementing 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.
- Implementing a measure of wellbeing across all schools in Northern Ireland and ensuring that this measure is completed by every pupil.

The UNCRC states that 'education shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential'. Yet, in Northern Ireland, the education system continues to use academic attainment as the sole measure of educational achievement and transition.

The importance of focusing on children's wellbeing in education has never been more evident than in the recent COVID-19 pandemic. The stress and uncertainty surrounding education and exams, coupled with imposed

isolation from friends, families and teachers, have been incredibly difficult for many children and young people. A recent study, the Youth Wellbeing Survey NI, found that the number of children and young people in NI who experience common mood disorders such as anxiety and depression is around 25% higher than in other UK jurisdictions.⁴⁰

NICCY Casework Example

Tiffany is of compulsory school age but has not engaged in formal education for almost three years due to anxiety. Social services are actively involved in trying to help her in this regard; however, no clear pathway of provision from education authorities has been identified. The social services caseworker has proactively and concertedly tried to find something to help this young person, but as yet no existing amenity has been found suitable for Tiffany's presentation. The effect of not being in education is that she is functionally illiterate.

Analysis of Progress

NICCY recognises that, since our previous Statement in 2020, some progress has been made. The DE's Children and Young People's Emotional Health and Wellbeing in Education Framework (the Wellbeing Framework) was launched on 26 February 2021. The Framework promotes a whole school approach, including the promotion of wellbeing through the development of a supportive and caring culture. It includes early support in schools and interventions for children with emotional or mental health difficulties. The Framework includes a range of programmes and initiatives and annual recurrent funding of £6.5 million; which makes this programme sustainable in the long term. A range of actions within the Strategy relates to developing a culture of wellbeing within schools that should be priorities going forward. These include embedding good-quality learning materials on wellbeing into the curriculum for pupils and teacher training

40 The Mental Health of Children and Parents in Northern Ireland (hscni.net)

colleges and developing a system-wide way of measuring children's wellbeing. This will inform schools and the education system more broadly on what they should be focusing on to further promote the wellbeing of children.

NICCY's Statement in 2020 called for the implementation of a measure of wellbeing across all schools in Northern Ireland. It is disappointing that while the Education Training Inspectorate (ETI) has incorporated the consideration of wellbeing into the school inspection process, little progress has been made on the creation of a wellbeing measure. NICCY considers it essential that such a mechanism is implemented alongside the Wellbeing Framework to support the measurement and independent evaluation of key outcomes concerning this.

Positively, some progress is evident in the delivery of counselling services within primary schools. In July 2022, the Minister for Education announced that an additional £2.25 million will be invested in the Healthy Happy Minds pilot programme. This will allow the continuation of the programme, which provides counselling and therapeutic support services for primary school pupils, including special schools and education other than at school (EOTAS) with a primary school cohort, until the end of 2022. The introduction of this type of support for the primary school cohort has been identified for many years; therefore we welcome this pilot programme and look forward to further announcements about its longer-term future.

Addressing Bullying in Schools

Bullying has been identified as one of the key issues affecting school pupils in Northern Ireland.⁴¹ That said, the most recent research on the nature and extent of pupil bullying in schools, conducted in 2011, is now dated and does not necessarily fully reflect the experiences of young people in Northern Ireland.⁴² Changes

in the demography of NI's population mean that there is now an increasingly diverse school population, including growing numbers of children who were born outside NI, an increasing number of children who identify as LGBTQ, and children from other S75 groups who are at increased risk of bullying. Furthermore, it is now widely acknowledged that bullying behaviour in online environments is a growing problem for children and young people. In its 2016 Concluding Observations, the Committee on the Rights of the Child recommended that the 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."*⁴³

NICCY welcomes that, after considerable delay, the Addressing Bullying in Schools Act (NI) 2016 came into force in September 2021. The Act defines bullying as the repeated use of "any verbal, or electronic communication, any other act or any combination of those by a pupil or group of pupils against another pupil or group of pupils, with the intention of causing physical or emotional harm to that pupil or group of pupils". Cyber-bullying is covered by the Act, but schools do not have a legal duty to deal with cyber-bullying that takes place outside of school.

Implementation of the Act means that schools in Northern Ireland are now legally required to record all incidents of bullying and alleged bullying, the motivation behind the bullying, the method involved and how the incident was dealt with. While we consider this very

41 [Informing the Development of an Emotional Health and Wellbeing Framework.... \(redacted\).pdf \(ioe.ac.uk\)](#)

42 [No 56 2011: Master Research Report \(education-ni.gov.uk\)](#)

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

positive, it is notable the Act does not include a provision for the centralised collection of data, either by the EA or the DE. Without this, there is a risk that efforts to measure the effectiveness of existing policies in tackling bullying will be undermined.⁴⁴ Moreover, a proactive approach to tackling bullying in schools requires considerably more work in developing a curriculum that aims to promote inclusion, mutual understanding, shared values and respect for diversity.

Relationship and sexuality education (RSE)

Disappointingly, progress in ensuring that pupils are provided with comprehensive RSE, as called for in our 2020 Statement, is less evident. NICCY has continued to highlight concerns that the DE's current approach, which gives grant-aided schools flexibility to develop their own policy on addressing 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. Paragraph 86 (d) of the Committee on the Elimination of Discrimination Against Women (CEDAW) Report, which was incorporated into domestic legislation by the NI Executive Formation Act 2019, requires the State party (the UK government and the NI Executive) to:

- (d) Make age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights a compulsory component of curriculum for adolescents, covering prevention of early pregnancy and access to abortion, and monitor its implementation;⁴⁵

NICCY considers it unacceptable that the current policy approach permits some schools to teach statutory minimum content of RSE only, rather than a full and effective curriculum. We strongly reiterate our previous call that the CEDAW recommendations must be implemented in full to ensure that children are educated about sexual and reproductive health issues in an age-appropriate, comprehensive and scientifically accurate way.

Transformational Reform of Northern Ireland's Education System

As reported in our 2020 Statement on Children's Rights in Northern Ireland, NICCY considers that educational inequalities can only be fully addressed through transformational reform of the education system. Reflective of the 2016 UN Committee on the Rights of the Child's Concluding Observations, we called for a 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.

Furthermore, we called for a comprehensive review of our segregated education system because, from an early age, 90% of children in NI attend schools that are largely segregated along religious/ethnic lines,⁴⁶ and for government action to address the fundamental flaws and systemic inequality arising from academic selection. As the evidence clearly shows, this significantly advantages children from more affluent families and exacerbates educational inequalities.⁴⁷

NICCY welcomes the commencement of an Independent Review of Education, a key commitment in the New Decade, New

⁴⁴ [Stormont opts out of collating schools' records of bullying | ScopeNI \(nicva.org\)](#)

⁴⁵ 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

⁴⁶ [annual-enrolments-at-schools-and-in-funded-pre-school-education-in-northern-ireland-2020-21 \(education-ni.gov.uk\)](#)

⁴⁷ [2000_The_Effects_Of_The_Selective_System_Of_Secondary_Education_In_Northern_Ireland_Main_Report.pdf \(ulster.ac.uk\)](#)

Approach (NDNA) Agreement, in October 2021. The two-year Independent Review is focused on the quality, equity and sustainability of the education system and covers a range of themes across three core areas:

- Education journey and outcomes
- Support for settings and schools, funding and governance
- System-level design, delivery and administration

Within the first core area, education journey and outcomes, the Review's terms of reference state that consideration *could* be given to 'the transition and transfer of children from primary to post-primary'. NICCY considers it imperative that this includes a comprehensive review of the system of academic selection and related inequalities that continue to operate in Northern Ireland.

NICCY has provided advice to the Independent Review, including a briefing paper in October 2021 outlining our key priorities for education. In June 2022, the NICCY Youth Panel presented a range of recommendations related to mental health, a single education system, post-primary transfer and curriculum content to the expert panel for their consideration. NICCY looks forward to further engagement with the Review Panel in 2022 and to the publication of its interim report in October 2022. We consider the Independent Review a critical step in delivering the government's commitment to transforming Northern Ireland's education system and will closely monitor its response to the Independent Review Panel's recommendations.

NICCY also warmly welcomes the passing of legislation by the NI Assembly in April 2022 that places a statutory duty on the DE

to provide further support to the integrated school sector. We consider this a positive step in progressing the promise made by political parties to 'facilitate and encourage integrated education' when they signed the Good Friday Agreement in 1998.

We also welcome the more recent announcement by former Secretary of State the Right Honourable Brandon Lewis MP, of a new £1.9m funding package aimed at supporting greater integration in education in NI. The funding will support the work of the Integrated Education Fund (IEF) and the Northern Ireland Council for Integrated Education (NICIE), which aims to enable a greater number of children from different community backgrounds to be educated together.

The Impact of the Covid-19 Pandemic on Children's Access to Education

In its COVID-19 statement, the Committee on the Rights of the Child (the Committee) urged States to consider the educational, inter alia, impacts of the pandemic on children. While acknowledging that in crises, international human rights law 'exceptionally permits measures that may restrict the enjoyment of certain human rights in order to protect public health', such restrictions must be imposed only when necessary, be proportionate and kept to an absolute minimum. The Committee further emphasised that responses to the pandemic, including restrictions and decisions on the allocation of resources, should reflect the principle of the best interests of the child.⁴⁸

The Committee also urged States to ensure that online learning did not exacerbate existing inequalities or replace student-teacher interaction.⁴⁹ However, it is clear that school closures related to COVID-19 school closures have disproportionately impacted

48 UN Committee on the Rights of the Child (2020) Statement on Impacts of COVID Pandemic on Children and Young People.

49 UN Committee on the Rights of the Child (2020) Op Cit

some groups of children and exacerbated pre-existing educational inequalities. Groups most negatively affected include children and young people from lower socioeconomic backgrounds, those with SEND in mainstream and special schools, and newcomer groups. Other vulnerable groups include those accessing EOTAS, those receiving support from Health and Social Services, including family support, child protection and looked-after children services, those on the Child Protection Register, young carers, those with emerging and diagnosed mental health needs, and those who are affected by domestic violence.⁵⁰ Schools remained open for some vulnerable children and young people across both lockdowns, and additional guidance and support were implemented to protect the most vulnerable.⁵¹

⁵² Additionally, the EA continued to deliver a range of other services for vulnerable children.⁵³ However, not all vulnerable children and young people engaged with support and services, and the number of vulnerable children attending schools, particularly during the first lockdown, was low.⁵⁴

Since schools have fully re-opened, NICCY is concerned that some children have not returned to school or are recurrently absent from school, in some cases due to the emotional impacts of COVID lockdown restrictions. NICCY has raised concerns with the government about children who are 'missing' from school, calling for greater investigation and monitoring of this issue, so that appropriate interventions can be put in place to support children and young people.

As the effects of the pandemic continue to emerge over time, further research is needed to identify any long-term and disproportionate impacts of COVID-19 on children's and young people's education.

Assessment of Progress

NICCY has consistently scrutinised the response of the Northern Ireland Executive, its departments and agencies to educational provision throughout the COVID-19 pandemic. We provided advice in real-time as the crisis unfolded, in evidence sessions at the Northern Ireland Assembly and through formal advice papers and in meetings with Ministers, politicians, civil servants and other professionals responsible for the delivery of children's education services.

NICCY's Review of Children and Young People's Experiences of the COVID-19 Pandemic, *A New and Better Normal*, indicates that the Committee's calls were not fully heeded in the education system's response to the pandemic, with adverse impacts on children's learning, development and mental health and wellbeing. Digital poverty was identified as a key barrier to remote learning, especially for children living in areas of comparatively high social deprivation and rural regions. Children reported heightened levels of anxiety and stress due to fears about falling behind, returning to school and long-term impacts on their educational achievement.

In response to our Review's findings, NICCY made several recommendations, including the need for an assessment of the effectiveness

⁵⁰ Ibid, n.19.

⁵¹ [Guidance on Vulnerable Children and Young People.pdf \(education-ni.gov.uk\)](#)

⁵² [Weir outlines proposals to support vulnerable children and young people this summer | Department of Education \(education-ni.gov.uk\)](#)

⁵³ www.eani.org.uk/vulnerable-children-and-young-people

⁵⁴ [Management Information relating to attendance at Northern Ireland educational settings during the COVID-19 outbreak 23 March 2020 to 29 June 2020](#)

of the education that children received during school closures, and a benchmarking of any learning lost or gained throughout this period. Monitoring of the government's response to our recommendations is ongoing.

NICCY acknowledges a range of actions were taken by the DE in response to the pandemic but considers that, overall, these were not sufficient to mitigate its impact on children and young people. In December 2020, the Department issued the Vulnerable Children and Young People Contingency Planning Framework as part of the wider cross-departmental COVID-19 planning for vulnerable children and young people. However, it is not fully evident how effective the Framework was in ensuring the expedient identification and provision of support.

The Department also provided guidance to schools on remote learning and curriculum planning during school closures and asked schools to have contingency plans in place for the delivery of remote learning.^{55 56} However, the findings of our Review highlighted inconsistency in remote learning practices, variation in levels of engagement, an undue level of responsibility placed on children to manage their work in their own time, and subsequent impacts on motivation, learning, and development.⁵⁷

Concerning addressing digital poverty, the DE invested in additional digital devices and a free Wi-Fi scheme for disadvantaged pupils.⁵⁸
⁵⁹ Allocation of digital devices was prioritised to specific pupils, including those in receipt of FSMs, pupils with SEN, newcomer pupils,

and looked-after pupils. Unfortunately, their relatively slow allocation meant that many children were without a digital device for extended periods.

In response to meeting the specific needs of children with SEN, a joint DE/Department of Health (DoH) Special Educational Needs Oversight Group was established during the early days of the pandemic. It focused on working collaboratively to address issues across the education and health sectors that prevent children with SEN from attending mainstream or special schools. While welcome, it is not fully clear how this work has helped to meet the needs of vulnerable children.

NICCY welcomes steps taken by the DE to account for lost learning during the pandemic, including a managed return to public examinations for summer 2022, with wide-ranging adaptations and modifications. Students sat fewer examinations in 2022 to be awarded their CCEA qualifications and could focus their revision on the mandatory units. A more generous approach to grading was taken in the summer of 2022, and potential adaptations to qualifications for the 2022/23 academic year are currently under consideration.

Additionally, the Engage Programme was developed to provide schools with funding for additional teaching support. Engage III will be run in schools and other educational settings from the start of the new academic year in September 2022 but, disappointingly, funding has only been allocated to allow the programme to run until the end of December 2022.

55 [Circular 2020-5-Guidance for Schools on Supporting Remote Learning](#)

56 [Updated Circular Remote Learning - January 2021 \(002\).pdf](#)

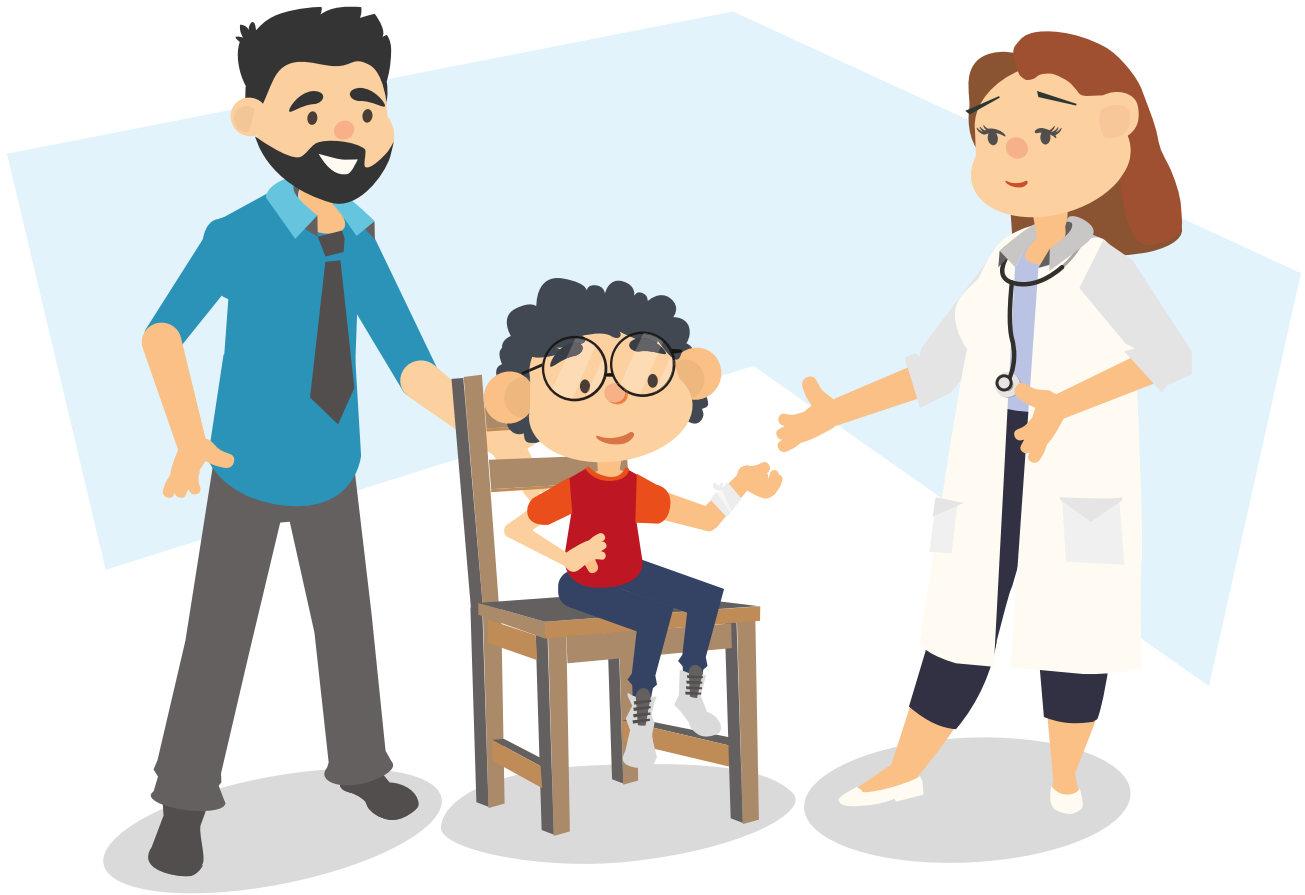
57 Ibid, n.19.

58 [Minister outlines plans to provide digital devices to disadvantaged children | Department of Education \(education-ni.gov.uk\)](#)

59 [Weir announces free wi-fi scheme for disadvantaged pupils | Department of Education \(education-ni.gov.uk\)](#)

Calls to Government

1. End the educational attainment gap between specific groups of children and young people and remove all barriers to every child's full participation in and access to a child rights-compliant education system including supporting those who are LGBTIQ+, newcomers, children in care, or have SEN. This includes full implementation of the recommendations from TLTL, NICCY's rights-based review of SEN provision in mainstream schools, and full commencement of the new SEND Framework.
2. Prioritise the promotion and monitoring of mental health and wellbeing of children and young people in schools and protect against factors negatively impacting wellbeing in schools by:
 - Taking measures to ensure that the Addressing Bullying in Schools Act (Northern Ireland) 2016 is effectively implemented by schools and establishing robust monitoring and evaluation processes to measure the effectiveness of policies in tackling bullying.
 - Ensuring that all children who require access to counselling services can do so. This must include ensuring access to ICSS in primary school settings.
 - Implementing 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.
 - Implementing a measure of wellbeing across all schools in Northern Ireland and ensuring that this measure is completed by every pupil.
 - Ensuring pupils' access to meaningful, age-appropriate, comprehensive and scientifically accurate sexual and reproductive health education by making this part of the mandatory school curriculum for all schools in Northern Ireland.
3. Move towards a single education system that is UNCRC Article 28 and 29 compliant and 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 address the fundamental flaws and inequalities that arise from academic selection.
4. Ensure thorough and ongoing assessment of the impact of the COVID-19 pandemic, and government's response to it, on all children and young people's access to education, including the most vulnerable, such as those attending special schools.
5. Act to minimise the use of restrictive practices and seclusion, including the implementation of statutory guidance on the use of restrictive and support practices for educational settings, accompanied by a supporting training framework to ensure the protection of children in all settings.



3.2 HEALTH

Child Rights Context

The UNCRC takes a holistic approach to health in that the underlying determinants of health are recognised, and rights relate to the whole continuum of health from prevention and health promotion to intervention and rehabilitation (UN 2013, paragraph 2).⁶⁰

Article 24 of the UNCRC is particularly relevant in the context of health, building on and developing the rights to life, survival and development to the maximum extent possible, set out in Article 6.

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 24

1. States Parties recognize 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.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision

of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

- (d) To ensure appropriate pre-natal and post-natal health care for mothers;
 - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
 4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Articles 23 and 25 are also relevant to a child's right to healthcare. 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.

In particular, 23 (3) recognises a disabled child's right to '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

60 www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child

development, including his or her cultural and spiritual development.'

Article 25 sets out the role of State parties where a child has been admitted to a hospital for treatment and their right to a periodic review. It articulates that:

'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.'

The Committee's 2016 Concluding Observations concerning health and health services are noted below:

58. The Committee recommends that the State Party, the governments of devolved administrations, Overseas Territories and Crown Dependencies develop comprehensive and multi-sectoral strategies on child health:
- (a) With allocation of the maximum extent of available resources and a robust monitoring mechanism;
 - (b) With a strong focus on eliminating inequalities in health outcome as well as in access to health services;
 - (c) Addressing underlying social determinants of health.

The Committee also made a comprehensive range of Concluding Observations concerning mental health, as noted below:

60. The Committee recommends that the State party:
- (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, measurable 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;
- (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 hospitalization and treatment without consent.

62. The Committee recommends that the State Party:
- (a) Regularly collect data on the amount and regularity of psychotropic drugs (Ritalin, Concerta etc.) being prescribed to children, and make the data transparent;
 - (b) Ensure that prescription of drugs is used as a measure of last resort and only after an individualized assessment of the best interests of that child, and that children and their parents are properly informed about the possible side effects

of this medical treatment and about non-medical alternatives;

- (c) Establish a system of independent expert monitoring of the ADHD and related disorders diagnoses, and undertake a study on the root causes of their increase, also aimed at improving the accuracy of diagnoses.

The Committee's Concluding Observations concerning adolescent health are noted below:

- 64. With reference to its general comments No.4 (2003) on adolescent health and No. 15 (2013), the Committee recommends that the State party should develop and adopt a comprehensive sexual and reproductive health policy for adolescents, ensure that age-appropriate sexual and reproductive health education is part of the mandatory school curriculum for all schools and decriminalize abortion in Northern Ireland in all circumstances.

The Committee made Concluding Observations concerning nutrition, as noted below:

- 66. The Committee recommends that the State party:
 - (a) Systematically collect data on food security and nutrition for children, including those relevant to breastfeeding, overweight and obesity, in order to identify root causes of child food insecurity and malnutrition;
 - (b) 29 (b) Regularly monitor and assess effectiveness of policies and programmes on food security and nutrition of children, including school meal programmes and food banks, as well as programmes addressing infants and young children;
 - (c) Promote, protect and support breastfeeding in all policy areas where breastfeeding has an impact on child health, including obesity, certain

non-communicable diseases, and mental health, and fully implement the International Code of Marketing of Breastmilk Substitutes.

The Committee made observations concerning children with disabilities, as noted below:

- 56. With reference to its general comment No.9 (2006) on the rights of children with disabilities, the Committee recommends that the State party adopt a human rights-based approach to disability, set up a comprehensive strategy for the inclusion of children with disabilities and:
 - (a) Ensure full respect of the rights of children with disabilities to express their views and to have their views given due weight in all decision-making that affect them, including on access to and choice of personal support and education;
 - (b) Set up comprehensive measures to further develop inclusive education, ensure that inclusive education is given priority over the placement of children in specialized institutions and classes, and make mainstream schools fully accessible to children with disabilities;
 - (c) Provide children with disabilities with a comprehensive and integrated package of services for transition to adulthood, from a sufficiently early stage, by coordinating legislation, policy and programmes across relevant sectors, and ensure fully-informed decision by children with disabilities on their personal choice in the transition, by involving them in the design of services and by providing advice and information on available options.

Mental Health

Poor mental health is one of the most preventable forms of ill health in children.

Northern Ireland published its first youth wellbeing prevalence study in 2020 (hereafter 'prevalence survey'). It found that one in eight children and young people in Northern Ireland have an emotional disorder such as anxiety or depression and confirmed that rates of common mental health problems are 25% higher in NI compared to other parts of the UK.⁶¹

Despite the extent of poor mental health in Northern Ireland, overall spending in Northern Ireland is 27% less than in England and 20% less than in Ireland.⁶² The prevalence survey was conducted pre-pandemic and there is research evidence that rates of poor mental health may have increased. For example, research conducted in Northern Ireland through the Young Life and Times and Kids Life and Times Surveys reported that 41% of Primary 7 respondents and 52% of 16-year-olds felt their mental and emotional health had worsened during the pandemic.⁶³

During the period covered by NICCY's second Statement on Children's Rights in NI (hereafter 'SOCRNI 2'), mental health was the focus of its health policy work, particularly monitoring the implementation of Still Waiting. The Rights-Based Review of Mental Health Services and Support was published in 2018, containing 50 recommendations across eight thematic areas, as outlined below:

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 and literacy
8. Young people with additional needs

When SOCRNI 2 was published we were living through the pandemic, and the impact on children and young people's emotional wellbeing and mental health was a growing concern. Such issues were reflected in the recommendations made to the government in SOCRNI 2:

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.*

SOCRNI 2 acknowledged work carried out to progress the recommendations from Still Waiting despite not having a functioning Executive

61 <https://hscboard.hscni.net/our-work/social-care-and-children/youth-wellbeing-prevalence-survey-2020>

62 [Consultation on the Draft Mental Health Strategy 2021-2031 | Department of Health \(health-ni.gov.uk\)](#)

63 <https://www.niccy.org/about-us/our-current-work/covid-19-niccys-work>

between January 2017 and January 2020.⁶⁴ This progress included the establishment of an Inter-Departmental Group (IDG) in 2019 to take forward the recommendations in *Still Waiting*,⁶⁵ the development of the *Still Waiting Action Plan* (SWAP), published in September 2019, and publication of a progress update report in December 2019.

Significant progress was made in 2020-21, including the release of the first Northern Ireland prevalence survey of children and parents' wellbeing in October 2020 and the establishment of multidisciplinary teams (MDTs), composed of mental health practitioners, to work alongside GPs.⁶⁶ It was also noteworthy that the newly formed Executive prioritised mental health in its New Decade, New Approach Agreement⁶⁷ and made specific reference to the delivery of the SWAP as part of the Mental Health Action Plan, which incorporated a COVID Mental Health Response Plan.⁶⁸ Following this, the first ten-year NI Mental Health Strategy with a funding plan was published in June 2021.⁶⁹

The recurrent investment by the DE and DoH towards the delivery of the Emotional Health and Wellbeing in Education Framework has been very positive, particularly the three-year pilot of primary school counselling and therapeutic services that started in 2021 and the development of the Child and Adolescent Mental Health Services (CAMHS) Emotional Wellbeing Teams in post-primary schools.

The establishment of a Director of Mental Health, a Child and Adolescent Mental Unit at the DoH, and the expansion of the mental health commissioning lead role to include emotional health are also very welcome structural changes within the system. There is evidence that this is starting to increase the visibility of children's emotional wellbeing and mental health, which should ensure that children are better reflected in policy-making and service planning. However, as noted in NICCY's 2022 monitoring report, 'we need to see plans and reviews translated into supports and services that provide a demonstrable positive and visible impact on children's lives'.

Notwithstanding the progress made in the last two years under extremely difficult circumstances, there is a lack of evidence that government actions are making a tangible difference in children's access to mental health services. NICCY's disappointment at the 'slow progress' on implementing the SWAP has been a consistent statement in NICCY's monitoring reports in February 2020, 2021 and 2022. Key service activity data collated as part of the *Still Waiting* monitoring work do not indicate a positive and sustained shift in trajectory. This includes data on the numbers of children and young people on statutory CAMHS waiting lists, under-18 presentations to Emergency Departments during a mental health crisis, and under-18 anti-depressant prescribing rates.⁷⁰ Key data are set out below:

64 Further background reading on *Still Waiting* and the monitoring process attached to it is available from [Mental Health Review - Still Waiting \(niccy.org\)](https://www.niccy.org/mental-health-review-still-waiting)

65 The IDG is chaired by the Department of Health and involves representatives from the Departments of Education, Justice and Communities, along with members of the Voluntary and Community Sector.

66 All annual monitoring reports including the most recent one from February 2022 are available from the *Still Waiting* webpage on NICCY's website.

67 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade__a_new_approach.pdf

68 [mh-action-plan-plus-covid-response-plan.pdf \(health-ni.gov.uk\)](https://www.health-ni.gov.uk/mh-action-plan-plus-covid-response-plan.pdf)

69 [Mental Health Strategy 2021-2031 | Department of Health \(health-ni.gov.uk\)](https://www.health-ni.gov.uk/mental-health-strategy-2021-2031)

70 Mental Health Data Report 2013- 2021 <https://www.niccy.org/about-us/our-current-work/mental-health-review-still-waiting>

- **Step 3 (Core) CAMHS Waiting Times**

In November 2021, 451 children had been waiting over nine weeks for a Step 3 referral. This is a substantial increase from March, when the total number waiting over nine weeks was 167.

- **Referrals to CAMHS from Emergency Departments (ED) for young people presenting during a mental health crisis**

Between 2019/20 and 2020/21, referrals from ED increased by 24% from 765 to 949.

- **Anti-depressant prescribing to under -18s**

Prescribing data between 2018 and 2020 shows a levelling off or slight fall in the number of children receiving anti-depressant medication. However, the number of anti-depressant prescriptions being administered every year in Northern Ireland has increased, which includes the administration of drugs not recommended by NICE.

In 2020, 17,981 anti-depressant prescriptions were dispensed to 2950 under-18s in Northern Ireland, including 822 prescriptions to 140 children under the age of 12.

- **Psychological therapies for children**

There is also no evidence of an increase in access to psychological therapies for children since Still Waiting was published. There is a statutory 13-week wait target for access to psychological therapies for adults and children. However, no statistics are available for those under 18.

NICCY compiled a wide range of mental health data during the period 2013/14 -2020/21, much of which is not in the public domain and was directly requested from data holders, i.e.,

HSCB, Regulation and Quality Improvement Authority (RQIA), BSO and BHSCT.⁷¹ NICCY made several recommendations in Still Waiting to fill identified gaps in basic data, along with a recommendation to publish CAMHS data in the same way governments do in other parts of the UK.⁷² The need for improved accessibility and quality of mental health data was echoed by the Office for Statistics Regulation in its 2021 review of mental health statistics in NI.⁷³ There continues to be very limited official mental health data in the public domain, although we are aware that DoH plans to 'integrate the CAMHS dataset into the new information management system "Encompass" and scope out options for sharing information captured by the CAMHS dataset in the public domain' are noted in their progress updates.⁷⁴

The 50 recommendations in Still Waiting are integrated and integral to a comprehensive rights-based child healthcare system. However, at all opportunities, NICCY has asked the IDG to prioritise improvements in mental health service provision for children with a learning disability and those with co-occurring mental health and drug and alcohol problems. NICCY remains concerned about a lack of progress to establish regional ID-CAMHS services or services for under-18s with more serious alcohol and mental health co-morbidities. These groups of children face some of the most egregious breaches of their Article 24 rights.

NICCY's Work on Mental Health

NICCY has invested significant resources and time over the last four to five years to advise and monitor the government's response to Still Waiting, a review that was shaped by children and young people's experiences of accessing or trying to access mental health services and support across a wide range of services that

71 Please note that the information provided by the HSCB is used for information management processes, and not intended for use as official statistics.

72 Rec 47, p278- Mental Health Review- Still Waiting.

73 [Review of mental health statistics in Northern Ireland – Office for Statistics Regulation \(statisticsauthority.gov.uk\)](https://statisticsauthority.gov.uk/publications/review-of-mental-health-statistics-in-northern-ireland)

74 Feb 2022 Inter-Departmental Progress Update Report- Still Waiting

included GP services (including Out of Hours GP); School / College or University; Voluntary and Community Services; Community CAMHS; Accident and Emergency and In-Patient Care.

NICCY has published an annual monitoring report on the progress of the SWAP. This has included a detailed assessment of delivery on SWAP actions, an overview summary report (including a CYPS version), and an updated CAMHS data report (a compilation of mental health service activity data from 2013/14, data that are largely not in the public domain and came from data requests made by NICCY to the HSCB, BSO, BHSCT and RQIA).

NICCY provided oral and written evidence to the Health and/or Education Committees on our assessment of the adequacy of mental health support and services for children and young people in 2020, 2021 and 2022. This included a con-current meeting of the Health and Education Committee following the publication of our third Still Waiting monitoring report in February 2022.

NICCY has ensured that the findings and recommendations from Still Waiting are informing all relevant work being taken forward by government departments. This includes the Mental Health Strategy and all associated review work, such as the Mental Health Prevention and Early Intervention Action Plan, Substance Use Strategy, Emotional Health and Wellbeing in Schools Framework, and the development of the NI Youth Wellbeing Survey.

NICCY staff have worked closely with all non-governmental colleagues working to improve children's wellbeing and access to support. This includes joint sessions and public events with the NI Mental Health Champion and working with the Youth and Voluntary and Community Sectors. In 2021, the NICCY Youth Panel, in partnership with the Northern Ireland Youth

Forum and Belfast City Council Youth Forum produced a mental health advocacy toolkit for young people, titled *Heads Up!* The free Heads Up! toolkit gives young people a step-by-step guide to organising a mental health campaign project in their community and supporting them to campaign on local mental health issues.⁷⁵

NICCY Casework Example

Michael had an eating disorder for which he had been hospitalised. He was also self-harming. His condition was such that admission to specialist treatment was needed. This was being delayed and his family were unaware of the processes to engage in to get him the treatment he needed quickly. A considerable factor in the delay was the lack of available beds in dedicated treatment centres. Michael's family were having to take turns in supervising him in an ordinary hospital to ensure that he did not harm himself when not being directly monitored by clinical staff. His condition was not improving in this setting. NICCY advised the family as to processes to be engaged in with statutory agencies concerning getting the needed treatment, which Michael did then receive. This matter shows the significant need for increased beds and other resources in treating mental health conditions suffered by children and young people in Northern Ireland.

Assessment of Response

NICCY is due to publish its final monitoring report on the implementation of Still Waiting in February 2023. However, it is already clear that while slow progress is being made in some areas, many of the recommendations from Still Waiting will not be complete by February 2023. NICCY has been advising the government to increase the pace of progress and to identify other longer-term strategic work that incomplete individual actions from the SWAP can be embedded into, such as the Mental Health

75 <https://www.niccy.org/children-and-young-people/issues-that-affect-you/your-mental-health/heads-up-mental-health-toolkit/>

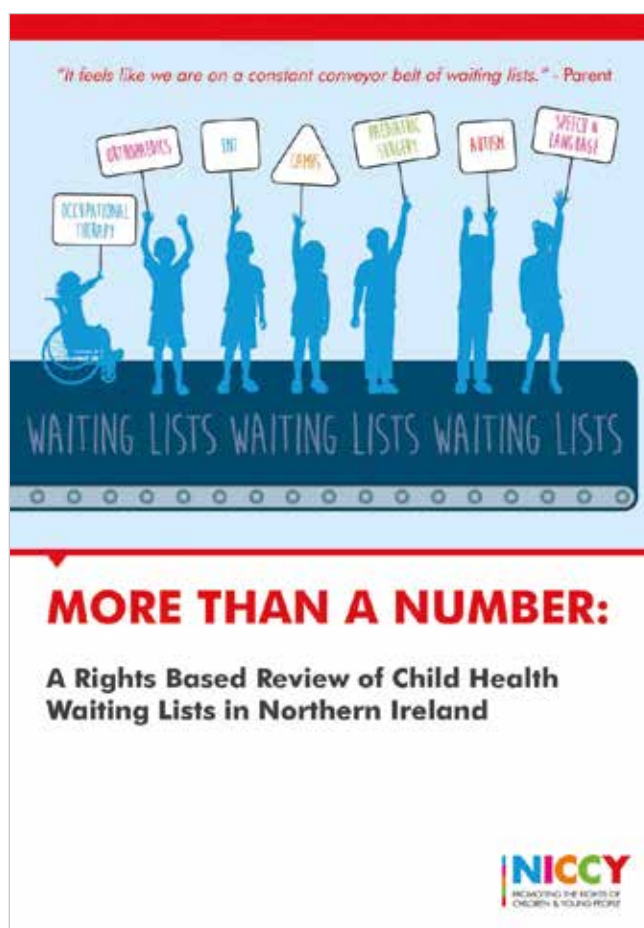
Strategy, Substance Use Strategy and the Emotional Health and Wellbeing in Education Framework.

SOCRNI 2 reflected on the fact that many of the actions in the draft SWAP remained contingent on funding and consequently many actions lacked clear objectives and timelines for completion. Some progress has been made since then, in that the SWAP was reviewed in 2021-22 leading to clearer objectives and action owners. Plans were also made to increase CAMHS funding by £2.5 million in 2022-23, £4 million in 2023-24 and £7 million in 2024-25 to bring funding into line with the commitment made to increase CAMHS funding to 10% of adult funding.⁷⁶ However, this funding and any future funding are subject to Executive Approval. The lack of a NI Assembly Executive to authorise critical investment toward children's mental health care is hugely concerning and frustrating.

The commitment to increase children's mental health funding in the Mental Health Strategy is welcome. However, this figure is not based on a detailed fund mapping exercise that takes account of the gap between current investment and what is needed to ensure children and young people have access to a 'comprehensive range of mental health services'. It is our view that a fund mapping process would inform a long-term and sustainable 'funding and practice partnership model', which takes account of the investment required across all key services and sectors included in the Stepped Care Model for CAMHS. These remain outstanding recommendations from Still Waiting.⁷⁷

Health Waiting Lists

It has long been the case that Northern Ireland has some of the longest health waiting times of all regions in the UK and that children are being greatly impacted by this, but the extent of the waits and which child health services are most impacted have been less clear. In October 2021, NICCY published *More Than A Number – A Rights-Based Review of Child Health Waiting Lists*. This Review was conducted in recognition of the need for much greater transparency and focus on the extent of waiting lists across child health services and clarity on the steps being taken to address this growing problem.



76 Action 10- Mental Health Strategy 2021

77 Recommendation 1a-b- Still Waiting

More Than A Number aimed to inform and advise ongoing and future work plans to address the problem of growing health waiting lists, to ensure children are visible as part of this process and that their rights are considered at all stages.

More Than A Number presented official waiting list data for children's health services not published as part of DoH statistical bulletins. It also included the voices of children and their families on the impact that waiting is having on their health and quality of life and on what they think needs to change about the system. While carrying out this review, NICCY also engaged with professionals and practitioners working in and for child health services.

The report presented a concerning picture of the number and length of waits for services:

- First consultant-led outpatient waiting times have increased year-on-year between 2017 and 2021, with 35,292 children waiting for a first appointment in April 2021.
- Of the 17,194 patients waiting over a year for a first consultant-led outpatient appointment at April 2021, 11,239 had been waiting between one and two years, 5,445 between two and four years and 510 over four years.
- Inpatient and day case waiting times have increased year-on-year between 2017 and 2021, with 9,481 children waiting for a first appointment in April 2021, with 62% (6092) waiting over one year and 197 over four years. A total of 26,818 under-18s were waiting for access to one of the community child health services that Health and Social Care Trusts monitor as part of the Primary Target List, which does not include key services such as ADHD.

The waiting time statistics provided in NICCY's report brought into sharp focus the numbers of children and the lengths of time they are waiting for different types of healthcare treatment. The report also offers an insight into what and how statistics are collected across the system. It found that generally, official publicly available waiting time statistics for children are limited. A reasonable level of disaggregated data that is not publicly available was available on request, for first consultant-led outpatient and inpatient or day case services. However, the review found that regional monitoring and reporting of waiting times for the community child health system was wholly inadequate.

More Than A Number made 17 recommendations under four thematic areas that aim to bring greater visibility of children across hospital and community child health services and accountability concerning decision-making, performance reporting and budget allocation processes.

Assessment of Government Response

During the last four years, NICCY's health policy work has focused on children and young people's access to health services and producing recommendations that focus on the development of a child rights-based health and social care system. *Still Waiting* focused on access to mental health services and support, and *More Than A Number* focused on child health waiting lists for hospital and community care. Both areas of work have assessed the system's response to children's health needs using the UNCRC rights framework. These Reviews have placed children's, young people's, parents' and carers' voices at the centre and have included monitoring processes to track progress in the implementation of the

recommendations. Detailed monitoring updates on each of these pieces of work are available from dedicated webpages on the NICCY's website.⁷⁸ However, these reviews demonstrate

the need for targeted investment and reform of the child health and social care system and for government to take the lead role in driving this forward.

Calls to Government

1. Implement the recommendations of NICCY's Mental Health and Health Waiting List Reviews and ensure the findings inform all current and future strategies to reform services. This must include long-term investment to sustain services with a central focus on improving outcomes.
2. Prioritise investment in those areas that reflect the most egregious breaches of children's rights to health, 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 and physical health provision is in place to meet the ongoing needs of children and young people impacted by the pandemic. Include a proactive response to reducing pandemic-related adversities that are known to harm children's health and wellbeing, for example, those with pre-existing mental or physical health problems or disabilities and experience of adverse childhood experiences (ACES) such as domestic violence, abuse and poverty.

⁷⁸ Please note: The *More Than a Number* monitoring report will be published on 27 Oct. but the findings were not available before this report went to print.





3.3 CHILD POVERTY

Child Rights Context

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

Article 27

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.

Article 26 specifies children's right to social security.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

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

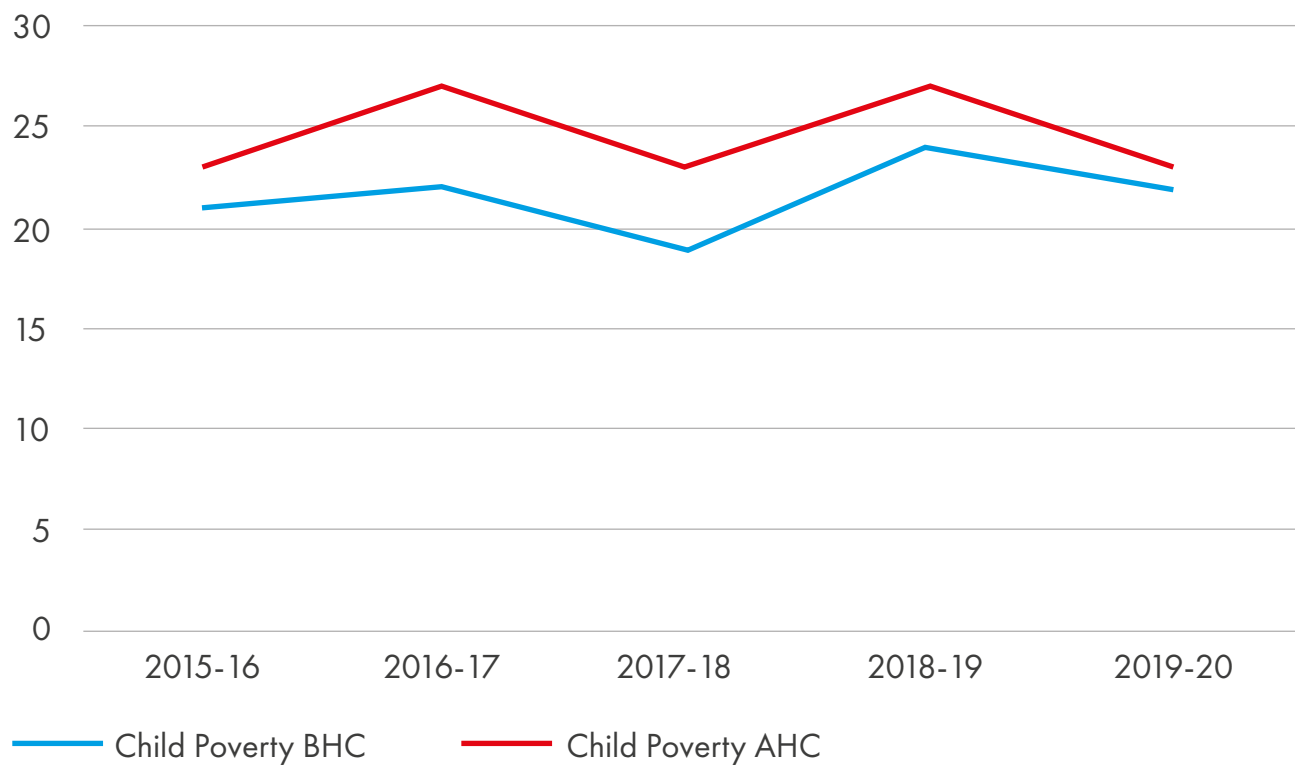
71. The Committee draws the attention of the State party to target 1.2 of the Sustainable Development Goals, on poverty reduction, and urges the State party to:
 - (a) Set up clear accountability mechanisms for the eradication of child poverty, including by re-establishing concrete targets with a set 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.⁷⁹

Implementation of Children's Rights

Since the concerns raised by the Committee during its examination of the UK State party in 2016, the child poverty rate has fluctuated but shown no consistent decrease. This reflects the pattern of the past 20 years: child poverty rates have stagnated, with no measurable progress in tackling child poverty over this time.

Figure 5.3.1: Child Poverty Rates 2015/6 to 2019/20



Source: NI Poverty Bulletin data tables 2019-20 – Table A1.⁸⁰

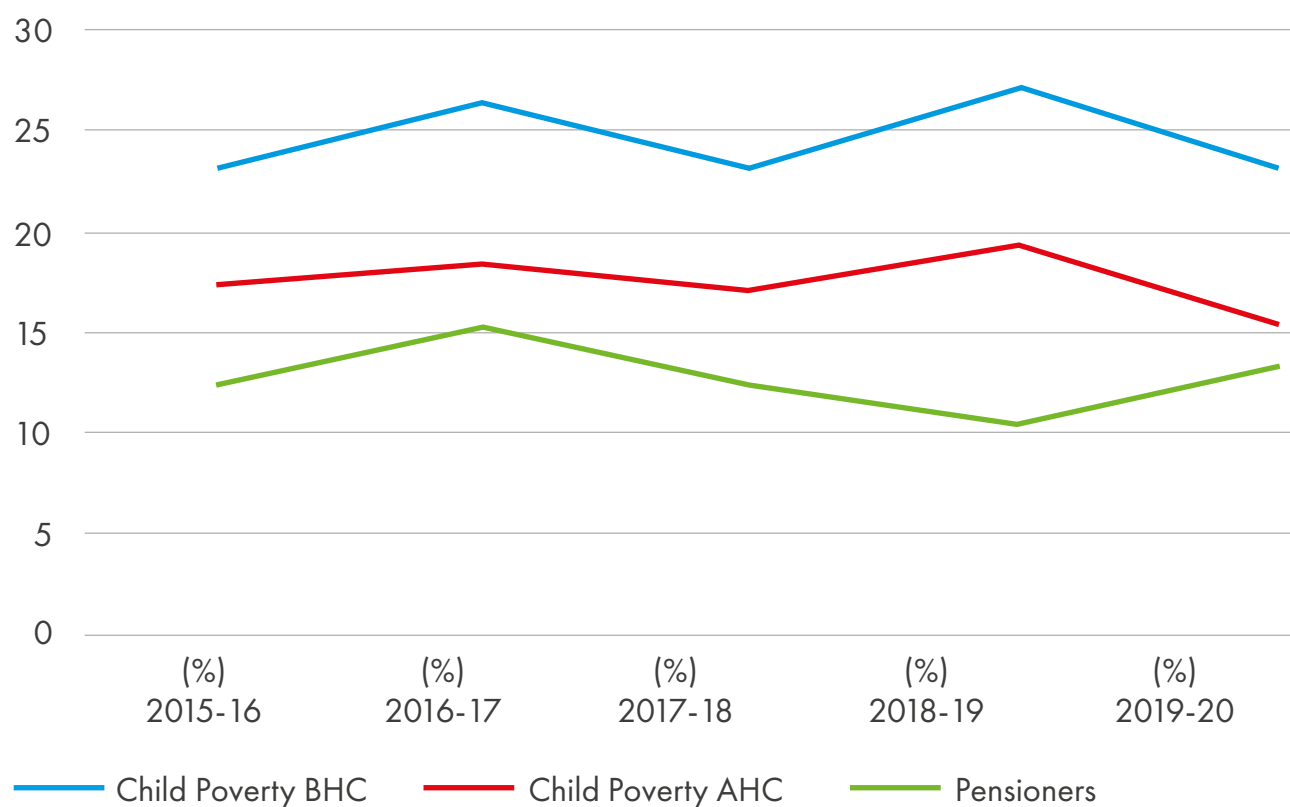
⁷⁹ Para 71, CRC/C/GBR/CO/5, 12 July 2016

⁸⁰ DfC, NISRA, March 2021, [Poverty Bulletin, Northern Ireland 2019-20](#).

Also consistent over this time is the fact that child poverty rates have been significantly higher than for other age groups in Northern Ireland. As can be seen in the table below, child poverty rates have been on average seven percentage points higher than equivalent rates for working-age adults, and 12 percentage points higher

than for pensioners. This has remained consistent over this period, demonstrating that no progress has been made in addressing these critical inequalities in poverty rates across the age groups.

Figure 5.3.2: Poverty Rates for Children, Working-age Adults and Pensioners, 2015/6 to 2019/20



Source: NI Poverty Bulletin data tables 2019-20 – Table A1⁸¹

The most recent poverty data available through the Family Resources Survey is from 2019-20, before the COVID pandemic. The pandemic restrictions resulted in a much lower response rate during the fieldwork in 2020-21, so the sample allowed only an overall population poverty rate to be recorded.

As in previous years, the majority of children in poverty live in working households, and this proportion has increased over the years.

In 2019-20, almost two-thirds of children in poverty (64%) were in working families, and the remaining third (36%) lived in workless households. 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.

The patterns of child poverty have remained fairly consistent since 2015-16 in terms of some of the groups most likely to be in poverty:

- Children in lone-parent families (38%) compared to those in couple families (18%);
- Children in workless households (58%) compared to households where all adults work (10%).
- Children in Protestant households (17%) compared to those in Catholic households (24%), those in households of another religion (24%), or with no religion (26%).⁸²

However there have also been some changes. In 2019-20, the data suggested that children living in families where someone was disabled

(20%) were for the first time less likely to be in poverty compared to families where no one was disabled (24%).⁸³ This was a significant change from previous years, so further evidence is required to determine whether this is a statistically significant change.

In the second *State of Children's Rights in Northern Ireland* report, we identified a change in poverty rates for children in larger families, coinciding with the introduction of the two-child limit, and this has remained consistent over the following two years. The poverty rate for children living in families where they are the only child is 22%, compared to 32% for families with three or more children.⁸⁴ More evidence of the impact of the two-child limit can be found in the significant increase in the poverty rates for children in families where the youngest child is under five, increasing from 21% to 29%.⁸⁵ Conversely, the poverty rates for children where the youngest child is between five and ten years old have fallen from 26% to 17%.⁸⁶

The Impact of Poverty on Children's Lives

Poverty has a devastating impact on children's and young people's lives and life outcomes. Young people in receipt of FSMs are more than twice as likely to leave school without five A* to C grade GCSEs including English and Maths (40.2%), compared with young people who are not (16.2%).⁸⁷ As can be seen below, while this has decreased for FSM and non-FSM young people since 2015-16, the achievement gap has stayed fairly consistent.

82 Ibid.

83 Ibid.

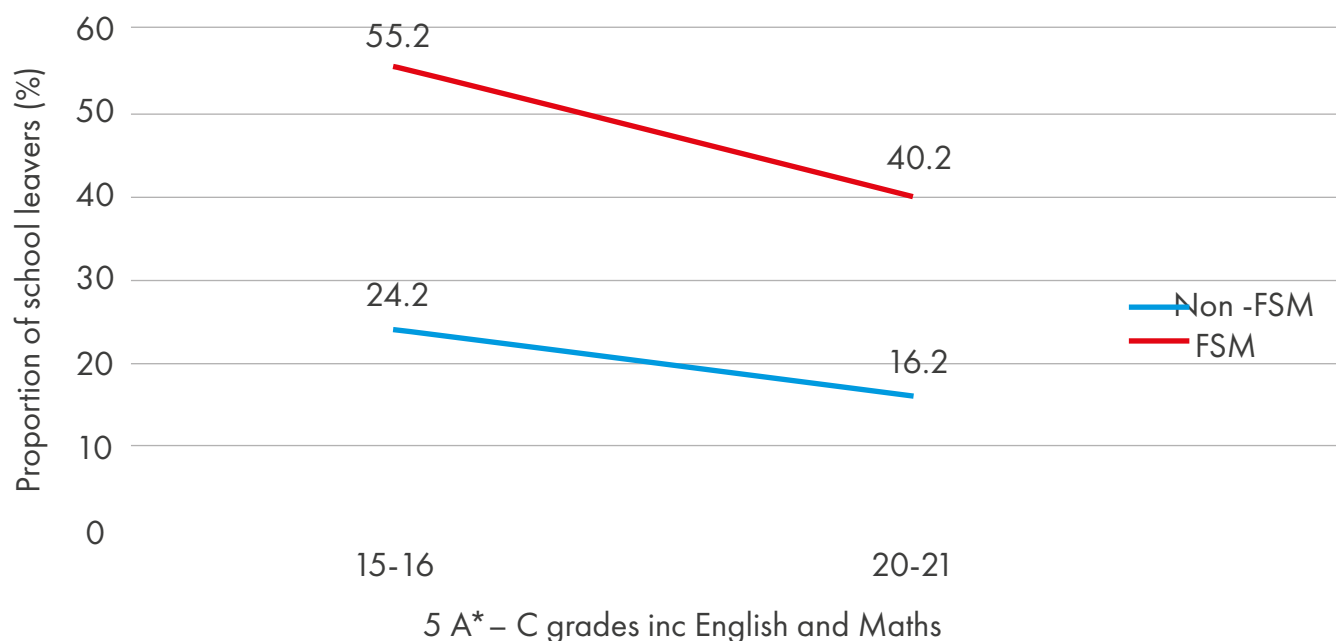
84 Ibid.

85 Ibid

86 Ibid.

87 NISRA, (2022), *Qualifications and Destinations of Northern Ireland School Leavers 20-21*, Belfast: NISRA.

Figure 5.3.3: Proportion of school leavers not achieving 5A* - C grades including English and Maths



Source: NISRA⁸⁸

Poverty also affects children's health throughout their childhood and throughout their lives:

- Infant mortality is 39% higher in the most deprived areas than in the least.
- Suicide rates are 105% higher in the most deprived areas than in the least.
- The self-harm admission rate is three times higher in the most deprived areas than in the least (186% higher).
- Children in poverty statistically live shorter lives (women -5.0 years, men -6.9 years).
- Children in poverty statistically have fewer years of good health (women -12.3 years, men -11.9 years).⁸⁹

NICCY's Work on Child Poverty

Tackling child poverty was one of the Commissioner's three primary priorities upon coming into the post in 2015 and has remained a priority throughout her term. NICCY's work

has had two elements: providing advice to the government on how to reduce child poverty and seeking to build public support for action to do so.

Advising on Protecting Children from Changes to Social Security

While Welfare Reform changes to social security including the introduction of Universal Credit (UC), the benefit cap, the bedroom tax

88 Ibid, and DE Statistical Bulletin 6/2017, Qualifications and Destinations of Northern Ireland School Leavers 15-16, Belfast: NISRA.

89 DoH, (April 2022), Health Inequalities Annual Report 2022, Belfast: DoH.

and Personal Independence Payment, or PIP, (replacing the Disability Living Allowance, or DLA) have been ongoing in Great Britain (GB) since 2010, the fact that social security in Northern Ireland was devolved to the Northern Ireland Executive meant that these were not automatically introduced. Recognising that these changes would impact low-income households and people with disabilities, the Executive in its Fresh Start Agreement of 2015 agreed to maintain parity with the GB social security system while providing a £585 million mitigation fund over four years to top up reductions in benefit payments resulting from UK welfare reforms. A working group was established and proposed a series of Welfare Supplementary Payments (WSPs) to reduce the impact of welfare reforms on the most vulnerable in Northern Ireland and provide support to claimants as they adapted to the changes. A range of changes was mitigated, including the bedroom tax, the benefit cap and reductions associated with PIP, and families with children along with other households benefitted from these payments.⁹⁰

However, a swathe of cuts announced in the summer 2015 budget was not considered by the working group and was therefore not mitigated. Unfortunately, among these cuts were a number that particularly affected 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. As the NI Audit Office noted in its 2019 report Welfare Reforms in Northern Ireland,

‘However, the largest financial losses to large numbers of individuals and households (and largest financial saving to HM Treasury) have arisen from changes to Tax Credits, Child Benefit and a reduction in annual benefit rate uplifts since 2011. These welfare reforms have not been subject to mitigation measures in Northern Ireland.’⁹¹

The Commissioner sought to bring attention to the impact of Welfare Reform changes on children through her engagement with government departments and agencies. This included meeting with the DfC 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 also provided more detailed advice, on a range of related matters, including:

- The need for a NI-specific equality impact assessment (EQIA) 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 severely impacted children and their families.

With the return of the Assembly in January 2020, the NDNA agreement included a commitment to ‘extend existing welfare

90 [Review of Welfare Mitigation Schemes | Department for Communities \(communities-ni.gov.uk\)](#)

91 NIAO (2019), Welfare Reforms in Northern Ireland, (Belfast: NIAO), p3.

mitigation measures beyond March 2020, when they are currently due to expire'.⁹² 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 also stated her intention to extend other elements of the mitigation package through the introduction of statutory regulations. The Department subsequently received an allocation of £40.3 million from the Executive to continue with the existing mitigations in 2020/21. This was followed by an allocation of £48 million for the 2021/22 financial year. The Executive subsequently agreed that the mitigation schemes should continue for a further three years.

NICCY's 2020 SOCRNI 2 report recommended:

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.*⁹³

In November 2021, Minister for Communities Deirdre Hargey announced the appointment of an Independent Advisory Panel headed by Les Allamby to review welfare mitigation measures. The terms of reference asked the Panel to examine specific issues including the two-child policy, the removal of the recent £20 a week pandemic-related increase in UC, and a review of the carer's allowance. The Panel was also tasked with considering human rights and equality issues, rural needs, the impact of any proposals by gender, disability, household composition, and the effect on children and other relevant groups. The Commissioner, Koulla Yiasouma, was a member of this Panel, which submitted its advice to the Minister in February 2022.

At the point of writing this report, the Independent Advisory Panel report has not been published, and there have been no further announcements on additional elements of the mitigation package beyond closing loopholes and extending the bedroom tax and the benefit cap mitigations.⁹⁴ NICCY's 2020 recommendation, therefore, remains in place.

In the last Statement on Children's Rights report from 2020, we also recommended

*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.*⁹⁵

⁹² January 2020, *New Decade, New Approach*, (Belfast).

⁹³ NICCY (2020), *Statement on Children's Rights in NI 2*, (Belfast: NICCY).

⁹⁴ Hargey closes 'bedroom tax' and benefit cap loopholes in welfare mitigation schemes | Department for Communities (communities-ni.gov.uk), '37,000 now have long term protection from bedroom tax' - Hargey | Department for Communities (communities-ni.gov.uk)

⁹⁵ Op cit, NICCY (2020).

Regrettably, there has been no progress on this recommendation.

NICCY Casework Example

Tommy was a kinship carer for his grandchildren. As part of this role as structured through the relevant social services agencies, he was to be given monetary support from his local Health and Social Care Trust. His eligibility for those payments had been explicitly confirmed. However, Tommy experienced several instances of delay in receiving them, meaning he had to consider asking help from a foodbank to feed the children in his home. Upon investigation, it was found that the delay in these payments had been due to administrative errors rather than an issue of eligibility. The children in Tommy's home were at real risk of ongoing hunger due to a bureaucratic mistake.

Advising on Strategies to Tackle Child Poverty

The Child Poverty Act 2010 required the Northern Ireland Executive to publish strategies every three years to reduce child poverty in Northern Ireland, the first of which was published in 2011.

In July 2015, a NI High Court judgement on a judicial review brought by the Committee on the Administration of Justice held that the Northern Ireland Executive had breached its duty to adopt a strategy to tackle poverty, social exclusion and patterns of deprivation under the terms of the Northern Ireland (St Andrews Agreement) Act 2006.⁹⁶

The following March, the Executive published its second Child Poverty Strategy, one of the last actions before the Assembly was suspended before the May 2016 election. Its aim was 'to

reduce the number of children in poverty and reduce the impact of poverty on children' and focused on four high-level outcomes:

- Families experience economic wellbeing.
- Children in poverty learn and achieve.
- Children in poverty are healthy. and
- Children in poverty live in safe, secure and stable environments.⁹⁷

While many of the actions contained in the Strategy were out of date when it was published, it was useful in indicating the range of actions being taken by statutory agencies to mitigate child poverty.

Annual child poverty reports were published to track progress against the four outcomes, using a set of indicators.⁹⁸ They outlined how departments and agencies were seeking to target many actions at children and families in poverty, and used the report card approach to assess impact. These were extensive reports; however, not all actions indicated how they were targeting child poverty rather than disadvantage more generally, and it was difficult to identify which, if any, of the actions were contributing to lifting children out of poverty. While a new Child Poverty Strategy should have been in place from 2019, the absence of an Executive from January 2017 prevented this from happening.

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 was not forthcoming over the period Northern Ireland was without a government. The NDNA document included commitments to both an Anti-Poverty Strategy and a Child Poverty

⁹⁶ 2015 NIQB 59 (judiciaryni.uk)

⁹⁷ NI Executive, 2016, [Delivering Social Change: The Executive's Child Poverty Strategy](#).

⁹⁸ For example: DfC (2021), [Child Poverty Annual Report 2020/21](#).

Strategy.⁹⁹ In September 2020, the Minister for Communities announced that the 2016 Child Poverty Strategy would be extended to 2022 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.¹⁰⁰

The Commissioner provided clear advice to the Minister that, while it was important to focus on eradicating child poverty, this could only be delivered by ensuring that families had sufficient income to provide for the needs of their children. For this reason, NICCY advised that child poverty should be addressed through a general Anti-Poverty Strategy that focused on increasing the incomes of people in poverty rather than mitigating the impacts of poverty on their lives. Our second SOCRNI report recommended:

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.

In October 2020, Minister for Communities Deirdre Hargey appointed an Expert Panel to prepare a report setting out recommendations for actions to be included in a new Anti-Poverty Strategy and the following month appointed a Co-Design Group of 27 civic society organisations to support the development of the draft Strategy.¹⁰¹ NICCY participated in the Co-Design Group. Over the following 12 months, the Co-Design Group met several times to review the proposals of the expert panel

and to advise on the design of the Strategy. In February 2022 the Group drafted proposals for a strategy and subsequently presented this to the Minister for Communities and then at a meeting all Executive Ministers had been invited to attend. These proposals included a focus on ensuring accountability for the delivery of the Strategy through a Poverty Act and Commission and actions to address poverty at each stage in the lifecycle, including for children and young people.

The progress in the development of the Strategy has been disappointing, particularly now there is no Executive in place. Work must continue on drafting this so that it is ready for the Executive to consider and consult on as soon as it is re-established.

Building Public Awareness of Child Poverty

In addition to providing advice to the government concerning reducing child poverty, NICCY has also sought to raise public awareness of the impact of poverty on children's lives and to build support for government action on this matter.

In 2016, we commissioned public awareness research that found people generally were not aware of the levels of child poverty in Northern Ireland but overwhelmingly believed that action should be taken to address it (97% agreed).¹⁰² We subsequently worked with other organisations to raise awareness of child poverty and its causes, most recently concerning the need for a new £20 weekly child payment for each child in poverty as a key deliverable in the forthcoming Anti-Poverty Strategy.

We also commissioned research into the costs of education to parents in 2017, including concerning school uniforms, travel, meals,

99 Op cit, NI Executive 2020, NDNA.

100 [Minster announces extension to Child Poverty Strategy | Department for Communities \(communities-ni.gov.uk\)](#)

101 [Anti-Poverty Strategy co-design group - terms of reference | Department for Communities \(communities-ni.gov.uk\)](#)

102 NICCY 2017, [Child Poverty Briefing](#).

equipment and activities, and have continued to engage with the public on these matters to raise support for a 'free school day'.¹⁰³

COVID Pandemic

In our SOCRNI 2, we said that government should act to prioritise the eradication of child poverty by *'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'*.

While the pandemic had a severe impact on the economy, and severe restrictions on working were imposed, the overall poverty rate for 2020-21 remained steady from the previous year. This was a result of significant UK government interventions in the form of a Coronavirus Job Retention Scheme, a Self-Employed Income Support Scheme and a £20 weekly top-up to the standard UC allowance. In addition, the Minister for Communities extended the existing mitigation package beyond the 'cliff edge' at the end of March 2020 so that payment continued to people who would have otherwise been entitled to a Welfare Supplementary Payment as set out in the previous scheme.¹⁰⁴

It has not been possible to determine how child poverty has been affected by the pandemic, as the last available figures for child poverty precede it. The pandemic affected the 2020-21 Family Resources Survey fieldwork, with the result that the sample obtained was not sufficient to disaggregate for children.

Assessment of Government Response

As outlined at the start of this chapter, the rate of child poverty has stayed fairly consistent over the past eight years, and indeed over the last 20 years. Over this time, Child Poverty Strategies have been in place and annual reports have outlined actions taken to address child poverty, and yet there has been no sustained reduction in child poverty. Where action has undoubtedly made a difference concerns the Welfare Reform Mitigations, as the bedroom tax and benefit cap would have impacted many families with children. In addition, it is likely the £20 per week 'lifeline' payment during the COVID pandemic would have helped to lift some families over the poverty threshold, although other families may have experienced a drop in their incomes. Without an adequate Family Resources Survey sample size, it is not possible to determine how child poverty was affected by COVID.

The Commissioner has been disappointed by the lack of progress in tackling child poverty. While processes have been put in place since the NDNA in terms of a review of the mitigation package and the development of an Anti-Poverty Strategy, neither of these has been delivered. Even when an Executive was in place, there appeared to be a lack of cohesion across the government in terms of prioritising action to end child poverty.

Given the escalating cost of living crisis, where it has been predicted that 76% of households in Northern Ireland will be in fuel poverty by January 2023,¹⁰⁵ it is critical that the Anti-Poverty Strategy is taken forward with urgency, and that the Executive is re-established to agree

103 NICCY 2017, *A 'Free Education?' The Cost of Education in Northern Ireland*.

104 NICCY published a report in August 2021 providing a comprehensive review of how children's rights were affected by Covid: NICCY (2021), *A New and Better Normal: The Experiences and Impacts of COVID-19 on Children and Young People* report

105 <https://jonathanbradshaw.blogspot.com/2022/08/estimates-of-fuel-poverty-10-august.html>

to it. While decisive action is required to support the poorest families to weather this crisis in the short term, these actions must sit within a longer-term strategy to lift families out of poverty. This will require child poverty to be prioritised by the Executive and significant funding to be allocated.

Calls to Government

The government must act to prioritise the eradication of child poverty:

1. Take action to support low-income families through the cost-of-living crisis, including payments to help cover the rising costs of fuel.
2. Adapt 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. an expanded payment for low-income families with young children, based on the Scottish government's Best Start Grant.
3. Transform 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.
4. Develop and implement the 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 children, working-age adults, and pensioners. Actions relating to children should include introducing a new £20 weekly child payment for each child in poverty, affordable childcare, and reducing the costs of education and travel.



3.4 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.”¹⁰⁶

Child Rights Context

A wide range of UNCRC articles addresses safeguarding and, together, these provide a full and integrated set of rights to protect children from all forms of harm and violence and ensure that they are afforded access to redress and recovery.

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 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.

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;
- (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 18 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.

The Committee's 2016 Concluding Observations made a wide range of recommendations that the UK and devolved governments need to act on 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 (or 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.

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;
- (e) Consider ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence.

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

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;
- (f) Consider ratifying the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

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 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;
- (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.

Implementation of Children's Rights

As NICCY has previously highlighted, 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: the rights to life and protection from harm, abuse and violence. There is a weighty obligation on the government to ensure that children's rights and best interests are fully realised across these areas.

On 31 March 2021, 23,095 children in Northern Ireland were known to social care services as a child in need and 2,298 children were placed on the Child Protection Register.¹⁰⁷ Across the UK, Northern Ireland continues to have the highest rate per 10,000 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 also important to remember that many more children not placed on the Register live in homes affected by domestic abuse and other forms of

¹⁰⁷ DoH (2021) Children's Social Care Statistics for Northern Ireland 2020/21. Available at: <https://www.health-ni.gov.uk/publications/childrens-social-care-statistics-northern-ireland-202021>

violence and/or in households where parental alcohol and substance use or parental mental ill health may be a significant factor.

As government and statutory agencies sought to respond to and rebuild from the COVID-19 pandemic, it was vital that children at risk of abuse and exploitation were safeguarded and that the services and professionals who hold these statutory obligations were able to discharge them effectively. Indeed, in April 2020 the UN Committee on the Rights of the Child highlighted that during the pandemic, governments must define “core child protection services as essential and ensure that they remain functioning and available, including home visits when necessary...”¹⁰⁸ While acknowledging the importance of addressing the public health crisis as swiftly as possible, NICCY has highlighted that, in line with human rights standards, any modification or dilution of protection standards for children must be only as a last resort, for the shortest time possible and be subject to robust reporting and scrutiny.¹⁰⁹

The importance of maintaining a focus on safeguarding recognises the potential risk from increased confinement to home for children during lockdowns where home was not a place of safety and when contact with professionals and organisations, including schools, youth groups and health services, was significantly reduced. At times, the invisibility of vulnerable children was illustrated in official statistics with rates for general and child protection referrals

becoming more variable, with significant drops during periods of fuller lockdown.¹¹⁰ We note, however, that in response to this, officials sought to encourage public awareness and reporting of child protection concerns. Concerning published figures, we also note that the numbers of children placed on the Child Protection Register during this period were not subject to a similar pattern of significant variation while figures for children placed in care show numbers have continued to rise in a trend that has become well established in recent years, with a 41% increase in children in care in the last decade and 3,530 children in care as of 31 March 2021.¹¹¹ During the pandemic period, NICCY has also been mindful of the impact of workforce absences and redeployment on the capacity and stability of children’s social care services and is acutely aware that concerns regarding staffing levels continue.

As part of its pandemic response, the Northern Ireland Executive brought forward a Vulnerable Children and Young People Plan²⁶ that sought to embed a cross-departmental and multiagency approach to children who were particularly vulnerable to the impact of COVID-19. While NICCY welcomed the Plan’s broad definition of children who may be vulnerable and the close contact between the DoH, the Health and Social Care Board and Trusts throughout this period, there were concerns about the effectiveness of the approach and, due to the lack of detail provided on actions and outcomes,

108 UN Committee on the Rights of the Child (2020) *Statement on Impacts of COVID Pandemic on Children and Young People*. Available at: www.tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CRC/STA/9095&Lang=en

109 NICCY (2020) (2021) https://www.niccy.org/media/3846/niccy-letter-eilis-mcdaniel-doh-draft-childrens-social-care-coronav_-4-may-21.pdf
www.niccy.org/media/3847/niccy-doh-letter-csc-regs-extension-final-22-april-21.pdf

110 DoH (2021) www.health-ni.gov.uk/sites/default/files/publications/health/ni-childrens-figures-during-covid-19-28-04-2021.pdf

111 DoH (2021) Children’s Social Care Statistics for Northern Ireland 2020/21. Available at: <https://www.health-ni.gov.uk/publications/childrens-social-care-statistics-northern-ireland-202021>

NICCY concluded that it could not provide a full assessment of the Plan.¹¹² The DoH has indicated that delivery for vulnerable children and young people, including concerning needs created or exacerbated by COVID-19, will be taken forward through the development and implementation of other strategies, such as the CYPs and the Anti-Poverty Strategy. However, NICCY is not aware of information to date outlining how this work has been informed by learning from the Vulnerable Children and Young People's Plan. We note that the current Independent Review of Children's Social Care Services¹¹³ commissioned by the Department may be in a position to consider some of these concerns but that, more widely, it is vital that learning from the pandemic supports work across government to build more resilient and adaptable services that better support and safeguard children in what continue to be challenging times.

NICCY's Actions to Safeguard and Promote Children's Rights

COVID-19

Following on from the above discussion, the Commissioner had ongoing engagement with the DoH concerning The Children's Social Care (Coronavirus) (Temporary Modifications) Regulations (Northern Ireland) 2020, which introduced a wide range of emergency provisions during COVID-19. Measures included permitting visits to look after children by social workers and visits to children's homes by registered providers to be undertaken virtually, extending timeframes for undertaking children's care reviews and pathways plans, modifying vetting procedures, and extending timeframes for emergency and immediate placements.



As part of this engagement, officials provided the office with monitoring data concerning the implementation of the Regulations, and NICCY provided advice to both the Department and the Assembly Health Committee, highlighting particular concerns about variation and inconsistency in the application of the measures across different settings and HSC Trusts and the adverse impact of a lack of face-to-face contact on children, drawing attention to the deeply personal and difficult effect this had, as described by young people who spoke to NICCY as part of our work on *A New and Better Normal: Children and Young People's Experiences of the COVID-19 Pandemic*.¹¹⁴ Following this, the Commissioner warmly welcomed the Department's commitment to then undertake further direct consultation with

112 NICCY (2020) <https://www.niccy.org/media/3689/niccy-response-doh-consultation-on-cross-departmental-covid-19-vulnerable-children-young-peoples-plan-11-nov-20.pdf>

113 Independent Review of Children's Social Care Services in Northern Ireland: <https://www.cscsreviewni.net/>

114 NICCY (2021) *A New and Better Normal: Children and Young People's Experiences of the Covid-19 Pandemic*. Available at: <https://www.niccy.org/media/3882/niccy-covid-report-main-report-final-aug-21.pdf>

young people and carers on the impact of the Regulations and the subsequent decision not to further extend the measures as had been planned.

Child Victims of Sexual Abuse

SOCRNI 2 outlined how NICCY's work in this area has developed, moving from a focus on reviewing and monitoring government implementation of the recommendations of the Independent Inquiry into Child Sexual Exploitation (CSE) in Northern Ireland¹¹⁵ to a wider concern regarding how safeguarding, criminal justice and other systems respond to children and young people affected by all forms of sexual abuse. In considering the Commissioner's work on CSE, it is important to note that NICCY's repeated analysis of CSE Progress Reports from the Departments of Health, Education and Justice concluded that these did not provide clear evidence that actions taken by the government had improved outcomes for children who were at risk of or been subject to CSE or improved outcomes in the pursuit and prosecution of perpetrators.¹¹⁶ Departments moved away from the publication of Progress Reports to instead integrate this work into the activity of the Senior Officials Group on Child Protection, which is led by the DoH. The last CSE Progress Reports were published in 2018, and while NICCY had understood that annual reports on the work of the Senior Officials Group, including on CSE, would be released, to date these have not been received.

Also in 2018, The Right Honourable Sir John Gillen undertook a review of law and procedures in cases of serious sexual offences and NICCY's advice to the review recommended that the introduction of the Barnahus model to Northern Ireland be considered.¹¹⁷ The Barnahus or Child House model, which was first established in Iceland and now operates in many European countries, seeks to ensure a child-centred response to victims of child sexual abuse by providing child protection and medical, therapeutic and criminal justice processes within a single child-friendly location at which support to children is provided both at the immediate point of disclosure or reporting and over the long term.¹¹⁸ Importantly, the model has also been identified as supporting the implementation of the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse,¹¹⁹ which was ratified by the UK government in 2018.

In highlighting profound concerns about delays and failings for child victims in current arrangements in Northern Ireland, the Gillen Review recommended that urgent consideration should be given to the advantages of Barnahus and that the viability of the model be assessed.¹²⁰ NICCY's 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, provided a more detailed exploration of the model.¹²¹ Following on from this, NICCY's 2022 commissioned research *Putting the*

115 K. Marshall (2014) Child Sexual Exploitation in Northern Ireland: Report of the Independent Inquiry. Belfast: RQIA.

116 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/

117 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/

118 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

119 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Available at: <https://rm.coe.int/protection-of-children-against-sexual-exploitation-and-sexual-abuse/1680794e97>

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

121 NICCY (March 2019) Time for Change seminar. Available at: www.niccy.org/timeforchange

Child at the Centre, which engaged directly with a wide range of stakeholders from across justice, HSC and survivors of sexual abuse, documents the strong evidence regarding the benefits of the model to support children to give their best evidence, minimise re-traumatisation and promote recovery while meeting justice standards.¹²² The research also illustrates broad support for progressing the approach in Northern Ireland and sets out a clear pathway for making Barnahus a reality for child victims.



The Commissioner launched the research at a roundtable on 24 February 2022 attended by Sir John Gillen, Bragi Guðbrandsson, the Minister of Health, the Minister for Justice, Her Honour Judge Smyth and the Office of the Lady Chief Justice, who all warmly welcomed

the report. The Ministers committed to further assessing how Barnahus could be delivered. Throughout this period, NICCY has engaged with the Department of Justice (DoJ), which is leading the Gillen Implementation Plan, and while we acknowledge the range of related initiatives currently underway, such as those that work on remote evidence centres and the Voluntary Protocol for cases involving victims under 13 years, we highlight that only a full system reform through Barnahus will properly meet the needs of child victims of sexual abuse and provide a higher standard of justice for all involved in such cases.

Safeguarding Legislation

During the previous Northern Ireland Assembly mandate, a wide range of legislation that sought to improve how children are safeguarded in law was introduced, and NICCY provided detailed evidence on the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021, the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 and the Adoption and Children Act (Northern Ireland) 2022.¹²³

While each piece of legislation addressed particular forms of abuse or offences and was concerned with distinct areas of law, a common theme in NICCY's evidence was the need for the law in Northern Ireland to more effectively protect all children up to the age of 18, as required by the UNCRC and a range of other instruments, including the Council of Europe Convention the Protection of Children against Sexual Exploitation and Sexual Abuse. The UN Committee on the Rights of the Child is instructive in reminding governments that all children aged up to 18 years are considered vulnerable until completing their neural, psychological, social and physical growth and

¹²² <https://www.niccy.org/about-us/our-current-work/high-level-corporate-objectives/children-s-right-to-health-protection-from-violence-or-abuse/a-barnahus-model-for-ni>

¹²³ NICCY's advice papers are available at:
www.niccy.org/publications/2020/june/04/domestic-abuse-and-family-proceedings-bill/
www.niccy.org/publications/2021/september/24/justice-sexual-offences-and-trafficking-victims-bill/
www.niccy.org/media/4022/niccy-acb-oral-evidence-9th-dec-21.pdf

development.¹²⁴ The Committee highlights the requirement that, while respecting children's developing autonomy, young people under 18 must be afforded robust safeguards and emphasises that as children become older, their "right to exercise increasing levels of responsibilities does not obviate the State's obligation to guarantee protection" to them as they mature.¹²⁵

In 2014, the Committee concluded that the Sexual Offences (Northern Ireland) Order 2008 did not provide adequate levels of protection for all children up to the age of 18 and that the defence of reasonable belief should be amended¹²⁶. These concerns were reiterated by the Independent Inquiry into CSE in Northern Ireland,¹²⁷ and it is deeply disappointing that opportunities to address these and other issues were not taken in the last Northern Ireland Assembly mandate. As highlighted in NICCY's evidence, examples of this can be seen in failings to extend legal protections from grooming for all children up to 18, to ensure that abduction offences apply to all children under 18 regardless of their care status, to extend abuse of positions of trust provisions to adults working or volunteering with children in all appropriate settings and positions, to reform the defence of reasonable belief, and to ensure that domestic abuse offences apply to all children up to 18 regardless of whether the abuser holds parental responsibility.

NICCY Casework Example

Molly was a child who did not live with either of her parents. She had contact with her parents separately at different times. Molly's mother, Maria, became aware that persons potentially dangerous to Molly were attending the home of Molly's father, Lewis. Maria had notified social services, who took a view that there was no risk to Molly because Lewis was not allowing those people to stay overnight in his home. The social services caseworker had not been aware that Lewis was allowing such people to stay overnight in his home. Protracted engagement with the caseworker was needed before they gave explicit direction to Lewis regarding these matters.

Assessment of Government Response

In SOCRNI 2, written as the COVID-19 pandemic was unfolding, NICCY called on the government to ensure that all children are safe and protected from harm by:

1. Undertaking 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.

124 Committee on the Rights of the Child (2016) General Comment 20: On the implementation of the rights of the child during adolescence. Available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=1

125 Committee on the Rights of the Child (2016) General Comment 20: On the implementation of the rights of the child during adolescence, para 19.

126 Committee on the Rights of the Child (2014) Concluding observations on the UK report on the Optional Protocol on the Rights of the Child on the sale of children, child prostitution and child pornography.
Committee on the Rights of the Child (2016) Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, para 82.

127 K. Marshall (2014) Child Sexual Exploitation in Northern Ireland: Report of the Independent Inquiry. Belfast: RQIA.

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.

While recognising the unprecedented challenges that government and statutory agencies have been required to address in recent times and acknowledging that there has been some progress in each area, NICCY is again disappointed that government action to secure children's rights across the Commissioner's recommendations has not been more effectively secured. Concerns about ensuring that learning from the impact of the pandemic on safeguarding is being embedded and the lack of firm commitment to take forward the Barnahus model have already been explored, and these areas and making sure that safeguarding legislation in Northern Ireland properly protects all children up to 18 will be reflected in the NICCY's new recommendations.

Child Death Review

In considering action by the government to address the previous recommendation on establishing a statutory child death review process, we note with concern that this is still not operational in Northern Ireland. NICCY welcomed the clear direction given by the DoH to the Safeguarding Board for Northern Ireland in 2020, requesting that work to establish a child death review process and Child Death Overview Panel be undertaken. While there

has been some encouraging engagement with the Commissioner on these developments, NICCY remains concerned that this has not yet resulted in the establishment of a statutory multiagency review process or any formal plans to do so. We again highlight the urgent need to commence Section 3(5) of the Safeguarding Board Act (Northern Ireland) 2011 to ensure that the statutory process envisaged and agreed upon by the then Minister and elected representatives over ten years ago is put in place to ensure we are learning lessons from child deaths. In addition to the Commissioner's calls for progress in this area, the Royal College for Paediatricians and Child Health Professionals has also repeatedly stated that a child death review should be established in Northern Ireland,¹²⁸ and the Inquiry into Hyponatraemia-Related Deaths recommended that the merits of introducing a child death overview panel should be reviewed.¹²⁹

NICCY has previously noted that approximately 150 children and young people die every year in Northern Ireland¹³⁰ and that the jurisdiction has the highest rate of avoidable child deaths in the UK, with this trend sadly continuing.¹³¹ It is a tragedy when any child dies and it places a grave responsibility upon government and statutory agencies to learn from each death 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 it should be established in Northern Ireland without further delay.

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

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

130 NISRA (2022) Death Statistics: Deaths by Age 1955-2020. Available at: <https://www.nisra.gov.uk/publications/death-statistics>

131 ONS (2021) Avoidable mortality in the UK: 2019. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/causesofdeath/bulletins/avoidablemortalityinenglandandwales/2019>

Calls to Government

The government must ensure that all children are safe and protected from harm:

1. Ensure that learning from the impact of the COVID-19 pandemic on safeguarding arrangements and protections for children and young people directly informs the rebuilding and reform of services.
2. Commence with urgency a statutory multiagency child death review process.
3. Implement the Barnahus model for all child victims of sexual offences.
4. Review all relevant safeguarding legislation to ensure that children up to the age of 18 are properly protected in law from all forms of abuse and harm.





3.5 LEGACY OF THE CONFLICT

Child Rights Context

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.

Article 37 of the UNCRC states that:

Children must not be tortured, sentenced to the death penalty or suffer other cruel or degrading treatment or punishment. Children should be arrested, detained or imprisoned only as a last resort and for the shortest time possible. They must be treated with respect and care, and be able to keep

in contact with their family. Children must not be put in prison with adults.

In 2016, the UN Committee on the Rights of the Child expressed concern 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.” In its Concluding Observations, the Committee advised concerning Northern Ireland the State should:

“Strengthen data collection and recording in relation to violence, abuse and neglect; increase the number of social workers and strengthen their capacity to address violence against children; 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; to ensure the recommendations of the Independent Inquiry into Child Sexual Exploitation are implemented; and to further develop comprehensive support services for children who are at risk of or have been subject to violence, abuse and exploitation.”¹³²

Furthermore, the UN Committee on the Convention Against Torture expressed concerns in its 2019 Concluding Observations to the UK government about the continued exposure of children to paramilitarism through ‘punishment’ and recruitment.¹³³

Context

The legacy of the conflict adversely affects children and young people in Northern Ireland through social division, segregated housing and education, sectarianism, and ongoing paramilitary violence. In communities disproportionately impacted by the conflict and its legacy, high rates of child poverty, socioeconomic deprivation, low investment

132 UN Committee on the Rights of the Child (2016) Concluding Observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland.

133 UNCAT Concluding Observations, 2019, para. 42 CAT/C/GBR/CO/6(2019)

and educational under-attainment create particular conditions of vulnerability and detrimentally affect children's life chances. More recently, recognition of the consequences of transgenerational trauma for children and young people in Northern Ireland has been increasing, whereby children's poor psychological health may result, in part, from the consequences of the trauma experienced by their parents.¹³⁴ Research by Cummings et al. (2011) found sectarian violence to be strongly associated with heightened rates of family conflict, in turn, impacting a child's adjustment and emotional security.¹³⁵ A study by O'Neill et al. (2015) found a significant relationship between patterns of parental psychopathology, aggressive parenting behaviours and experiences of conflict-related trauma in Northern Ireland. Accordingly, the investment of resources for parents with trauma-related mental disorders is needed to help them overcome the consequences of both their childhood and conflict traumas and to mitigate their adoption of maladaptive parenting practices with their children.¹³⁶ Importantly, McAllister et al. (2021), in *'It Didn't End in 1998'*, emphasised that mental health responses alone will not resolve the impacts of conflict legacy on the health and wellbeing of current or future generations of young people. Wider economic, social and political responses are also required to address conflict-related issues that include segregation, ongoing paramilitarism and historical under-investment.¹³⁷

The presence of paramilitary-style groups in certain communities is an ongoing legacy of the conflict. NICCY is deeply concerned about the harm these organised groups inflict on children and young people, through intimidation, abuse, exploitation and coercive control. Unfortunately, due to gaps in data, the specific nature, scale and impact of paramilitary activity on children and young people in certain communities are not fully clear. In a recent study, the Youth Wellbeing Prevalence Survey 2020, two in five young people reported that paramilitary groups create fear and intimidation in their area, with more than half agreeing or strongly agreeing that paramilitary groups contribute to crime, drug dealing and anti-social behaviour in their area.¹³⁸ Research commissioned by the Commission for Victims and Survivors NI, *It Didn't End in 1998*, reported that 'intimidation, abuse and exploitation of children by paramilitary-style groups remains a reality' in Northern Ireland and called for prompt, effective investigation and prosecution of perpetrators of violence against children.¹³⁹

NICCY's Actions

In NICCY's advice to the government, we have raised a range of concerns about young people's safety related to:

- threats of and actual assaults
- threats to life if children do not leave specified areas or comply with stated requests

134 Hanna D., Dempster M., Dyer K., Lyons E., Devaney L. (2012) [Young people's Transgenerational Issues in Northern Ireland, Commission for Victims and Survivors Northern Ireland.](#)

135 Cummings, E. M., Merrilees, C. E., Schermerhorn, A. C., Goeke-Morey, M. C., Shirlow, P., & Cairns, E. (2011). Longitudinal pathways between political violence and child adjustment: The role of emotional security about the community in Northern Ireland. *Journal of Abnormal Child Psychology*, 39(2), 213-224.

136 O'Neill, S., Armour, C., Bolton, D., Bunting, B., Corry, C., Devine, B., et al. (2015). *Towards a better future: the trans-generational impact of the Troubles on mental health.* Belfast: The Commission for Victims and Survivors, Ulster University, March 2015.

137 McCallister S., Corr M., Dwyer C., Drummond O. & Fargas-Malet, M. (2021) ['It Didn't End in 1998' Examining the Impacts of Conflict Legacy Across Generations, Commission for Victims and Survivors NI.](#)

138 Bunting L., McCartan C., Davidson G., Grant A., McBride O., Mullholland C., Murphy J., Schubotz D., Cameron J. & Shevlin M. (2020) [The Mental Health and Children and Parents in Northern Ireland: Results of the Youth Wellbeing Prevalence Survey, Health and Social Care Board.](#)

139 McAllister et al. (2021) *'It Didn't End in 1998'*.

- the exploitation of young people concerning the development of debts and the challenges young people face in removing themselves from such debts
- exploitation into criminal activities such as drug distribution and supply
- involvement in the intimidation of or harm to others
- involvement of children in public order offences, violent protests and civil unrest
- young people being recruited into or claimed by paramilitary or criminal groups

We highlighted the need for an effective programme to tackle paramilitarism, which must have at its core an urgent response to the realities of young people's lives, lives that are characterised by financial struggles, poor mental health, housing insecurities, a sense of hopelessness concerning education and employment opportunities, and an overwhelming sense that they are not part of a community or a country emerging from political conflict.

NICCY had also brought together statutory and community stakeholders to address assaults on children and young people within particular areas and has repeatedly called for a unified strategic child protection response to protect children from harm, including abuse, violence, criminal coercion and exploitation by organised gangs and groups. This strategic response must be embedded in a safeguarding approach and children in need processes and proactively seek to:

1. **Raise awareness of child abuse and exploitation in this context and build confidence in the role of statutory agencies to support and protect children, families and communities.**
2. **Prevent harm to and abuse of children and young people through sustained activity to reduce community vulnerability to violence and exploitation, including those actions set out in the Action Plan on Tackling Paramilitary Activity, Criminality and Organised Crime.**
3. **Protect and intervene where children are abused and exploited, ensuring that robust safeguarding procedures are in place and agencies are working together to protect children and support their recovery. This will require the ongoing involvement of children's social care in all aspects of the strategic response and the review of key guidance and procedures, including Co-operating to Safeguard Children and Young People and Working Arrangements for the Welfare and Safeguarding and Trafficking and Modern Slavery procedures to make sure that consistent definitions and agreed referral and response pathways to all forms of harm, including criminal exploitation, are in place.**
4. **Pursue those who seek to harm, abuse and exploit children through effective identification, disruption, investigation and prosecution of offenders. This will require the review of available criminal offences and arrangements to assess where these approaches to investigation and prosecution may need to be strengthened.**

Progress Made

A Fresh Start

In 2015, A Fresh Start, The Stormont Agreement and Implementation Plan (the Fresh Start Agreement) set out the government's goal to end paramilitarism and associated criminality, and its commitment to developing a strategy to disband paramilitary groups. It also set up the independent three-person Fresh Start Agreement panel to make recommendations on the disbandment of paramilitary groups. The NI Executive Plan on Tackling Paramilitary Activity, Criminality and Organised Crime (the Plan) was published in June 2016 and contained 43 commitments in response to the panel's recommendations, across four key areas: promoting lawfulness, support for transition, tackling criminality and addressing systemic issues.¹⁴⁰

140 Northern Ireland Executive (2016) *Tackling Paramilitary Activity, Criminality and Organised Crime, Executive Action Plan*.

Monitoring the progress of the Plan's implementation is undertaken by The Independent Reporting Commission (IRC), which has emphasised the need for a twin-track approach to tackling paramilitarism: a policing and justice response coupled with the sustained tackling of the systemic, socioeconomic issues facing the communities where paramilitaries operate. They have further highlighted the transformation in educational under-attainment experienced by children and young people in deprived communities as one of the most significant contributors to ensuring a Northern Ireland sustainably free of paramilitarism.¹⁴¹ More broadly, they have also recommended a standalone outcome to tackle paramilitarism in Assembly Mandate 2022-2027.¹⁴²

After four years of delivery, an Interim Review of the Tackling Paramilitarism, Organised Crime and Criminality Plan was published in 2021.¹⁴³ The Interim Review reflected on the delivery of the Plan so far and identified areas for further progress. NICCY is disappointed that the absence of a functioning Executive, as the key driver for impetus and direction for the Action Plan, was highlighted as significantly undermining its implementation. However, we acknowledge some areas of progress, including new data on attitudes towards criminality and paramilitarism, through the commissioning of a new module in the Northern Ireland Life and Times and the Young Life and Times surveys. The Interim Review also highlighted an overall downward trend in the number of paramilitary-style attacks since 2016/17, although an increase of two attacks in 2019/20 on the previous year suggests that caution is needed in interpreting this as indicative of a long-term downward trend.

NICCY also welcomes the Interim Review's findings that there have been significant changes in how young people are supported to avoid and be resilient to paramilitary influence, through work led by the EA and undertaken in close partnership with the voluntary and community sector and the Police Service of Northern Ireland (PSNI).

Going forward, the Review identified the need for an enhanced approach to support for vulnerable young people and family-based interventions for young people at risk of paramilitary involvement and harm. NICCY will continue to monitor progress in the delivery of support and interventions in this area and their impact on the lives of vulnerable children and young people.

Educating Children About the Conflict

In our 2020 Statement, NICCY called for actions to make wider and earlier use of the whole school curriculum to promote tolerance and mutual understanding of community identities. Related to this, we highlighted the limited opportunities provided to pupils to learn about and discuss the Northern Ireland conflict within schools. NICCY is disappointed that there has been little progress in this area. While studies undertaken in Northern Ireland confirm that pupils want to study the history of the conflict, the evidence shows that learning about the conflict in school can be 'selective, partial, lacking in depth or absent'.¹⁴⁴ NICCY acknowledges opportunities in the curriculum at the secondary level to teach young people about the history of the conflict. However, we are concerned that flexibility in the curriculum, coupled with a lack of support and training for teachers to deliver what may be considered

¹⁴¹ Independent Reporting Commission Second Report - October 2019

¹⁴² [https://www.ircommission.org/sites/irc/files/media-files/IRC Third Report.pdf](https://www.ircommission.org/sites/irc/files/media-files/IRC%20Third%20Report.pdf) Independent Reporting Commission Third Report - November 2020

¹⁴³ [tackling-paramilitary-term-review-proposed.pdf](https://www.justice-ni.gov.uk/tackling-paramilitary-term-review-proposed.pdf) (justice-ni.gov.uk)

¹⁴⁴ McAllister, S., p. 128.

a challenging and 'controversial' topic, has and will continue to undermine its delivery in schools.

Building a Peaceful Future

NICCY acknowledges that a range of policies and programmes have been aimed at addressing sectarianism and improving community relations in Northern Ireland. A current example is the Uniting Communities programme that is being delivered as part of the Executive's Together: Building a United

Community (T:BUC) Strategy. The programme aims to enhance good relations, improve individual and community development and tackle disadvantages through engagement with young people aged 11-24 years through cross-community sports and creative activities. NICCY welcomes programmes to date but considers that these must be delivered in combination with longer-term strategic approaches aimed at tackling the structural disadvantage and material deprivation experienced by young people living in the most disadvantaged areas.

Calls to Government

NICCY strongly considers that legacy issues impacting children and young people in Northern Ireland cannot be addressed through a single action plan. It must be the responsibility of every children's service to address conflict legacy issues, including the impact of paramilitary-style criminal gangs, in partnership with communities, families and children themselves. This can only be achieved by taking a children's rights approach.

The government should continue to address the legacy of the conflict:

1. Ensure the full and effective protection of children and young people from criminal coercion and exploitation, trauma, violence or mistreatment in their communities, including from all forms of violence by non-State forces and recruitment by such forces.
2. Where it is suspected or proven that a child is at risk of abuse or exploitation from a criminal gang or paramilitary organization, children's social care services should be immediately informed and the relevant safeguarding measures and processes initiated.
3. Address 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 to achieve a shared narrative about the conflict.
4. Make wider and earlier use of the whole school curriculum to promote tolerance and a mutual understanding of community identities. Make efforts 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.
5. Support 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.



3.6 YOUTH JUSTICE

Context

When Justice was devolved in 2009, there was optimism that NI could demonstrate that a child's rights-compliant criminal justice system was a realistic goal. Work had begun in 1998 to embed a welfare approach to children involved with the criminal justice system. The Review of the Youth Justice System in NI 2011¹⁴⁵ and its 31 recommendations provided a roadmap for the reform required in NI and work began on implementation. In 2015, the Criminal Justice Inspectorate NI optimistically found that 59% of the recommendations had been achieved. Tracing the Review 2021¹⁴⁶ (commissioned by four NGOs) outlines the areas where its recommendations were not progressed and work is still to be done.

The extent to which the Review 2021 was implemented is a source of debate, but 11 years later, the lack of effective implementation of the most significant recommendations reflects a catalogue of missed opportunities and half-hearted efforts.

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 recognises and responds to their individual needs. The work undertaken across many agencies in NI has raised awareness of the impact of childhood trauma on children, young people and their families. Embedding knowledge of ACES across the system should inform how strategic decisions are made concerning all children and young people, including those in the justice system. Such an approach is more likely to reduce offending

and re-offending by children¹⁴⁷ and requires a further move away from viewing them through the prism of victim and offender.

The absence of the NI Executive between 2017 and 2020 and the COVID-19 pandemic have thwarted progress on the fundamental issues raised in previous SOCRNI reports and those by others, including NGOs and international human rights bodies.

In 2020/21, the Youth Justice Agency (YJA) worked with 1137 young people. A total of 160 young people were held in Woodlands Juvenile Justice Centre (JJC), the custodial centre for children in NI, and there were 1712 referrals of 977 individual young people to community-based youth justice services. Three-quarters (78%) of all young people involved with the youth justice community services and 91% in custody were males.¹⁴⁸

In March 2022, the DoJ published the Strategic Framework for Youth Justice¹⁴⁹ (SFTJ), which helpfully sets the strategic direction for the system and specifically the YJA. NICCY engaged with the DoJ in the development of the framework and is broadly supportive of large parts of it, but it is of some regret that the YJA insists on increasing its involvement in early intervention and diversion. This will be discussed in further detail below.

In November 2019, the UN Committee on the Rights of the Child published General Comment 24¹⁵⁰ on Children's Rights in the Child Justice System, which along with the UNCRC and Concluding Observations 2016 are the benchmarks used for this assessment.

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

146 https://pureadmin.qub.ac.uk/ws/portalfiles/portal/263877347/TRACING_THE_REVIEW_PDF.pdf

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

148 <https://www.justice-ni.gov.uk/publications/r-s-bulletin-northern-ireland-youth-justice-agency-annual-workload-statistics-202021>

149 <https://www.justice-ni.gov.uk/publications/strategic-framework-youth-justice>

150 www.ohchr.org/Documents/HRBodies/CRC/GC24/GeneralComment24.pdf

Best Interests

- 26 (a) Ensure that this right is appropriately integrated and consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions as well as in all policies, programmes and projects that are relevant to and have an impact on children;
- (b) Develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving it due weight as a primary consideration.¹⁵¹

The amendment in 2015 to the Justice (Northern Ireland) Act 2002 enshrining the best interests principle in the Youth Justice System is to be applauded. It is welcome that the system is increasingly recognising its obligation to the best interests of children and young people, including the YJA, which has included it as a principle in its aims and objectives. Recommendation 26(b) (above) is clear that there should be guidance and criteria to evidence the realisation of the best interests of the child. Yet seven years after the passing of the legislation in NI, this remains elusive, and the Youth Justice System remains unable to demonstrate effective implementation of the legislation.

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

37. (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.

It is deeply frustrating that there has been little progress in policy and practice on Stop and Search in the last decade except in data collection and reporting, which is to be welcome. However, how and whether the PSNI and NI Policing Board use that data to improve policy and practice must be questioned as there is no evidence that they do concerning children and young people. NICCY is aware that the PSNI are currently progressing a programme to support their officers in improving practice and improving information to young people and is waiting to see if this yields tangible outcomes.

The decline in the use of Stop and Search has continued although NI has among the highest numbers proportionate to the population when compared to forces in England and Wales. PSNI data show that 2,477 (11% of the total) young people were stopped, searched or questioned in 2021/22, mainly for the Police and Criminal Justice Act (PACE), and Misuse of Drugs and Firearms. Also, 71 (2.7%) young people were arrested. These remain among the lowest rates when compared with England and Wales. However, the figures rise to 23% for all

151 <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsKHO-j6VpDS%2F%2FJqg2Jxb9gncnUyUgbnutBweOlylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxi3uZ0bjQBOLNT-NvQ9fUIEOvA5LW0GL>

ages when other outcomes such as community resolution and fixed penalty notices are taken into account.¹⁵² It is unclear whether the PSNI or Northern Ireland Policing Board (NIPB) consider this a satisfactory outcome.

There has been no discernible progress on the fact that many young people continue to state that they feel “targeted and victimised”¹⁵³ through the use of Stop and Search. More than any other criminal justice agency, the PSNI appears to understand its duties to implement the rights of children but falls short in ensuring that words are turned into deeds. Every officer must understand how this translates to their routine engagement with children and young people. Ignoring the feedback of Independent Human Rights Institutions, NGOs and the Independent Reviewer of the Justice and Security Act¹⁵⁴ and, of course, young people can no longer be a tenable position for the PSNI to take when deciding how to exercise its extensive Stop and Search powers.

Experiences of Stop and Search shape the views of many young people and their peers and, in turn, will impact confidence in the PSNI if they are victims of crime in the future. This has been recognised by the High Court:

“Those involved in the creation and exercise of Stop and Search powers should not underestimate the potential for public harm in the event that the powers are used arbitrarily and excessively in respect of minors in terms of the effect it could have on confidence in and support for the PSNI”¹⁵⁵

NICCY continues to ask the same question it has for seven years: What is the purpose of Stop and Search operations and how is success measured? The PSNI previously named prevention and deterrence alongside supporting young people vulnerable to drug and alcohol misuse as other outcomes,¹⁵⁶ yet there remains scant evidence as to whether these aims are being achieved. It is accepted that measuring the effectiveness of deterrence and prevention is problematic, while other objectives including safeguarding, diversion, disrupting and detecting crime are not.

Little evidence remains that Stop and Search is an effective policing tool or that it is undertaken in a way that keeps communities safer or is in the best interests of the child.

Spit and Bite Guards

Article 37 states that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Following two years as a temporary measure, in June 2022 the PSNI decided to continue the use of Spit and Bite Guards (a breathable mesh hood placed over the head and face) as a permanent tactical option.

Between 1 March 2020 and 22 February 2022, there were 66 incidents (12.2% of the total) of spitting or biting involving a child.¹⁵⁷ Between 16th March 2020 and 15th June 2022, they were used on children 16 times (6.4% of all deployments).¹⁵⁸

152 https://www.psnipolice.uk/globalassets/inside-the-psni/our-statistics/stop-and-search-statistics/2021/q4/psni-stop-and-search-report-q4-2021_2022.pdf

153 https://pureadmin.qub.ac.uk/ws/portalfiles/portal/263877347/TRACING_THE_REVIEW_PDF.pdf

154 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882352/NI_ACT_2007_TWELFTH_REPORT__Web_Accessible.pdf

155 <https://www.judiciaryni.uk/judicial-decisions/2019-niqb-75>

156 www.thedetail.tv/articles/psni-urged-to-reconsider-use-of-stop-and-search-on-children

157 Letter to Commissioner from PSNI 25th Feb 2022

158 EQIA – Final Report, June 2022

It has been established that children who come into contact with the police are some of the most vulnerable in society, many having ACES or additional needs. Using a Spit and Bite Guard, therefore, poses the real risk of subsequent psychological damage.¹⁵⁹

There has been strong opposition and concern regarding the use of this method on children and young people, including from the Police Ombudsman, who stated:

“The use of Spit and Bite Guards on children and young persons should, in my view, be prohibited.”¹⁶⁰

NICCY believes that PSNI have worked to take into account children’s rights implications of the use of this tool. Accepting the differential impact on children and young people their EQIA states:

“..... that there is a potential differential/ adverse impact arising from the continued use of Spit and Bite Guards in a post-Coronavirus environment on children and young people as the impact of the use of the tactic on them may be greater than on other age group.”

In recognition of the above, PSNI have instructed officers that there will be a presumption that Spit and Bite Guards should not be used against children and young people. As mitigation, they also plan to improve their training (to include ACES), all incidents involving young people will be examined by senior officers, and all children will be referred to social services to ensure support and aftercare. Additionally, PSNI have committed to “continue to scrutinise the use of Spit and Bite Guards on children through a proposed performance accountability framework”.

It would be remiss of NICCY not to recognise the efforts made by PSNI to both minimise the use of Spit and Bite Guards and mitigate their

impact on children. However, the Commissioner does not believe that these measures go far enough nor that they will be effective. The presumption that they will not be used on children is too vague and leaves scope for routine use on children and young people. There is a considerable risk that the use of this method will add to young people’s belief that PSNI discriminate against them, treating them unfairly and disrespectfully.

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 an MACR of 14 years of age.

Regardless of all the evidence and rights standards, children are held to be criminally responsible at ten years of age in Northern Ireland, England and Wales.

159 CRAE (2019) *Children’s rights and policing: Spit-hoods and children’s rights*

160 <https://www.policeombudsman.org/Media-Releases/2021/Review-of-Spit-and-Bite-Guards-identifies-concerns>

It is welcome that the current Minister for Justice has consistently stated her belief that the MACR should be raised, a view shared by several NI legislators. However, efforts to progress this have been unsuccessful and NI continues to have the lowest age of most countries across Europe. It is therefore extremely welcome that at the beginning of October 2022 the Minister launched a 12-week consultation on raising MACR. This finally demonstrates the commitment of the DoJ to follow through on the intention that criminal justice legislation, policies and practice in Northern Ireland are trauma-informed and reflect our understanding of ACES.

Delay

General Comment 24 reminds State parties that delay in 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 Youth Justice Review (YJR) group, who described 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 opportunity¹⁶¹. Since that time, all opportunities have been squandered, with the DoJ preferring to direct their efforts to practice improvements. The latest available statistics indicate that despite these practice changes and fewer cases going through the youth court, there has been no sustainable improvement in

delays for youth justice cases.¹⁶² Additionally, young people continue to wait longer for the resolution of their cases than adults appearing in Magistrates’ courts.

The continued inability of the criminal justice system to address delay should be a source of concern and embarrassment for its leaders.

Early Intervention and Diversion

Article 40 (3) of the UNCRC calls on States Parties to promote measures for dealing with children in conflict with the law without resorting to judicial proceedings, whenever appropriate. In addition to avoiding stigmatisation, this approach has good results for children, is in the interests of public safety, and has proven to be more cost-effective.

General Comment expands by stating in paragraph 16 that:

“Diversion should be the preferred manner of dealing with children in the majority of cases. States parties should continually extend the range of offences for which diversion is possible, including serious offences where appropriate. Opportunities for diversion should be available from as early as possible after contact with the system, and at various stages throughout the process. Diversion should be an integral part of the child justice system, and, in accordance with art. 40 (3) (b) of the Convention, children’s human rights and legal safeguards are to be fully respected and protected in all diversion processes and programmes.”

As previously discussed, all children’s services and the system must take a trauma-informed approach driven by our understanding of ACES. Regardless of how that trauma manifests itself (including offending), the response is the same: family support in a way that does not

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

162 <https://www.justice-ni.gov.uk/publications/case-processing-time-criminal-cases-dealt-courts-northern-ireland-202021>

stigmatise or demonised parents, children or their communities.

The first three recommendations of the YJR 2011 concerned early intervention and prevention of offending firmly placing the responsibility on the NI Executive, i.e., a whole-system approach. Echoing a primary aim of the Strategic Framework for Youth Justice,¹⁶³ young people should be transitioned from a justice-led approach to a more holistic social care approach to children who offend. For early intervention and prevention to be effective, it must be central to and managed generic children's social care: specifically, multidisciplinary teams in HSC, Family Support Hubs and the voluntary and community sectors. While they must be involved, it is not the role of DoJ, YJA or PSNI to be the leaders in providing such interventions.

However, the YJA is clear that it intends to continue to increase its "earlier stage interventions" (which include diversion) at a time when other types of interventions such as Youth Conference plans, community orders and custody are decreasing. Figures¹⁶⁴ indicate that earlier stage interventions represent 20% of the Agency's referrals, although it should be noted that these are often shorter than other interventions and, therefore, do not represent a fifth of the workload.

An emphasis on early intervention and diversion must be applauded, but it is not the best use of YJA resources and expertise. It is disappointing that the DoJ has chosen not to heed this advice from a range of sources. Indeed, there continue to be examples of where the Youth Justice System has chosen to replicate the work of others such as the Children's Diversion Forums, multiagency panels aimed at diverting young people from the "formal system." This appears

to ignore the work of multiagency Family Support Hubs, whose intention is to "provide early intervention services, or work with families who need support."¹⁶⁵ It is of concern that a criminal justice agency and the system are seeking to duplicate the work of others better placed to intervene early and divert young people from the system.

It must be noted that the YJA is part of the criminal justice system, and therefore diversion from the criminal justice system must include diversion from intervention by the YJA.

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

¹⁶³ <https://www.justice-ni.gov.uk/publications/strategic-framework-youth-justice>

¹⁶⁴ <https://www.justice-ni.gov.uk/publications/r-s-bulletin-northern-ireland-youth-justice-agency-annual-workload-statistics-202021>

¹⁶⁵ <https://cypsp.hscni.net/family-support-hubs/>

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.

NICCY looks forward to the DoJ progressing its intention to lay legislation that reforms bail and custodial sentences for children.

NICCY Casework

NICCY has received reports of young people in the care of social services who have been arrested by police for alleged criminal activity and then released subject to bail conditions set by court. Their release was not possible, though, because social services had not provided a suitable bail address for the young person. Due to not having a bail address, the young people continued to be detained in the JJC.

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. The last inspection of the JJC in 2022 found that children were held safely and well cared for.¹⁶⁶

Custody in NI is not a measure of last resort. In 2020-21, 3% of young people in the JJC were sentenced, with the remaining 98% either there on PACE or remand.¹⁶⁷ The statistics also show that 49% of those who were on PACE were remanded or sentenced to custody. Despite this evidence, the DoJ has not been able to progress its intention to address the recommendations regarding bail and PACE of the YJR and the now non-operational NI Law Commission¹⁶⁸.

While no progress has been made in addressing the fact that the proportion of children who identify as Catholic remains the highest of any religion, at 59%, NICCY looks forward to seeing the outcome of work undertaken by the DoJ to better understand the causes of these figures.

Since 2017, the DoJ and DoH have been working in partnership to reform secure care and custody and develop a shared campus, partly in response to the unacceptable high numbers in custody who are cared for by the State. While accommodating children in custody and those in secure care together echoes the failed Training School System that was abolished in 1998, these proposals have merits. Firstly, Lakewood Secure Children's home has experienced challenges both in how they care for increasingly vulnerable young people and the nature of the accommodation. Secondly, as outlined above, custody is not a last resort. Since the Criminal Justice Review 2000, several programmes and processes have attempted to address this issue, with little impact.

166 <https://www.cjini.org/TheInspections/Inspection-Reports/2022/July-Sept/Woodlands-JJC-2022>

167 <https://www.justice-ni.gov.uk/publications/r-s-bulletin-northern-ireland-youth-justice-agency-annual-workload-statistics-202021>

168 www.nilawcommission.gov.uk/bail-law.htm

Following consultation and engagement, including with young people, a consultation report was published in June 2021 by the two departments that indicated some support but that further detail would be necessary to address a variety of areas.

In March 2022, the proposal had been abandoned with the decision made that the two centres would continue to operate separately but would pursue harmonisation of particular services such as education and health. This option was never presented in the consultation document and therefore any assertion by either department that this reflects the views of consultees is misleading.

It is also clear, as outlined above, that neither Lakewood nor Woodlands is operating as intended. A shared facility is not without issues, but the pooling of resources across justice and care to achieve a single creative, child-centred solution to children requiring security alongside services that prevent the DOL deserves further consideration. The Commissioner welcomes further developments in shared working in the areas of health and education. However, this will not fulfil the strategic recommendation made by Criminal Justice Inspection Northern Ireland (CJINI) in its recent inspection of Woodlands, which stated that at the cost of £829,988 per occupant:

“...the Youth Justice Agency should critically review the current operating model at Woodlands Juvenile Justice Centre that takes account of the impact of implementing the March 2022 decision by the Ministers of Health and Justice on the future of the regional care

and justice campus programme. The review should include assurance that Woodlands Juvenile Justice Centre resources are deployed efficiently and effectively while maintaining a focus on delivering good outcomes for children.”¹⁶⁹

Outcomes and Data

General Comment 24 reminds State parties of the importance of collecting disaggregated data but also of undertaking regular evaluations of their services and, of course, outcomes. It continues to be a challenge for several criminal justice agencies to report on the difference they have made to the young people and communities that they serve. Instead, they continue to report in some detail on activity and processes. Ensuring effective measurement and reporting and analysing of the impact that various activities have on service users are essential for both accountability and effective long-term governance of the Youth Justice System and its progress.

This has been the subject of examination by the NI Audit Office, which, in the follow-up to its 2017 report addressing the value for money of the Youth Justice System, concluded that:

“Progress has undoubtedly been made, but further work is required to build management systems that are capable of demonstrating the value for money of the youth justice system. Until then, we cannot conclude that the system delivers value for money.”¹⁷⁰

It is not an impossible task to publish impact data, and indeed, the publication by the YJA of a Performance Impact Report (2020/21) is a

169 <https://www.cjini.org/TheInspections/Inspection-Reports/2022/July-Sept/Woodlands-JJC-2022>

170 https://www.niauditoffice.gov.uk/files/niauditoffice/media-files/244345%20Managing%20children%20who%20offend-%20follow%20up%20review%20Report_%28Cmbnd%20Final%29.pdf

promising start¹⁷¹ that has been built upon by the 20/21¹⁷² report, particularly in the area of early intervention and diversion, but further work needs to be done to demonstrate that re-offending by children has been prevented.

Calls to Government

In 2020 we cited the lack of a NI Assembly and Executive for minimal progress in implementing the 2018 recommendations. Progress remains slow, partly due to COVID but mainly to the lack of appetite to accept the possibilities presented by a rights-compliant Youth Justice System, not only by elements of the NI Assembly and Executive but by sectoral leaders.

1. The Youth Justice System must demonstrate that it is implementing the best interest principle by ensuring:
 - custody is a last resort and for the shortest possible time
 - children are diverted from the formal system
 - STLs are introduced for the processing of youth court cases of 120 days.
2. The DoJ and YJA must create a holistic approach to measuring, reporting and analysing progress in the outcomes for young people.
3. Legislation must be passed raising the minimum age of criminal responsibility to at least 16.
4. The PSNI must:
 - a. demonstrate the purpose and outcomes of all Stop and Search operations involving children and young people and improve the quality of engagement with young people.
 - b. cease the use of Spit and Bite Guards on children.

171 <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/yja-performance-impact-report-2020-21.pdf>

172 <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/yja-pir%202021-2022.pdf>



3.7 PARTICIPATION

Child Rights Context

Article 12 (respect for the views of the child) of the UNCRC states that:

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

Article 13 (freedom of expression) states that:

1. 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.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order, or of public health or morals.

Article 14 (freedom of thought, belief and religion) states that:

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15 (freedom of association) states that:

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

Article 17 (access to information from the media) states:

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral wellbeing and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of Article 29;

- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her wellbeing, bearing in mind the provisions of Articles 13 and 18.

The Concluding Observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland on 3 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.
- Encourage the government and devolved administrations to conduct consultations on the voting age with children. 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.

The key article of the UNCRC that addresses the principle of participation is Article 12, the right to be heard. This principle recognises children and young people as actors in their own lives and applies at all times throughout a child's life.

The Lundy Model of Participation provides a pathway to help make Article 12 real.¹⁷³ The model focuses on four distinctive, interconnected components:

Space: Children and young people must be given safe, inclusive opportunities to form and express their views.

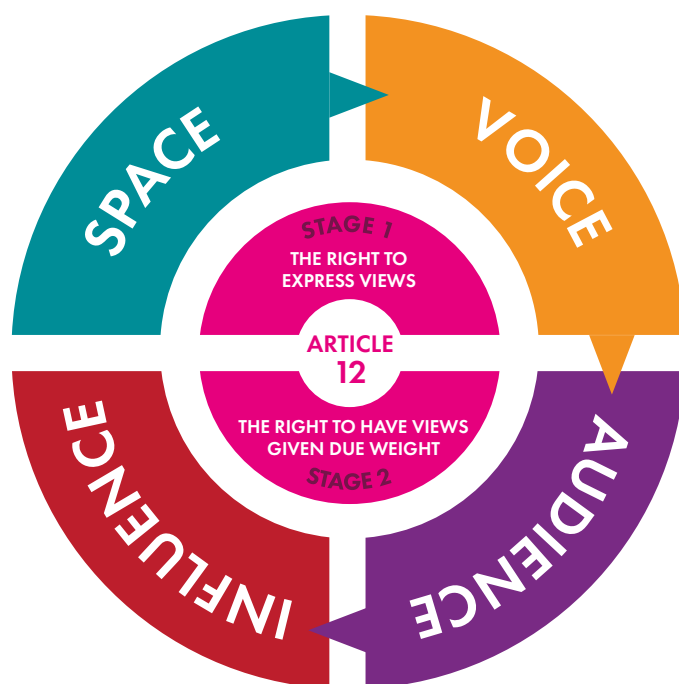
Voice: Children and young people must be facilitated to express their views.

Audience: The views must be listened to.

Influence: The views must be acted upon, as appropriate.

¹⁷³ https://ec.europa.eu/info/sites/default/files/lundy_model_of_participation.pdf

Fig.3.7.1 Lundy Model of Participation¹⁷⁴



This child rights model of participation provides guidance for decision-makers on the steps to take in giving children and young people a meaningful voice in decision-making.

A wider group of rights (or articles) also addresses the right of children to participate and influences our understanding of participation, including a child's right to seek and receive information, to express their views and to associate with others.

There is no single definition of participation; it is both a process and an outcome, which may differ in form and situation. However, taking into account the importance of incorporating active involvement of children and young people and hearing their voices, NICCY defines participation as them:

'Having a real and meaningful say and involvement in decisions that affect their lives'.

Increasingly, acceptance of the principle of children and young people's involvement in the decision-making process is being turned into practice through a variety of participation activities across a range of organisations.

NICCY recognises that children and young people are experts in their own lives and have important opinions that, if listened to and responded to by NICCY and other decision-makers, can improve service delivery and lay a long-lasting foundation leading to effective citizenship and participation in democracy. Research suggests that while some young people may not be interested in local party politics, they are very interested in issues that affect them and their communities.¹⁷⁵

However, in reality, some statutory bodies have difficulty in translating their positive intentions into meaningful practice for children and

¹⁷⁴ National Framework for Children and Young People's Participation in Decision-Making, Rol Participation Framework - HUB na nÓg (hubnanog.ie)

¹⁷⁵ Powell, M.A. & Smith, A.B. (2009) Children's Participation Rights in Research. *Childhood*, 16, 124-142.

young people that is effective in bringing about change and becomes embedded within their organisational ethos and culture.

Children and young people should be considered experts in accessing the appropriateness and relevance of the services they use or that affect them.¹⁷⁶ It is therefore vital to make the best use of their knowledge and understanding when developing and providing services that can most effectively meet their needs.

COVID-19 has had a far-reaching impact on children and young people, and the pandemic affected the engagement with and the dissemination of information to them. NICCY's COVID report, *A New and Better Normal*, highlighted the lack of visibility and the inconsistency of engagement concerning engaging directly with children and young people and called for Executive Ministers to engage with and communicate directly with them on matters that impact their lives, especially during times of crisis.¹⁷⁷

The 2020-2030 CYPS is a crucial instrument in delivering children's rights in Northern Ireland. It highlights Article 4 of the UNCRC, which requires governments to take all appropriate legislative, administrative and other measures to implement children's rights and states that the Strategy is Northern Ireland's plan to deliver improved wellbeing for children and young people and it is rooted in the UNCRC.¹⁷⁸

*"We will establish a framework of participation structures, utilising existing fora, to ensure the voices of children and young people will be considered as this Strategy is implemented. Through the framework we will provide opportunities for all Children's Authorities to engage meaningfully with children and young people prior to the introduction of relevant policies, programmes or strategies, at the co-design and consultation stages."*¹⁷⁹

Child Rights Awareness

Unfortunately, within the children and young people population, awareness of the UNCRC is low. In the recent 2020/21 Young Life and Times (YLT) and Kids Life and Times (KLT) surveys, young people were asked, 'Have you heard of the UNCRC?' The YLT survey, targeted at 16-year-olds, highlights that only 33% of young people had heard of the UNCRC.¹⁸⁰ The KLT survey, targeted at P7 pupils, is much worse, with only 14% of pupils having heard of the UNCRC.¹⁸¹

The UK government's response to the UN Committee's List of Issues on the Rights of the Child (2022) states that 30% of young people were aware of the UNCRC and knew what it meant and a further 26% had heard of it. Even with an overall figure of 56% of young people having heard of the UNCRC, the UK government recognises that further steps need to be taken to raise awareness of the UNCRC.

176 Gallacher, L.-A. & Gallagher, M. (2008) Methodological Immaturity in Childhood Research?: Thinking through 'participatory methods'. *Childhood*, 15, 499-516

177 www.niccy.org/media/3882/niccy-covid-report-main-report-final-aug-21.pdf; Pg 123

178 www.education-ni.gov.uk/publications/children-and-young-peoples-strategy-2020-2030 Pg 19

179 Ibid: Pg 19 & 20

180 Young Life and Times Survey 2020-21

181 Kids' Life and Times 2020-21

Key Participation Dates

Nov 2006: NICCY hosted the first **Democra-School** Conference. Pupils, principals, senior teachers and key stakeholders shared experiences and collected existing good practices and ideas for the future development of school councils and pupils' voices.¹⁸²

Nov 2007: NICCY marked the Universal Day of the Child with the '**108' Campaign**, supporting young people's call for a Youth Assembly.

Sept 2008: **Democra-School guidance** was launched, containing practical advice on how to set up or improve pupil participation within schools. Every school in NI received a copy of the guidance.

Jul 2011: All but one of the 12 government departments endorsed NICCY's **Participation Policy Statement of Intent (PPSI)** initiative, which acted as a guide to support government departments and public bodies in the development of their participation policy and practices.¹⁸³

Oct 2014: NICCY launched its report '**Walking or Talking Participation**, evidencing the impact of direct participation with children and young people in the development of departmental policies, strategies, legislation and services.¹⁸⁴

Jun 2015: The DE developed a departmental **circular on pupil participation in schools**. This circular provided guidance for Principals and Boards of Governors on how to encourage pupil participation in decision-making in schools and identify ways to ensure the pupils' voices are heard.¹⁸⁵

Jun 2015: The Commissioner launched her '**Your Voice Matters... Because You Matter**' project. This was a Northern Ireland-wide engagement programme, a 'conversation' to hear directly from young people.¹⁸⁶

Oct 2015: The Department of Environment issued '**Statutory Guidance For The Operation of Community Planning Local Government Act (Northern Ireland) 2014**', including specific reference to councils having a particular responsibility to encourage and promote the role that can be played by children and young people in community planning.¹⁸⁷

Nov 2017: NICCY joined forces with the Council for the Curriculum, Examinations and Assessment (CCEA) to launch a new **Children's Rights UNCRC Resource Hub** for teachers and pupils.¹⁸⁸

182 www.niccy.org/professionals-practitioners-policymakers/participation/pupils-voices-pupil-participation-in-schools/

183 www.niccy.org/professionals-practitioners-policymakers/participation/why-we-do-it/

184 www.niccy.org/professionals-practitioners-policymakers/participation/walking-or-talking-participation/

185 www.education-ni.gov.uk/publications/circular-201414-pupil-participation-0

186 www.niccy.org/children-and-young-people/issues-that-affect-you/your-voice-matters/

187 www.niccy.org/media/1682/community-planning-guidance-oct-2015.pdf

188 www.ccea.org.uk/learning-resources/uncrc-resource-hub

Key Participation Dates Continued

Jan 2018: NICCY launched its participation advice, **Participation with Children and Young People: Advice to Public Bodies**.¹⁸⁹

Dec 2020: The NI Executive approved the **Children and Young People's Strategy 2020-2030** to improve the wellbeing of all children and young people in Northern Ireland. The Strategy gives key recognition to the UNCRC.¹⁹⁰

Feb 2021: In response to the ongoing rise in young people experiencing mental health issues, the NICCY Youth Panel, in partnership with the Belfast Youth Forum and the Northern Ireland Youth Forum, produced the **Heads Up! Mental Health Toolkit** for young people.¹⁹¹

Jul 2021: First sitting of the inaugural NI Youth Assembly.¹⁹²

Nov 2022: NICCY's **Child Rights Awareness Training** and **Child Rights Impact Assessment Training** will be available to public sector employees through the LInKS online portal.

NICCY's Actions

People often say that 'children and young people are the future', but this is misleading. Children and young people will tell you that they are citizens now, and their needs and rights are real and in the present.

Two of the NICCY's key duties concerning participation, as set out in The Commissioner for Children and Young People (NI) Order 2003 Article 7, are:

*'...to promote an awareness and understanding of the rights and best interests of children and young persons', and '... to seek the views of children and young persons in exercising her functions.'*¹⁹³

NICCY also has a duty to advise relevant authorities on matters concerning the rights and best interest of children and young people, especially concerning their obligations under Article 12 of the UNCRC. We promote awareness and the importance of the UNCRC and children's and young people's rights to children and young people, their parents and those who represent them.

Therefore, NICCY's participative role includes:

- Ensuring that children and young people participate in decision-making and are integral, and contribute where possible and appropriate, to our programmes of work.

189 www.niccy.org/professionals-practitioners-policy-makers/participation/participation-with-children-and-young-people-advice-to-public-bodies/

190 www.education-ni.gov.uk/publications/children-and-young-peoples-strategy-2020-2030

191 <https://www.niccy.org/children-and-young-people/issues-that-affect-you/your-mental-health/heads-up-mental-health-toolkit/>

192 <https://niyouthassembly.org/>

193 For the purposes of this document and NICCY's work in general, the definition of a child or young person is everyone up to the age of 18, or 21 if they have experience of being in care or have a disability.

- Influencing the practice of government departments and public bodies to take account of relevant national and international legislation and good practice, to include children and young people in the decision-making process.
- Encouraging our public decision-makers to:
 - Listen to the views, concerns and opinions of children and young people, openly and inclusively, enabling their voices to inform and be heard by engaging with them meaningfully and creatively.
 - Develop existing and new policies and working practices to embed participation into their department or agency.

Strategic Participation Advice

A key role for NICCY's Participation Team is to provide practical advice on participating with children and young people and share good participative practices. We can do this in a structured format, for example, through our bi-annual Participation Forums or Children's Champion meetings, or, on a more frequent basis through personal engagement such as telephone calls, Zoom or Teams meetings, or face-to-face meetings. The starting point for much of this advice is found in our participation publication, *Participation with Children and Young People: Advice to Public Bodies*.¹⁹⁴

Some of the agencies we have recently provided advice to, at times through an ongoing process, include:

- DE.
- Department of Infrastructure.
- The Executive Office.
- PSNI.
- EA.
- CCEA.
- Derry City and Strabane District Council.
- Commissioner for Victims and Survivors.
- Gillen Review Implementation Team.
- NISRA.



Within a participation context, the DE's Participation in Decision Making initiative, although slow in progression, has the potential to make a real impact on how our statutory bodies engage and consult with children and young people. The key objectives of the initiative include:

- Developing a Participation in Decision Making policy statement that will consider the key principles of participation and the roles and responsibilities of departments and other children's authorities.
- Exploring the options for providing children and young people with the opportunity to influence the policy development process meaningfully and identify the best option for delivering this.

- Developing and providing encompassing participation structures to seek the views of a wide range of children and young people and provide opportunities for them to engage in, participate in, and contribute to the development and implementation of policies, programmes and services for them.

NICCY has been sitting on the initiative's Project Board, providing advice throughout the project to date, especially concerning the participation mechanism and participation principles, benchmarking participation, policy development including the use of CRIAs, training for staff and evidencing the impact of participation. However, the initiative may struggle toward completion without dedicated human and financial resources.

Throughout COVID, NICCY facilitated engagement between CCEA and the NICCY Youth Panel at 11 online meetings on various exam-related issues such as discussion on the exams process for GCSE, AS and A-levels in the 20/21 academic year, evidence and assessment processes, and appeals processes. Engagement with the Youth Panel assisted CCEA to inform the FAQs on the CCEA website.

NICCY Casework Example

Some young people under the age of 18 were elected to the committee of a sports club they were members of. There was a difference of opinion in the club as to whether this was "legal". This was ambiguous. Under the Companies Act (2006), the minimum age for a company director is 16. However, a trustee for a charity or trust must be aged at least 18. Questions of this kind may continue to arise, given the apparent level of ambiguity.

Participation Forum

NICCY's Participation Forum has the primary role to address matters affecting the participation of children and young people living in Northern Ireland. Its purpose is to:

- Provide input and share information with NICCY on promoting the participation of children and young people in decision-making affecting their lives.
- Provide a forum in which relevant issues and concerns of the attending agencies can be discussed with NICCY.
- Enable NICCY to discuss relevant aspects of our work with members of the group.
- Provide a forum where information, ideas and experiences can be exchanged and collaborative working opportunities can be explored.

The Forum meets bi-annually and provides space where key stakeholders share good participative practices to help improve both strategic and operational participation processes with children and young people across statutory, academic and voluntary sectors. By providing contemporary information on each other's participation in related activities, attending organisations develop relationships, support each other and signpost to relevant information or practice.

Training

As referenced above, Article 7 of NICCY's legislation outlines our duty 'to promote an awareness and understanding of the rights and best interests of children and young persons'. The Children's Services Co-operation Act requires regard to be given to relevant provisions within the UNCRC. The Children and Young People's Strategy 2020-30 is the main vehicle to make sure this happens.

The Strategy states that departments will take into account the UNCRC and the recommendations in the 2016 Concluding Observations in their policies, planning and service delivery that, consistent with Article 3 of the UNCRC, the best interests of the child will be a primary consideration in all decisions and actions that affect children and young people, and that departments will work with the Northern Ireland Commissioner for

Children and Young People to promote greater awareness and understanding of the UNCRC.

NICCY has been working with NI Civil Service Learning and Development Team, with support from the DE, to develop an online training package aimed at those working in statutory bodies who work directly with children and young people or whose work impacts them.¹⁹⁵

Module 1 of the package looks to explore children's rights and aims to help participants understand the needs of children as rights holders, the importance of children's rights concerning their role, and the types and locations of help available to support children's rights. By the end of the module, participants will be able to:

- Recognise children as rights holders.
- Identify their responsibility as duty bearers to rights holders.
- Connect the awareness of the UN Convention on the Rights of the Child to their work.
- Identify where to access other support to implement children's rights in their work.
- Recognise the benefits of children's rights to society.

Module 2 is more policy development-focused and aims to help staff better integrate CRIAs throughout the development of policies, legislation, budgets, services, practice or planning decisions. Therefore, by the end of the second module, participants will be able to:

- Identify the actions to be taken within each step of a CRIA.
- Recognise the importance of collaboration and joining up with colleagues, children and young people, and external stakeholders.

- Use a CRIA to create a proposal for decisions that support children's rights.

NICCY Youth Panel

The NICCY Youth Panel (NYP) was established to help the Commissioner in her day-to-day work. The NYP is made up of young people who share their experiences and thoughts with the Commissioner and her staff and actively help NICCY make decisions about issues that affect children and young people.

The NYP aims to empower and help children and young people to take an active and full part in participation and discussions on issues affecting them in Northern Ireland.

NYP Voice in Education

The establishment and delivery of an Independent Review of Education was a key commitment in the NDNA document, agreed upon by the main political parties in Northern Ireland in January 2020. NDNA stated that an independent and external review would be established *"with a focus on securing greater efficiency in delivery costs, raising standards, access to the curriculum for all pupils, and the prospects of moving towards a single education system."*

When the NYP heard about the Independent Review of Education, they felt strongly that they would like to participate, to have their voices heard. Young people spend so much of their day, their week and their year within the school environment that it felt natural for them to share their thoughts, opinions and ideas with the Independent Review Panel.¹⁹⁶

The number of different issues or areas associated with the school environment and education is enormous. The Education subgroup of the NYP identified a list of themes from which

¹⁹⁵ NICCY aims to make the training available to a broader audience beyond the NICS as additional resources become available.

¹⁹⁶ <https://www.niccy.org/media/4139/niccy-youth-panel-review-of-education-report.pdf>

they selected the four most popular:

- Mental health in schools.
- Curriculum content (mostly focusing on RSE).
- Transfer test.
- A single education system.

The Youth Panel identified some key participative recommendations to share with the Independent Review Panel. These included:

- Ensuring that aspects of the curriculum are designed and delivered based on the actual needs of young people rather than the presumed needs as decided by adults. Key elements of the curriculum should be developed in partnership between young people and CCEA, setting up a quality assurance process. This would include curriculum content within the Emotional Health and Wellbeing Framework and the mandatory elements of the RSE curriculum.
- Initiating an education conversation inclusive of children and young people, parents, carers, educationalists and decision-makers, to get consensus on a non-academic primary to post-primary focused transition process.
- Calling on the DE to create a Pupil Participation Policy, aligned with appropriate resources to enable schools to support students to establish participation forums and school councils.

From the Youth Panel's work and the engagement they undertook in preparing their report and recommendations, it was obvious that there was an appetite for change within our education system among young people. As the Youth Panel concluded in their report:

"We envisage an education system of top quality, that adequately prepares children and young people for their futures, that's used as an

*effective resource to deconstruct the sectarian divides so heavily entrenched into our society, one that enables and supports young people in challenges in their life, and one that teaches all young people with the best educational standards, without heed or barriers from social class, religious background and cultural identity."*¹⁹⁷

The NYP engages directly with key political decision-makers, ensuring that they hear directly from young people on issues important to them. They regularly accompany the Commissioner to meet Ministers, highlighting their issues directly. Recently, they have been frequent evidence givers to Assembly Committees and associated events, including presenting to:

- All-Party Group on Climate Action.
- Education Committee.
- Ad Hoc Committee on a Bill of Rights.
- Committee for Communities.

Assessment of Government Response

From a participation point of view, the 2020 SOCRNI calls are still incomplete, with the DE's Participation in Decision Making initiative still in development, as is the progression of appropriate structures for the meaningful participation of children and young people in the development, implementation and evaluation of policies, strategies, legislation and services.

NICCY also continues to urge the development of a DE policy to ensure meaningful pupil participation in schools, building on the DE circular (2013) on Pupil Participation and the #Pupils Voice: Making a Difference Report (2015) completed by the NIYF in partnership with NICCY. This should be supported by an appropriate inspection process. The CYPS highlights the need to provide children and

¹⁹⁷ Ibid

young people with opportunities to participate in school or college about issues that affect them, for example, through school councils or other forms of student participation in decision-making processes.¹⁹⁸

Positive examples of engagement with children and young people are recognised, including, for example, customised communications for young people using social channels such as Snapchat, TikTok, and Insta stories, and influencers to help communicate key messages.

The Education Authority Youth Service (EAYS) has initiated a very positive engagement programme with children and young people entitled 'My Voice'. The programme includes:

- Voice of Children and Young People in Youth Services – linked to Priorities for Youth and facilitating the voice of children and young people from the youth centre level to the regional level.
- Voice of Children and Young People in Education – facilitating engagement across education and EA directorates.
- Voice of Children and Young People in Government – facilitating engagements on proposed government strategy and policy.

The EAYS have undertaken an engagement and consultation programme with children and young people on many different issues that have an impact on them, including, for example, the Green Growth and Climate Change Strategy for NI, the Refugee Integration Strategy and the Review of Current Arrangements for Expulsions and Suspensions in Schools.

The MY Voice programme was also a key mechanism for the EA to hear the voice of children and young people during the COVID lockdown period.

In March 2022, Minister Mallon hosted an Infrastructure Youth Assembly. This event provided a forum for young people to engage with the Department and make their voices heard to aid policy-making on infrastructure issues.

The development of the Housing Supply Strategy by the DfC involved the consideration of housing issues that impact children and young people. Engagement sessions were held with children and young people's organisations at the initial 'Call for Evidence' stage held in early 2021 and again at the full public consultation stage that closed on 9 February 2022.

The establishment of the NI Youth Assembly by the NI Assembly Commission is a tangible step forward. Young people under the age of 18 do not have the vote and therefore the Assembly must find alternative ways to hear their views on the issues that are important to them and for them to have an avenue to challenge the government and the work they do. The voices and experiences of children and young people are essential for good decision-making for any legislative body.

Although we are in the initial establishment stage in the development of the Youth Assembly, its members must be able to challenge and question the workings and decisions of our government and not simply be a convenient consultative body for departments and statutory agencies.

The joint DoH/DE Strategy for looked-after children: A Life Deserved recommends the establishment of formal mechanisms, including a biennial survey, to enable children who are cared for, and young people who are care experienced, those on the edges of care, and

198 <https://www.education-ni.gov.uk/sites/default/files/publications/education/final-executive-children-and-young-people%27s-strategy-2020-2030.pdf> , Pg.51

those responsible for their care to be involved in policy, service and practice development on a co-design/co-production basis.¹⁹⁹

Co-design/co-production mechanisms will be part of the infrastructure established to implement this Strategy, and it will have feedback loops so that children and young people and their carers are informed of and understand the extent to which their contributions have influenced decision-making.²⁰⁰

These mechanisms were acknowledged in the CYPS Delivery Plan April 2021 – March 2024 but with no specific timeframe for delivery.²⁰¹

The CYPS Delivery Plan also outlines the “Formation and implementation of an inclusive Participation Network to empower and support children and young people to participate in decision-making which impacts on their lives”, which reinforces the commitment as outlined in the DE’s Participation in Decision Making initiative. However, as before, there is no specific timeframe for delivery. The CYPS Delivery Plan also omits any mention of a national participation policy.

In general, evidence is insufficient to show a consistent meaningful engagement programme with children and young people across

Northern Ireland. While recognising that there are good examples of engagement, there is a continued lack of consistency across departments and statutory agencies. Many statutory bodies are aware of the importance of engagement but there is little evidence of planning or prioritising it.

Some formats for providing feedback from consultations have made it very difficult for children and young people to participate or get their voice heard. In many cases, processes for providing feedback are inflexible and/or inaccessible. Although improving, in many cases in formal consultation processes, there is a lack of child-friendly documentation and child-friendly engagement processes. Providing information for children and young people, especially those most vulnerable, still tends to be (with exceptions) a secondary or last-minute reactionary thought. At times, young people’s voices highlighting similar issues have been correlated and counted as a single response. This is unacceptable.

There is also the ongoing problem of children and young people not receiving feedback on their participation or the outcomes of their ideas, suggestions and opinions. It is still a major challenge for statutory bodies to evidence the impact of children and young people’s participation and feedback as appropriate.

199 <https://www.health-ni.gov.uk/sites/default/files/publications/health/doh-lac-strategy.pdf>

200 <https://www.health-ni.gov.uk/sites/default/files/publications/health/doh-lac-strategy.pdf>, Pg.16

201 <https://consultations.nidirect.gov.uk/de/children-and-young-people-s-strategy-initial-3-yea/#:~:text=The%20CYPS%20Delivery%20Plan%202021,well%2Dbeing%20in%20Northern%20Ireland.>

Calls to Government

Participation empowers children and young people as members of civil society and active citizens and enables them to play an active part in civil society and compensates for their exclusion from formal political processes.

Therefore, to cement children and young people's voices in the decision-making process in Northern Ireland, the government must continue to prioritise the participation of children and young people:

1. Ensure that the DE's Participation in Decision Making initiative is endorsed and supported by all relevant public bodies with a specific and identified timeframe and delivers a structure for meaningful participation of children and young people, especially those most vulnerable. This includes the allocation of dedicated human and financial resources.
2. Develop young people's role as active participants in education and promote Pupils' Voices (Pupil Participation in Schools) by creating a DE policy requiring schools to establish an effective pupil voice mechanism and supporting this by an appropriate inspection process.
3. Ensure meaningful consultation with children and young people, including the production of child-friendly documentation, flexibility in the format for responses, sufficient time given to consultation, accessibility of resources, due respect given to each response and feedback provided on how the views of children and young people have been taken into account in decision-making.
4. Provide training to all professionals working directly with children and young people or whose work impacts them, to increase their understanding of children's rights concerning their role and their responsibility as duty bearers. Every relevant authority that works with children and young people should have a regular and meaningful engagement process with the children, young people and families who use their services or are subject to their policies.
5. Support the NI Youth Assembly to effectively engage with all systems within the NI Assembly, empowering Youth Assembly members to challenge and question the workings and decisions of our government and not simply be a convenient consultative body for Departments and statutory agencies.



3.8 ENVIRONMENTAL JUSTICE

Child Rights Context

In September 2016, the UN Committee on the Rights of the Child, recognising that there was a need for more comprehensive debate, analysis and action on environmental matters, held a Day of General Discussion on Children's Rights and the Environment.²⁰² The Report of the Day of General Discussion provides a very useful examination of the relationship between children's rights and the environment, indicating that the protection of the environment is critical to the realisation of children's rights and best interests.

*'Environmental damage is a pressing human rights challenge, which has an impact on children's lives today and in the future. Violations of their rights resulting from environmental harm can have irreversible, lifelong and even transgenerational consequences. Children everywhere suffer violations of their right to life, development, health, food, water, education, culture, play and other rights because governments fail to protect the natural environment. The impact of pollution in one place can be felt by children living far away and climate change is unquestionably a global problem. While environmental harm affects people at any age, children are particularly vulnerable, due to their evolving physical and mental development and status within society. Certain groups of children, including children from indigenous, low-income or other marginalised communities are often at a higher risk, which raises the question for environmental injustice.'*²⁰³

Children's article 24 Right to Health, is probably the most significantly impacted by environmental degradation, as identified in the Committee's report.

*"In her statement, Dr. Maria Neira cited recent WHO estimates that emphasise the urgency of the matter: 'Of the 5.9 million deaths under five each year, 26% are attributable to the environment'. Air pollution alone kills 570,000 children under five every year. But these numbers are only the 'tip of the iceberg' as UN Special Rapporteur Baskut Tuncak pointed out later in the debate. 'There is a silent pandemic' of disabilities associated with exposure to toxics and pollution during childhood, many of which will not manifest themselves for years or decades. This assault on children's rights remains largely invisible while decision-makers are not held to account."*²⁰⁴

Climate change due to the increase in greenhouse gases is also having a severely detrimental impact on children's rights across the world. A recent paper published in *The Lancet* summarised findings from *The Lancet's* annual report *Countdown: Tracking Progress on Health and Climate Change*, stating that:

Children are particularly vulnerable to the impacts of climate change. Harmful exposures during childhood can irreversibly define physical and mental health and wellbeing, and children's reliance on adults for their physical safety and emotional development limits their capacity to control their environment. Through increased exposure to extreme weather events, increased environmental suitability for infectious disease transmission and threats to food and water security, climate change will directly impact on children's health and add extra pressure on already overwhelmed health systems, further undermining the rights of the child to good health and access to health care, to an adequate standard of living and to social security. The impacts of climate change and

202 Committee on the Rights of the Child (2016), *Report of the 2016 Day of General Discussion: Child Rights and the Environment*, (Geneva: OHCHR).

203 Ibid, p4.

204 Committee on the Rights of the Child (2016), *Report of the 2016 Day of General Discussion: Child Rights and the Environment*, (Geneva: OHCHR), p4.

*subsequent inequalities will be felt most by the world's poorest children. Children born today will inherit a warming world, facing increasing impacts of climate change throughout their lifetimes.*²⁰⁵

The 2016 Concluding Observations included statements and recommendations relating to the impact of environmental harm and climate change on children's rights:

Environmental Health

67. The Committee is concerned at the high level of air pollution that directly affects child health in the State party and contributes to the negative impact of climate change affecting various rights of the child, both in the State party and in other countries.
68. With reference to Sustainable Development Goal 1, Target 1.5, the Committee recommends that the State party, including the devolved administrations in relation to devolved matters:
 - (a) Set out a clear legal commitment, with appropriate technical, human and financial resources, to scale up and expedite the implementation of plans to reduce air pollution levels, especially in areas near schools and residential areas;
 - (b) Place children's rights at the centre of national and international climate change adaptation and mitigation strategies, including through its new domestic climate strategy, as well as in the framework of its international climate change programmes and financial support.²⁰⁶

The Committee is currently developing a General Comment on Child Rights and the Environment with a Special Focus on Climate Change, due to be published in 2023. Moreover, the ENOC has developed a Statement on Climate Justice, published following its annual conference in September 2022.²⁰⁷

John Knox, UN Special Rapporteur on human rights and the environment, in presenting to the Committee, emphasised that 'in sheer numbers, no group is more vulnerable to environmental harm, as a whole, than children.'²⁰⁸

There are two reasons for this: firstly, children's health and development can be very negatively impacted by environmental harm, with adverse impacts potentially extending throughout their lifetime. As an example, a 2019 study published in the BMJ has found that one in eight new cases of childhood asthma is caused by air pollution, and in particular, traffic pollution in cities.²⁰⁹

A second reason that children are more negatively affected than other groups in society is that they will have to live longer with the consequences. While older people may hear the predictions of environmental degradation and climate change with concern, this cannot match the worry experienced by children who will be the ones to live with these negative consequences for longer than older generations.

It is important, however, to remember that children are not just 'the future' but an important part of the current population, with a right to have a say in decisions affecting them now and into the future. They have a particular stake, therefore, in how decisions and practices now

205 Romanello, M. et al (30 October, 2021), 'The 2021 report of the Lancet Countdown on health and climate change: code red for a healthy future', [VOLUME 398, ISSUE 10311, P1619-1662](#).

206 CRC/C/GBR/CO/5, 12 July 2016

207 ENOC (Sept 2022), [Position Statement on "Children's Rights and Climate Justice"](#).

208 Committee on the Rights of the Child (2016), Report of the 2016 Day of General Discussion: Child Rights and the Environment, (Geneva: OHCHR), p6.

209 BMJ 2019;365:l1767

will impact the environment over the long term, and arguably their opinions should be given greater weight than those of adults.

Belfast Climate Commission's Youth Survey 2021.²¹⁰

In advance of COP26, the Belfast Climate Commission Youth Working Group undertook a survey to explore young people's views and opinions concerning climate change. This captured the views and perspectives of young people (aged 13-24 years) living in Northern Ireland about climate change.

Knowledge and Understanding

- 98% of young people have heard of climate change, with 28% suggesting that they were very concerned about it and a further 24% extremely concerned about it.
- 30% of young people indicated that they had been affected by climate change, with 42% stating that they had not.
- Of those that had been affected, 41% experienced 'anxiousness' while 13% suggested that they had become distracted from other things.

Accessing Information

- 89% of young people receive their information about climate change through social media, with 83% also receiving it through a school or college.
- 95% of young people trust information about climate change from scientists either a lot or a little, while 83% trust information about climate change from a school or college teacher either a lot or a little.

Personal Participation

- 88% of young people thought something could be done to reduce the negative effects of climate change, compared with 3% who were less optimistic.
- 47% of respondents identified the UK government as having ultimate responsibility to reduce the negative effects of climate change, while 8% felt it was the responsibility of the NI government.
- 50% of young people had acted out of concern for climate change. Of those young people, 85% had reduced their plastic waste, 78% walked and 63% used public transport.

The Future

- 67% of respondents either disagreed or strongly disagreed with the view that it was too late to do anything about climate change.
- 4% either agreed or strongly agreed with the statement that there needs to be a focus on greener employment opportunities.
- 87% either agreed or strongly agreed that we all have a role to play in protecting the environment.
- 55% of young people either agreed or strongly agreed with the statement that 'I feel ignored by adults and people in power'.

210 Belfast Climate Commissioner Youth Working group (November 2021), [Climate Crisis Youth Survey](#), (Belfast: Belfast Climate Commission).

Recommendations from the UNCRC Day of Discussion

Following its Day of Discussion on Children's Rights and the Environment, the Committee had four key General Recommendations, which mostly focused on environmental harm:

- States must protect children against environmental harm that interferes with the enjoyment of their rights. Children's specific vulnerability and social status within society imposes a heightened duty on governments and policy-makers to make sustained efforts to effectively protect children from such harm, strengthen their capacities, take their views and competences into account and provide access to effective and timely remedies.
- States should ensure children's environment-related rights by realizing them in a sustainable manner such that they can be enjoyed by all current and future generations of children.
- States must ensure that all children have equal access to healthy and sustainable environments and nature. States must pay specific attention to the rights of children exposed to multiple factors of vulnerability as a result of environmental injustices, including girls, children with disabilities, poor children, and children belonging to indigenous or minority groups.
- States should take steps to prevent causing or contributing to transboundary environmental harm that affect the rights of children abroad.²¹¹

In addition, the report of the Day of General Discussion provided recommendations on legislation and policy, regulation of the business sector, implementation and accountability, reporting, ensuring a healthy environment, ensuring a sustainable environment, ensuring

child-friendly play environments, ensuring a connection with the natural world, environmental information and research, impact assessments, environmental education, freedom of expression and participation in environmental decision-making, and access to justice concerning environmental matters.

Recommendations from the ENOC Statement on Children's Rights and Climate Justice

ENOC's statement details specific actions States should take to implement children's rights concerning climate justice, concerning the following themes:

- Upholding the best interests of children in climate and other environmental action.
- Human rights education, including on the environment.
- The right to seek receive and impart information.
- The right to be heard and to have views given due weight.
- The right to freedom of association and peaceful assembly.
- Access to justice.²¹²

NICCY's Actions

Environmental justice was adopted as a priority by the Commissioner in 2020, following consultation with children and young people on her key priorities for the 2020-23 Strategic Plan.

NICCY has therefore provided advice to the government concerning the intersection between environmental matters and children's rights, particularly concerning promoting an understanding of the relationship between the two and promoting children and young people's

211 Committee on the Rights of the Child (2016), [Report of the 2016 Day of General Discussion: Child Rights and the Environment](#), (Geneva: OHCHR).

212 Op cit, ENOC 2022.

right to have a say and protest on these matters. NICCY's advice, informed by the NYP and other engagements with children and young people, has focused on the development of the Environment Strategy, described as Northern Ireland's first Environmental Improvement Plan, and the Green Growth Strategy, which sets out how the Executive will meet its targets to reduce greenhouse gases and play its part in slowing global warming.²¹³

Across this advice, we have focused on three key priorities. First, government strategies to address climate change and other environmental harms should focus on children's rights. As the Committee on the Rights of the Child, in its 2016 Concluding Observations, advised: 'Place children's rights at the centre of national and international climate change adaptation and mitigation strategies', and indeed they should also be at the centre of strategies and actions relating to environmental degradation and sustainability. NICCY has advised that a CRIA approach should be taken concerning the development and delivery of strategies to address climate change, sustainability and environmental degradation. Doing so will ensure timely consideration of how children's rights would be affected and allow planning of meaningful engagement of children and young people. Moreover, consideration should be given to the appointment of a future generations commissioner to advocate for the rights and best interests of people in the future, through promoting sustainability.

A second priority is promoting the participation of children and young people in decision-making on environmental matters, including climate change. *The Lancet's* article *Monitoring Climate Change and Child Health* clearly articulated the frustration felt by many young

people at not feeling they are being heard and at insufficient action being taken:

*As policies for climate change adaptation and mitigation are designed and implemented, putting children at their centre will help maximise the benefits to their health and wellbeing, as described above. Incorporating the voice of children and young people in environment and climate-related decision-making processes is critical to ensure that their needs are met and their rights upheld. The importance of this was recognised in the 1992 Rio Declaration. Yet, 30 years on, children and young people are still frustrated that not enough has been done to act on climate change, and that their voices and their futures are not being adequately considered – and they are calling for action. Millions of children and young people were mobilised through the School Strikes for Climate movement of 2019, demanding adults to protect their futures.*²¹⁴

The results of the Belfast Climate Commission's Youth Survey demonstrated the level of 'eco-anxiety' among children and young people, due to their awareness of the increasingly devastating impacts of climate change, alongside their frustration at the slow pace of government in response.²¹⁵

One of the key recommendations of the Belfast Climate Commission's report was for consideration to be given to 'the creation of an independent Youth Climate Commissioner who is responsible for advocating on young people's concerns and facilitating engagement across stakeholders.'²¹⁶ While NICCY has a wider remit, we will explore how we can support engagement between the government and children and young people concerning the protection of the environment and addressing climate change.

213 See NICCY's Environmental Hub to access our advice on these strategies.

214 *The Lancet* [Monitoring climate change and child health: The case for putting children in all policies - PMC \(nih.gov\)](#)

215 Op cit, Belfast Climate Commission Youth Working Group, 2021.

216 Ibid

From the start, our work on environmental justice has been informed by engagement with children and young people, both those on the NYP and more widely. The NYP has developed its calls for government relating to the priorities of COP-26 and participated in the work of the European Network of Young Advisers (ENYA), advising on the production of the ENOC statement on children's rights and climate justice. This statement highlights the importance of children and young people's participation in addressing climate change, including their right to information and to protest, challenge and access legal complaints mechanisms.

Our third priority is advocating for a just transition so that actions to address climate change promote equality, including justice between generations, geographies and socioeconomic backgrounds. Belfast Climate Commission's Youth Survey found that three-quarters (74%) of the young people they surveyed agreed or strongly agreed with the statement that a focus on greener employment opportunities is needed.²¹⁷

Assessment of Government Response

A consistent view expressed by children and young people, is that the government has not acted quickly enough and is not doing enough concerning environmental damage and climate change. Certainly, government action has been relatively recent, with Northern Ireland being the last part of the UK to have legally binding greenhouse gas reduction targets. This changed only recently, with the Climate Change (Northern Ireland) Act 2022.²¹⁸

To date, a child rights approach to environmental matters has been absent. Both the draft Environment Strategy and draft Green Growth Strategy lacked a focus on children's rights, other than concerning environmental

education, and CRIAs were not undertaken as these were developed.

NICCY was pleased to see efforts made to engage with children and young people in advance of the consultation on the Green Growth Strategy. The Department of Agriculture, Environment and Rural Affairs (DAERA) officials commissioned a report from the EAYS concerning the areas that will be addressed by the Strategy. However, it is not clear how the views of the young people engaged fed into the development of the draft Strategy that subsequently went out to consultation.

Moreover, while the consultation document on the Green Growth Strategy articulated a commitment to ensuring ongoing engagement with, and accountability to, the public, including children and young people, the restrictions that were put on the consultation exercise likely impacted the ability of children and young people to respond. As has become common with government consultations, DAERA used the Citizen Space online platform for the consultation. However, rather than also allowing other responses, DAERA specified that only responses submitted through this platform would be accepted. It also required that every question be answered 'yes' or 'no' for the response to be submitted.

As a minimum, in such consultations, participants should not be required to respond to a question and should be able to choose if they only wish to respond to some questions. Moreover, submissions not using the Citizen Space platform should also be accepted, as this format greatly restricts the responses and is not very accessible for children and young people.

NICCY was also concerned about how the submissions to the Discussion Document on a Northern Ireland Climate Change Bill

217 Ibid

218 <https://www.legislation.gov.uk/nia/2022/31/contents/enacted>

were assessed.²¹⁹ The summary report of this consultation states that there were 285 'discrete' responses' but that one was a 'campaign response' consisting of 430 almost identical emails. NICCY understands that numbers alone should not be the sole factor determining the outcome of a consultation exercise, but to disregard the number of individual emails sent and count them as a single response is certainly not appropriate. Given how challenging it can be for children and young people to engage with government consultations, a drafted campaign email such as this may be an accessible way for them to engage and provide input to this process.

There is no suggestion that this mechanism for receiving responses to these public consultation exercises was deliberately chosen to restrict the engagement of children and young people.

However, if a CRIA approach had been taken to their development, the problems with the consultation mechanisms should have been identified in advance.

While the consultation on the development of these two key strategies has concluded, they have not been able to go live as they require approval from the Executive, and this is not possible in the current political situation.

The work to bring about change concerning environmental degradation and climate change is only in the early stages. It is critical that over the coming years the government proactively engages with children and young people in a sustained way as it moves forward in implementing the changes needed to protect the environment and halt climate change.

Calls to Government

The government must urgently act to protect children's rights concerning environmental degradation and climate change:

1. Take a child rights approach to environmental matters, including climate change action. This should include undertaking CRIA on the development of related policies, strategies, legislation and action plans.
2. Encourage meaningful and ongoing engagement of children and young people in developing and implementing actions to protect the environment and address climate change. Establish accessible engagement processes and recognise children's right to information and to protest, challenge and access legal complaints mechanisms.
3. Commit to a 'just transition' approach to climate action, to promote equality between generations, geographies and socioeconomic groups and to ensure that the cost of climate actions does not impact already disadvantaged groups.

219 DAERA (Sept 2021), [Summary Report - Responses to the Discussion Document on a Northern Ireland Climate Change Bill](#).



3.9 HOMELESSNESS

Child Rights Context

UNCRC

Article 27

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.

Article 16

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.

Article 18

For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

Article 22

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.

The Committee has voiced concerns regarding growing housing instability in Northern Ireland. In its 2016 Concluding Observations, the Committee noted the increase in the number of homeless households with dependent children, including the number of homeless families with infants staying in temporary accommodation.²²⁰ They have also highlighted the child poverty rate and the overrepresentation of people with disabilities (disabled children or children living with a disabled family member) and those belonging to ethnic minority groups. Such concerns are linked to recent social welfare reforms, such as the benefit cap and bedroom tax, and their concomitant impact on the best interests of children experiencing them, particularly vulnerable groups.²²¹

State obligations on housing rights and standards are also references in a range of other international treaties ratified by the UK, including the International Convention on Economic, Social and Cultural Rights (ICESCR), the United Nations Convention on the Rights of People with Disabilities (UNCPRD) and the ECHR.

220 CRC/C/GBR/CO/5, Para 71 (e-f)

221 Ibid, Para 70

Context

The true extent of homelessness and housing insecurity among children, families and young people in Northern Ireland is difficult to ascertain due to the hidden or informal nature of much homelessness, which includes those staying temporarily with family and/or friends, sofa-surfing, living in overcrowded conditions, squatting or rough sleeping. Young people, particularly those who are care experienced, are at increased risk of hidden homelessness.²²²

Official data collated by the NI Housing Executive (NIHE) provide information on those that present to their services in housing need and are known as statutorily homeless. Between April 2020 and March 2021, 4,595 families presented as homeless to the NIHE, which is an indication of homelessness experienced by children.²²³

The statutory test for homelessness includes an assessment of priority needs, and having dependent children is consistently the second-largest category of priority need, accounting for 27% of households accepted as homeless from July to December 2021.²²⁴

There has been a 55% increase in the number of children in temporary accommodation between 2019 and 2022, from a total of 2,433 in January 2019 to 3,763 in February 2022. Increases in the number of children in temporary accommodation are evident across all age categories, with the highest rates among children aged one to four years.²²⁵ At the height of the pandemic, there was also a noticeable increase in rates of 16-to-25-year-olds presenting to the NIHE as homeless, which

demonstrates the precarious nature of housing for this age group.²²⁶

The needs of those who are homeless or facing housing insecurity will often extend beyond the need for secure and safe housing, as there will often be a range of complex health and/or social issues within the family unit. Preliminary findings from research NICCY has commissioned, of which further details are available below, indicate that while the NI government has a range of housing strategies in place, gaps persist concerning support for young people with disabilities, families and young people subject to immigration control, and young care leavers. This includes support specific to mental health, addiction and human trafficking.²²⁷

NICCY's Actions to Promote and Safeguard CRs

In response to concern about the worsening problem of homelessness impacting children in Northern Ireland, NICCY commissioned a desk-based scoping study between December 2021 and April 2022 to better understand the scale and impact of homelessness or housing insecurity affecting children and families in Northern Ireland. The scoping paper provides a strong overview of the rights context of housing, and the current legislative, policy and procedural landscape for families and children in housing need. It also considered the issues affecting key groups:

- Families with children in housing insecurity.
- Young people aged 16-17.
- Young adults aged 18-21 who are care experienced or have a disability.

222 Gray, A., Hamilton, J., Bell, J., Faulkner-Byrne, L. and McCready, P. (2022) *'Hidden' Homelessness in Northern Ireland*. Belfast: Simon Community.

223 Northern Ireland Housing Bulletin October-December 2021. Belfast: DfC. Table 2.2

224 Northern Ireland Homelessness Bulletin July-December 2021. Belfast: DfC, Table 2.5

225 Northern Ireland Homelessness Bulletin July-December 2021. Belfast: DfC, Table 3.4

226 Supporting People Three Year Draft Strategic Plan and Covid 19 Recovery Plan 2022-2025. Belfast: NIHE.

227 Homelessness and Housing Insecurity impacting Children and Young People- Scoping Study April 2022- NICCY, pending.

- Families and children subject to immigration control.

As the second stage of this important work, NICCY has commissioned researchers from Queen's University Belfast (QUB) to carry out in-depth qualitative research with children and families facing homelessness or housing insecurity to give these groups a voice and to better understand their lived experiences. A final

comprehensive rights-based research report will be published in February 2023 and will inform NICCY's recommendations to the government, as set out under Article 7(2) and (3) and Article 8 (1) of the 2003 Order, concerning addressing gaps or where the government is failing to meet its obligations under UNCRC and other relevant international human rights treaties such as ICESCR.

Calls to Government

The government must act to address homelessness and housing insecurity among children, young people and their families:

1. Prioritise the eradication of homelessness and housing insecurity affecting children and families in Northern Ireland.
2. Ensure that robust data are being collated and used to understand the profile of children, young people and families affected by homelessness and housing insecurity.
3. Review existing housing policy and support to ensure that prevention and early intervention are effective in their approach to children, young people, and families.



3.10 CHALLENGING DISCRIMINATION

Child Rights Context

Article 2 of the UNCRC provides for the protection of 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."²²⁸

The Committee also highlighted the need for the government to strengthen awareness raising and other preventive activities against discrimination and stigmatisation²²⁹ 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.²³⁰

Implementation of Children's Rights

This section of the report will focus on three key areas where children and young people are being or are at risk of being discriminated against:

1. Equal protection against physical punishment.
2. Mental capacity.
3. Access to goods, facilities and services.

Article 2 as described above is the overarching right to anti-discrimination, however, other more specific rights relevant to each area of discrimination will also be highlighted at the beginning of each section.

Equal Protection A Physical Punishment

*"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."*²³¹

UNCRC 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

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

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

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

231 UN Committee on the Rights of the Child (2006) General Comment 8, para 21

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

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:
- Prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences, such as “reasonable chastisement”;
 - Ensure that corporal punishment is explicitly prohibited in all schools and educational institutions and all other institutions and forms of alternative care;
 - 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.

NICCY has consistently called for legislative reform to ensure children have equal protection from all forms of assault, including physical punishment, and government-led actions to support families, including through dedicated and effective positive parenting support. 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 chastisement’ or ‘reasonable punishment’ in the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006, the defence is still available to parents in certain circumstances concerning the offence of common assault.²³²

While the majority of children and young people are safe at home, violence by caregivers is the most common form of violence experienced by children. On 31 March 2021, 23,095 children in Northern Ireland were known to social services as a child in need, and 2,298 children were listed on the Child Protection Register, with neglect and physical abuse accounting for 73% of those listed.²³³ Rates have not changed significantly in the last two years; the number of children registered in need has fallen slightly from 2,4289 but the number of those listed has increased (2,211).

The pandemic and lockdowns undoubtedly increased the pressure on parents and reduced the ability of the system to have a clear sight of all children and young people at risk of harm. NICCY documented the impact of COVID-19 on children in *A New and Better Normal* and emphasised the need for COVID recovery plans to have a strong safeguarding focus and be used to inform the rebuilding of children’s social care services.²³⁴

A wide body of research shows that physical punishment of children is harmful and ineffective as a form of discipline.²³⁵ Strong public support

²³² Article 2 Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006.

²³³ [https://www.northernireland.gov.uk/news/publication-childrens-social-care-statistics-northern-ireland-202021#:~:text=At%2031%20March%202021%2C%2023%2C095,by%20the%20Police%20\(39%25\).](https://www.northernireland.gov.uk/news/publication-childrens-social-care-statistics-northern-ireland-202021#:~:text=At%2031%20March%202021%2C%2023%2C095,by%20the%20Police%20(39%25).)

²³⁴ <https://www.niccy.org/media/3882/niccy-covid-report-main-report-final-aug-21.pdf> (Recommendation 7.1-7.4)

²³⁵ www.niccy.org/media/4007/equal-protection-joint-briefing-final-171121.pdf

for law reform and a shift in parental preference towards parenting techniques other than physical punishment also continue. NICCY's 2017 research on NI public attitudes to physical punishment showed that 63% of adults and 63% of parents supported legal reform,²³⁶ more up-to-date research published by the National Society for the Prevention of Cruelty to Children (NSPCC) in 2021 showed that 65% of adults and 71% of parents support legal reform, indicating consistent support by adults and a considerable increase in support towards law reform by parents.²³⁷ NSPCC's 2021 survey also reported that 14% of adults and 8% of parents considered physical punishment an acceptable form of discipline. This showed a progressive change from NICCY's 2017 survey, in which 24% of adults and 18% of parents considered physical punishment an acceptable form of discipline.

In March 2021, Wales followed Scotland, Jersey and the Republic of Ireland in abolishing the defence of reasonable chastisement from their statute books.²³⁸ This leaves England and Northern Ireland the only parts of the UK and Ireland that do not have legislation that protects under-18s from assault in the home.

NICCY has continued to engage with a range of government, statutory and non-governmental organisations on this important issue. Over the last two years, NICCY has continued to work alongside the children's NGO sector to present evidence for a change in the law. Before the Assembly election and subsequent collapse of the Executive in May 2022, NICCY along with a range of children's sector organisations, worked with a cross-party group of Members of

the Legislative Assembly (MLAs) to put forward an amendment to the Justice (Sexual Offences and Trafficking Victims) Bill that would remove the legal defence of 'reasonable punishment'.²³⁹ Unfortunately, the amendment was not deemed in scope, and therefore could not be debated or voted on by the Assembly. However, the support for legal reform was evident, with strong momentum at political, civic, faith and broader societal levels for a change in the law.

Legal reform must also come with greater government-led parenting support. A Family and Parenting Support Strategy was in development when SOCRNI 2 was published. Unfortunately, this remains the case. However, we understand that the DoH plans to consult publicly on the Strategy in early 2023.²⁴⁰

Overall, it is extremely frustrating and disappointing that while all the evidence points to the time for a change in law, policy and practice in this area, we remain without an Assembly and Executive to address these matters. When the Executive is reinstated, NICCY will be alert to all opportunities to find a suitable legal vehicle for reform and to continue to press for a government-led and funded Family Support Strategy.

Mental Capacity

A comprehensive review of mental health and learning disability, the Bamford Review of Mental Health and Learning Disability (Bamford Review), was carried out in Northern Ireland in 2002. The Bamford Review made recommendations regarding necessary reforms of the system of mental health and learning

236 <https://www.niccy.org/media/2839/niccy-changing-perceptions-equal-protection-for-children-report-2017.pdf> (Section 3.3.1)

237 <https://www.nspcc.org.uk/globalassets/documents/policy/public-attitudes-equal-protection.pdf>
Please note: The methodology from the two surveys were not identical, however, substantial commonality applies to allow comparisons to be made.

238 [Ending physical punishment of children | GOV.WALES](#)

239 [equal-protection-joint-briefing-final-171121.pdf](#) (niccy.org)

240 Children's Champions Meeting- March 2022

disability in Northern Ireland to render it human rights-compliant.²⁴¹

The Mental Capacity (NI) Act 2016 is a significant legislative development that fuses mental capacity and mental health law for those aged 16 years and over. NICCY has scrutinised ongoing developments concerning the introduction of mental capacity legislation since the then Department of Health and Social Services and Public Safety (DHSSPS) introduced its draft policy proposals in 2009.

The Mental Capacity (NI) Act provides important safeguards and protections for people who lack decision-making capacity leading to a DOL. The deprivation of someone's liberty is a serious infringement of their rights and must be authorised and justified, regardless of their age.

NICCY has consistently outlined its concerns to the government concerning the proposal to exclude under-16s from the Mental Capacity Bill and emphasised the need to ensure that any new legislation conforms with the UNCRC, particularly Articles 2 (non-discrimination), 3 (best interests of the child), 6 (the right to survival and maximum development), 12 (the right to be heard and have views taken into account), 23 (the right of a disabled child to a full and decent life), and 24 (the highest attainable standard of healthcare).

NICCY also advised that exclusion of under-16s from the scope of the Mental Capacity Bill may not be compliant with the UNCRPD, in particular Article 7, which refers to the rights of children

with disabilities to enjoy all human rights and fundamental freedoms on an equal basis with other children, and Article 12, which states that the aim of the UNCRPD is full and equal legal capacity for everyone.

NICCY's ongoing advice to the government has been to repeal the Mental Health (Northern Ireland) Order 1986 (MHO, 1986) and extend the Mental Capacity Act (NI) 2015 (MCA) to children and young people under the age of 16, to ensure the legislation is fully compliant with ECHR and UNCRC.²⁴² However, the DoH policy position is that those under 16 should remain within the remit of an amended MHO (1986).

The MCA is being implemented on a phased basis. The first phase commencement of the Act includes a new statutory framework concerning DOL.²⁴³ During consultation on the Code of Practice for the Act, stakeholders including NICCY raised concerns about parents being able to authorise a DOL for 16- and 17-year-olds, in which circumstances young people would not have access to the legal protections afforded by the MCA 2016.²⁴⁴ Subsequently, a Supreme Court judgement concerning 'Re D' made clear that no person can give consent on behalf of a young person aged 16 or 17.²⁴⁵ NICCY has monitored the drafting of the DOL Code of Practice chapter relating to 16- and 17-year-olds and the inclusion of Section 16.8, which states that 'immediately on a person's 16th birthday the Act applies, and all safeguards must be in place for DOL to be lawful.'²⁴⁶

241 [Introduction, The Bamford Review of Mental Health and Learning Disability. A Comprehensive Legislative Framework \(2007\).](#)

242 [NICCY Written Evidence to the Ad Hoc Joint Committee on the Mental Capacity Bill; NICCY response on the Mental Capacity Act \(Northern Ireland\) 2016 Code of Practice](#)

243 [Mental Capacity Act Legislation | Department of Health \(health-ni.gov.uk\)](#)

244 <https://www.niccy.org/publications/2019/february/22/mental-capacity-act/>

245 [In the matter of D \(A Child\) \(supremecourt.uk\)](#)

246 <https://www.health-ni.gov.uk/sites/default/files/publications/health/mca-dols-cop-november-2019.pdf>

NICCY has been consistent in its advice to the government that advocacy provisions for children and young people who lack capacity should commence at the same time as DOL provisions.²⁴⁷ It is of great concern that advocacy provisions within the MCA are not expected to proceed until Phase 2, the timelines of which are unknown, and the progress of which remains subject to confirmation of funding.²⁴⁸

To manage the commencement of the MCA, a dual system is currently in place whereby both the MCA and the MHO 1986 provide a statutory framework for the DOL. Implementation of the MCA will ultimately result in the repeal of the MHO 1986 for persons aged 16 years and over, by way of Schedule 8. In addition, this Schedule will provide for amendments to the MHO to introduce additional safeguards, including independent advocates for children under the age of 16.

However, no timeframes are set for the commencement of provisions within the MCA or amendments to MHO. Therefore, general progress in areas relevant to under-16s and 16- and 17-year-olds is limited. The lack of progress in mental health legislation means that children and young people in NI are being treated under a piece of legislation that is not compliant with ECHR or UNCRC. As a consequence, they are at risk of receiving care or treatment that is below the standard required to ensure that children's rights to non-discrimination, best interests and best attainable standard of health and healthcare are being met.

Access to Goods, Facilities and Services

Northern Ireland has no legal protections against discrimination on grounds of age when accessing goods, facilities and services. Public consultation on the introduction of Age Discrimination Legislation in respect of Goods, Facilities and Services (or Age GFS) for those aged 16 and over was introduced in 2015, and a significant number of those that responded, including NICCY, argued that the legislation should also apply to under-16s.²⁴⁹ NICCY also complained to the Equality Commission that the consultation process on proposals to introduce Age GFS legislation excluded under-16s because the process failed to properly consult with children and young people.²⁵⁰ This complaint was upheld,²⁵¹ and since then, NICCY continues to raise this matter with Ministers and departmental officials, stressing the need to address this weakness in current legislative protections for everyone in NI, with a particular focus on the breach of children's and young people's Article 2 rights to non-discrimination.

Following the Executive commitment made in January 2020 as part of the NDNA agreement to 'bring forward an Age, Goods and Facilities and Services Bill as a basis for ensuring that no one is discriminated against because of their age',²⁵² NICCY was hopeful that progress to introduce all age-inclusive legislation was possible. Unfortunately, this did not happen before the end of the last mandate in March 2022, and it is clear that the legislative progress

247 NICCY written Advice to DoH Next Steps on the Mental Capacity Act (Northern Ireland) 2016-May 2020

248 Correspondence to NICCY from DoH on MCA, 15 March 2022.

249 Response to the Office of the First and Deputy First Minister's (OFMDFM's) Proposals to Extend Age Discrimination Legislation (Age Goods, Facilities and Services) (niccy.org); GFS (Goods Facilities and Services Anti-discrimination Legislation) (niccy.org)

250 <https://www.niccy.org/children-and-young-people/issues-that-affect-you/gfs-goods-facilities-and-services-anti-discrimination-legislation/>

251 <https://www.niccy.org/media/2737/niccy-teo-p10investreport2017.pdf>

252 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade__a_new_approach.pdf p.41

needed to challenge discrimination continues to be impacted by an unstable and absent NI Executive.

NICCY's 2018 recommendations in these three areas have not been progressed and are therefore repeated.

Calls to Government

The government must act to protect children and young people from discrimination:

1. Develop and implement Age GFS legislation that covers all age groups to include the protection of children and young people from discrimination when accessing goods, facilities and services.
2. Act decisively to ensure that mental health legislation in NI provides all children aged under 18 with access to legal protections and safeguards that comply with ECHR and UNCRC.
3. Reform legislation to ensure children have equal protection from all forms of assault, including physical punishment, and strengthen the commitment to supporting families, including through dedicated and effective positive parenting support.





3.11 CHILDREN AND FAMILIES SUBJECT TO IMMIGRATION CONTROL

*"... you have to understand, that no one puts their children in a boat unless the water is safer than the land ..."*²⁵³

Child Rights Context

The UNCRC is clear about the importance of affording special protection rights to groups of children, such as asylum-seeking and refugee children, who face particular barriers in the realisation of their rights.

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 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 Committee's 2016 Concluding Observations made a wide range of recommendations to the UK and devolved governments:

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;

253 Warsan Shire (2015) *Extract from Home*. Available at www.facinghistory.org/standing-up-hatred-intolerance/warsan-shire-home

- (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;
- (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.

Implementation of Children's Rights

Children and families subject to immigration control may be asylum seekers, refugees or migrants. and children may be unaccompanied or separated from their primary carers. They are subject to a complex range of procedures that require the UK and devolved agencies to work effectively across their respective remits, and children and families will need to navigate the asylum and immigration system and seek access to services in Northern Ireland. Separated children should become looked-after children and be accommodated by HSC Trusts.

In considering migration more broadly, official figures indicate that from mid-2019 to mid-2020 the number of people who left Northern Ireland exceeded the number who came to live here by 3,300. Across this period, 11,200 people came to the jurisdiction from outside the UK, with those seeking asylum representing 10.8% of this total.²⁵⁴ Concerning children, Northern Ireland continues the trend of seeing relatively low numbers of separated or unaccompanied children arrive in the jurisdiction compared

to the rest of the UK, and in 2019-2020, 39 separated children were identified and referred to HSC.²⁵⁵ Turning to trafficking and modern slavery, in 2021, 244 potential adult and 38 potential child victims of trafficking and modern slavery in Northern Ireland were referred to the National Referral Mechanism, with the vast majority holding nationality from outside the UK or Ireland.²⁵⁶

Since the publication of SOCRNI 2, a range of significant developments has impacted travel and migration patterns, including the COVID-19 pandemic and the UK's exit from the EU. Those affecting asylum and refugee movements include the regime change in Afghanistan and the invasion of Ukraine, with the UK government developing dedicated schemes to provide support in the UK for nationals from both countries. While the UK continues to receive a smaller number of asylum seekers than other European countries, and within the UK, Northern Ireland receives a lower percentage of arrivals, systems in place have been under sustained pressure to ensure that basic standards, such as access to appropriate accommodation, are being met. This has been the case for both separated children and children arriving with family members, where the use of contingency accommodation, particularly hotels, is now in place to house families at a scale not previously seen in Northern Ireland; as discussed below.

NICCY's Actions to Promote and Safeguard Children's Rights

During this period and throughout the pandemic, NICCY has continued to engage with departments, statutory agencies and

254 NISRA (2020) Long term international migration statistics for NI. Available at: <https://www.nisra.gov.uk/sites/nisra.gov.uk/files/publications/Migration2020.pdf>

255 HSCB (2020) Delegated Statutory Functions Overview Report: 1 April 2019-31 March 2020. Available at: <https://www.health-ni.gov.uk/sites/default/files/publications/health/child-social-care-20-21.pdf>

256 NCA (2021) National Referral Mechanism Statistics: End of year summary 2021. Available at: <https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2021/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2021>

specialist NGOs on a wide range of matters affecting children and families, such as accessing interpreter services, securing school places, addressing digital exclusion, receiving health services and the arrangements in place to support Ukrainian refugees. The UK government policy of creating differential access to services and supports depending on an asylum seeker's route into the UK has been an ongoing concern for the Commissioner, and we highlight that access to UNCRC rights for children and families subject to immigration control should not be contingent on their mode of entry to Northern Ireland.

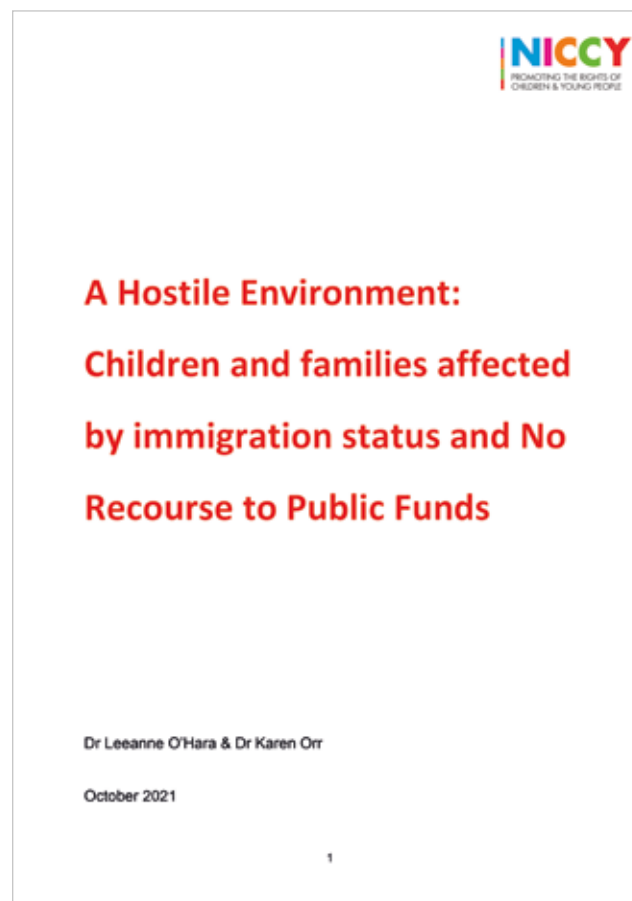
NICCY Casework Example

NICCY was contacted by a medical doctor to note the ongoing difficulties of an asylum-seeking family with children with significant clinical needs. The accommodation in which they have been assigned to live is difficult due to physical impairment, such as wheelchair use. The children had no access to medical care until they presented in an emergency to A&E. NICCY sought to engage with the housing providers, and when contact was made they were unable to answer basic questions. The matter remains ongoing as NICCY seeks to ascertain who the responsible agencies are.

No Recourse to Public Funds (NRPF)

Following on from the Commissioner's previous call to the government to ensure that the rights of all children, including those of destitute asylum seekers, are addressed, NICCY commissioned a scoping paper to further explore the scale and circumstances of children and families affected by NRPF and at risk of destitution in Northern Ireland. The paper, *A Hostile Environment*, which was launched at an online event on 7 October 2022, highlighted the invisibility of this

group of children in official data and underlined concerns that no clear access to pathways to statutory support was in place, leaving children and families in precarious situations.²⁵⁷



Based on the findings, NICCY recommended that the NI and UK governments:

- Undertake work to identify numbers of children in NI who are living in a family with NRPF and to publish these data (which should include figures held by the Home Office and the DoH).
- Develop clear pathways across and between Home Office and HSC agencies to ensure that children and families affected by NRPF are referred and that the needs and best interests of children are assessed as a matter of urgency.

257 O'Hara L. and Orr K. (2021) *A Hostile Environment: families affected by immigration status and No Recourse to Public Funds*, NICCY. Available at: www.niccy.org/media/3953/niccy-nrpf-paper-final-7-october-2021.pdf

- Address the needs of each child, particularly ensuring that they have access to the highest standard of health care, an effective education, an adequate standard of living and all other protections afforded by the UNCRC.

Both HSC agencies and the Home Office were represented at the event and NICCY has continued to engage with them respectively on these issues. The Commissioner understands that the DoH is currently actively working to identify those children known to social care who are affected by NRPF, and we welcome this while noting it is the first step that must be taken to ensure that government obligations to this group of children are being met.

Separated Children

The Commissioner has continued to consider how effectively separated children are being protected and supported in Northern Ireland and has warmly welcomed the implementation of Section 21 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, which provides children with an independent guardian to ensure that their rights and best interests are properly considered concerning child protection, accommodation and placement, health and education or immigration status, and durable solutions. Access to an independent guardian as a cornerstone of arrangements in Northern Ireland had been a key call of NICCY's earlier work in this area.²⁵⁸ It is also important to note some recent progress in how immigration interviews for separated children are undertaken following the Home Office's move to remote interviewing during the pandemic period with children being interviewed in a more child-friendly setting. This issue has been a recurring theme in NICCY's meetings and engagement with the Home Office.

While acknowledging the range of activity that has been undertaken to improve arrangements to support separated children in Northern Ireland, we have remained mindful that the development of specialist services and professional expertise has been subject to considerable pressure at times and that provision must be planned and resourced on reasonable assessments of likely numbers of children arriving. The work of the DoH to develop proposals for a regional service model for separated children was, therefore, an important step forward, particularly as the targeted consultation proposals were accompanied by a CRIA, as supported by NICCY and first introduced in Northern Ireland in 2021 as part of A Life Deserved – A Strategy for Looked After Children.²⁵⁹ It is therefore of significant concern that the work to develop a regional model has been paused. While we understand that work is ongoing within each HSC Trust to improve services for separated children, NICCY is of the view that a sustainable and robust regional model to effectively safeguard the rights and best interests of separated children should be developed.

European Union Settled Status (EUSS) Scheme

As the UK government prepared for EU exit, the EUSS Scheme was introduced to provide secure legal status for EU citizens residing in the UK, including children, to protect their rights to live, study and work and to access health services and public funds. NICCY liaised closely with the Health and Social Care Board, the Home Office and other organisations to monitor how effectively legal status was being secured for the care experience children and young people in Northern Ireland. The Commissioner is mindful of the considerable effort that was required across children's social care to achieve Northern Ireland's high application rate among looked-after children and would highlight that

258 <https://www.niccy.org/publications/2014/february/11/by-their-side-and-on-their-side/>

259 DoH (2021) A Life Deserved: A Strategy for Looked After Children
<https://www.health-ni.gov.uk/publications/life-deserved-strategy-looked-after-children>

the work undertaken on this illustrates how effectively agencies in Northern Ireland and the Home Office can work together to support vulnerable children.²⁶⁰

However, on the EUSS Scheme more broadly, we note that the number of children in Northern Ireland outside of children's social care services whose legal status may be affected by EU exit remains unclear.

Contingency Accommodation

As noted earlier, a recent shift in the allocation of accommodation for asylum-seeking families in Northern Ireland has resulted in children and families being placed in contingency accommodation, particularly hotels, often for lengthy periods.²⁶¹ As this practice became more established, NICCY engaged with a wide range of government and statutory organisations and NGOs and also spoke to families. In June 22 the Minister for Health reported to NICCY that, at that time, there were 259 asylum seeking children living in contingency accommodation.

While we acknowledge the pressures on housing stock in Northern Ireland, NICCY has highlighted both immediate concerns arising with the placement of families in hotel accommodation and the longer-term concern that an approach to widening the procurement of appropriate accommodation for families must be addressed. As recommended by the Independent Chief Inspector of Borders and Immigration, a realistic plan to end the practice of accommodating asylum seekers in hotels should be developed and implemented.²⁶²

NICCY is clear that work to end the use of hotels and other contingency accommodation should not involve a move to reception or assessment centres or camps in Northern Ireland and should instead seek to provide accommodation that properly supports children's right to family life and all other UNCRC provisions. While the Home Office and private contractors are central duty bearers in this, the role of Northern Ireland departments and statutory agencies is supporting the procurement of appropriate accommodation and ensuring that children and families have access to all necessary services and supports. Following on from this, NICCY is mindful that many of these areas where families face barriers in accessing provisions for children, including education, health and an adequate standard of living, are also of concern to families housed away from hotels and in other forms of initial or dispersal accommodation. This highlights the need for a wider consideration by government and statutory agencies on how effectively they are meeting the rights of families seeking asylum in Northern Ireland.

Assessment of Government Response

In SOCRNI 2, 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. The government to ensure that all separated children have access to an independent guardian. and

260 Home Office (2021) EUSS Scheme – looked after children and care leavers survey. Available at: <https://www.gov.uk/government/publications/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-2020/eu-settlement-scheme-home-office-looked-after-children-and-care-leavers-survey-november-2021>

261 Law Centre NI (2022) Submission to the Framework Convention for the Protection of National Minorities. Available at: <https://www.lawcentreni.org/wp-content/uploads/2022/08/LCNI-submission-to-FCNM-May-2022-Final.pdf>

262 Independent Chief Inspector of Borders and Immigration (2022) An inspection of asylum contingency accommodation. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1074799/An_inspection_of_contingency_asylum_accommodation.pdf

3. The government to support the transfer of separated children to Northern Ireland in cases where this would meet their best interests.

While recognising the wide-ranging challenges that government and statutory agencies have had to address in recent times, NICCY is disappointed that further action to ensure the rights of all children and families, including destitute asylum seekers, has not been taken. The importance of addressing this area and responding to the recommendations of NICCY's *A Hostile Environment* will be reflected in the calls to the government below.

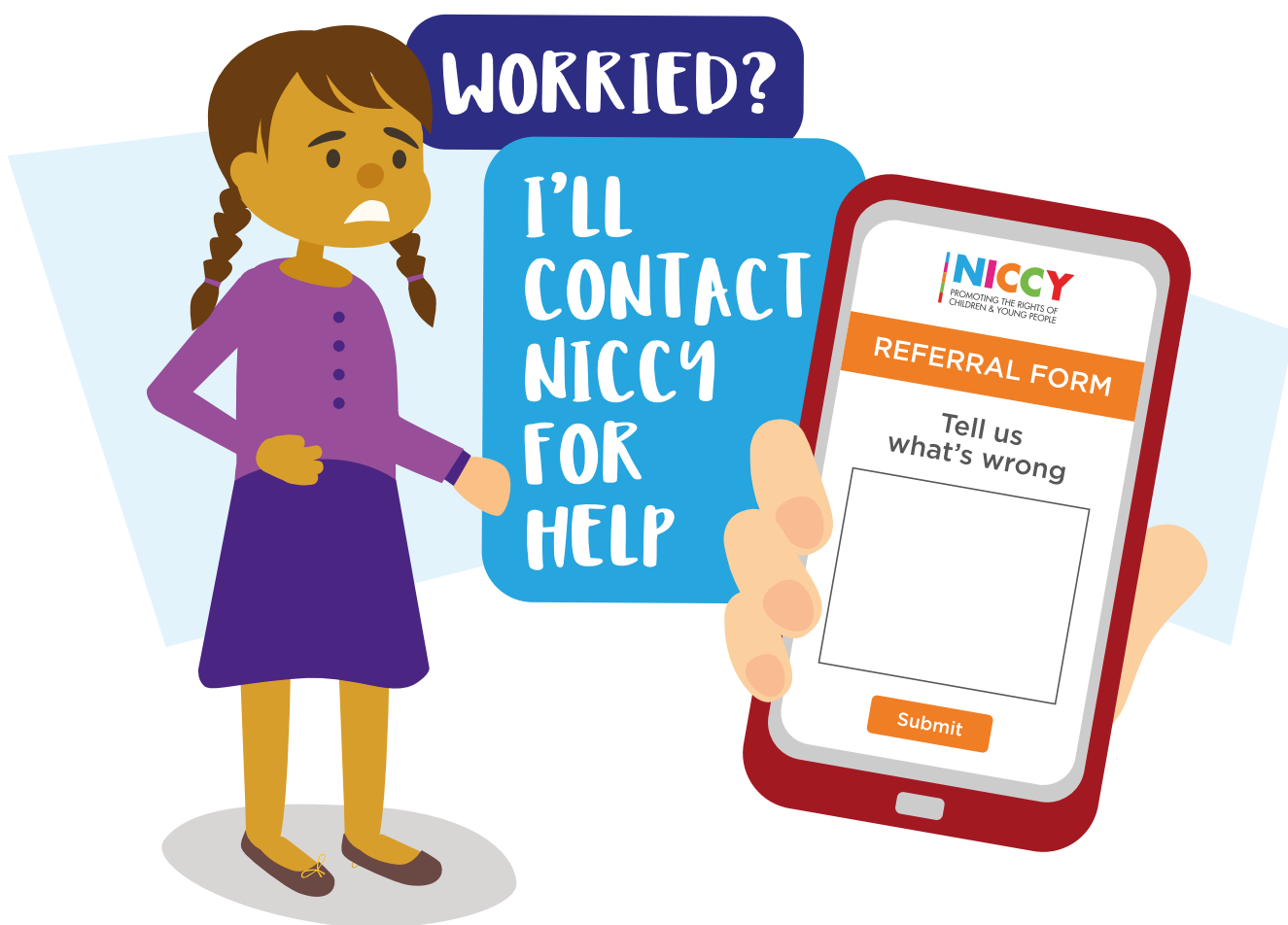
Concerning ensuring that separated children have access to an independent guardian, we very much welcome the establishment and growth of this service, noting, however, that the guardianship role is one function alongside other professionals and services to support separated children, all of which require the cohesive framework of a regional model.

In considering the final recommendation made in SOCRNI 2, we understand that Northern Ireland will be receiving a small number of children through the UK National Transfer Scheme but that this requirement has been made by the UK government. NICCY highlights that the principle of the best interests of the child must be central to such decisions.

Calls to Government

The government must ensure that the rights of children and families subject to immigration control are realised in Northern Ireland:

1. Implement NICCY's recommendations in *A Hostile Environment*, ensuring data are gathered on the number of children affected by NRPF, establishing clear referral pathways between the Home Office and HSC agencies, and assessing and addressing the needs of each child.
2. Bring forward a regional service model for separated children, supported by a CRIA.
3. Review the use of contingency accommodation in Northern Ireland and ensure that families have access to appropriate housing that supports their right to family life and appropriate services that promote their right to education, health care, and all other UNCRC rights.





4. SUMMARY OF NICCY CALLS

Implementing Children's Rights

1. The UNCRC should be incorporated through a Bill of Rights for Northern Ireland.
2. The Children's Services Co-operation Act 2015 must be effectively implemented with regular reporting on co-operation between bodies and outcomes for children.
3. The CYPS must be a mechanism by which actions to target the most persistent children's rights breaches are developed and their impact monitored. Children and young people must be actively involved in advising on and monitoring implementation.
4. The rights of children and young people must be protected in every environment they are in, including within the private sector.
5. Government departments and public bodies should undertake CRIAs when developing policies, legislation, budgets, and services or when making decisions affecting children.
6. The Northern Ireland Statistics and Research Agency (NISRA) and Child and Young People's Unit (CYPU) should lead a process of developing a robust, comprehensive set of indicators on all articles of the UNCRC, to both inform the development of actions under the CYPS and measure their impact.
7. The Northern Ireland Executive should produce children's budgets, indicating the resources allocated to delivering children's services across Northern Ireland. Departments and agencies should also use the CSCA provisions for the pooling of budgets to join up delivery for children.
8. Following the completion of the UK government UNCRC periodic reporting process, the Executive should take forward a process of awareness raising of children's rights, along with dissemination of the Committee's Concluding Observations to government officials and professionals working with children, and to the general public, including children. Implementation of the recommendations must be incorporated into the CYPS.
9. Children's rights education should be a mandatory part of the school curriculum at all Key Stages.
10. NICCY's legislation as per Article 24 recommendations should be amended accordingly.

Educational Inequalities

1. End the educational attainment gap between specific groups of children and young people and remove all barriers to every child's full participation in and access to a child rights-compliant education system including supporting those who are LGBTIQ+, newcomers, children in care, or have SEN. This includes full implementation of the recommendations from TLTL, NICCY's rights-based review of SEN provision in mainstream schools, and full commencement of the new SEND Framework.
2. Prioritise the promotion and monitoring of mental health and wellbeing of children and young people in schools and protect against factors negatively impacting wellbeing in schools by:
 - Taking measures to ensure that the Addressing Bullying in Schools Act (Northern Ireland) 2016 is effectively implemented by schools and establishing robust monitoring and evaluation processes to measure the effectiveness of policies in tackling bullying.
 - Ensuring that all children who require access to counselling services can do so. This must include ensuring access to ICSS in primary school settings.
 - Implementing 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.
 - Implementing a measure of wellbeing across all schools in Northern Ireland and ensuring that this measure is completed by every pupil.
 - Ensuring pupils' access to meaningful, age-appropriate, comprehensive and scientifically accurate sexual and reproductive health education by making this part of the mandatory school curriculum for all schools in Northern Ireland.
3. Move towards a single education system that is UNCRC Article 28 and 29 compliant and 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 address the fundamental flaws and inequalities that arise from academic selection.
4. Ensure thorough and ongoing assessment of the impact of the COVID-19 pandemic, and government's response to it, on all children and young people's access to education, including the most vulnerable, such as those attending special schools.
5. Act to minimise the use of restrictive practices and seclusion, including the implementation of statutory guidance on the use of restrictive and support practices for educational settings, accompanied by a supporting training framework to ensure the protection of children in all settings.

Health

1. Implement the recommendations of NICCY's Mental Health and Health Waiting List Reviews and ensure the findings inform all current and future strategies to reform services. This must include long-term investment to sustain services with a central focus on improving outcomes.
2. Prioritise investment in those areas that reflect the most egregious breaches of children's rights to health, 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 and physical health provision is in place to meet the ongoing needs of children and young people impacted by the pandemic. Include a proactive response to reducing pandemic-related adversities that are known to harm children's health and wellbeing, for example, those with pre-existing mental or physical health problems or disabilities and experience of adverse childhood experiences (ACES) such as domestic violence, abuse and poverty.

Poverty

The government must act to prioritise the eradication of child poverty:

1. Take action to support low-income families through the cost-of-living crisis, including payments to help cover the rising costs of fuel.
2. Adapt 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. an expanded payment for low-income families with young children, based on the Scottish government's Best Start Grant.
3. Transform 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.
4. Develop and implement the 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 children, working-age adults, and pensioners. Actions relating to children should include introducing a new £20 weekly child payment for each child in poverty, affordable childcare, and reducing the costs of education and travel.

Safeguarding

The government must ensure that all children are safe and protected from harm:

1. Ensure that learning from the impact of the COVID-19 pandemic on safeguarding arrangements and protections for children and young people directly informs the rebuilding and reform of services.
2. Commence with urgency a statutory multiagency child death review process.
3. Implement the Barnahus model for all child victims of sexual offences.
4. Review all relevant safeguarding legislation to ensure that children up to the age of 18 are properly protected in law from all forms of abuse and harm.

Legacy of the Conflict

NICCY strongly considers that legacy issues impacting children and young people in Northern Ireland cannot be addressed through a single action plan. It must be the responsibility of every children's service to address conflict legacy issues, including the impact of paramilitary-style criminal gangs, in partnership with communities, families and children themselves. This can only be achieved by taking a children's rights approach.

The government should continue to address the legacy of the conflict:

1. Ensure the full and effective protection of children and young people from criminal coercion and exploitation, trauma, violence or mistreatment in their communities, including from all forms of violence by non-State forces and recruitment by such forces.
2. Where it is suspected or proven that a child is at risk of abuse or exploitation from a criminal gang or paramilitary organization, children's social care services should be immediately informed and the relevant safeguarding measures and processes initiated.
3. Address 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 to achieve a shared narrative about the conflict.
4. Make wider and earlier use of the whole school curriculum to promote tolerance and a mutual understanding of community identities. Make efforts 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.
5. Support 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.

Youth Justice

In 2020 we cited the lack of a NI Assembly and Executive for minimal progress in implementing the 2018 recommendations. Progress remains slow, partly due to COVID but mainly to the lack of appetite to accept the possibilities presented by a rights-compliant Youth Justice System, not only by elements of the NI Assembly and Executive but by sectoral leaders.

1. The Youth Justice System must demonstrate that it is implementing the best interest principle by ensuring:
 - custody is a last resort and for the shortest possible time.
 - children are diverted from the formal system.
 - STLs are introduced for the processing of youth court cases of 120 days.
2. The DoJ and YJA must create a holistic approach to measuring, reporting and analysing progress in the outcomes for young people.
3. Legislation must be passed raising the minimum age of criminal responsibility to at least 16.
4. The PSNI must:
 - a. demonstrate the purpose and outcomes of all Stop and Search operations involving children and young people and improve the quality of engagement with young people.
 - b. cease the use of Spit and Bite Guards on children.

Participation

Participation empowers children and young people as members of civil society and active citizens and enables them to play an active part in civil society and compensates for their exclusion from formal political processes.

Therefore, to cement children and young people's voices in the decision-making process in Northern Ireland, the government must continue to prioritise the participation of children and young people:

1. Ensure that the DE's Participation in Decision Making initiative is endorsed and supported by all relevant public bodies with a specific and identified timeframe and delivers a structure for meaningful participation of children and young people, especially those most vulnerable. This includes the allocation of dedicated human and financial resources.
2. Develop young people's role as active participants in education and promote Pupils' Voices (Pupil Participation in Schools) by creating a DE policy requiring schools to establish an effective pupil voice mechanism and supporting this by an appropriate inspection process.
3. Ensure meaningful consultation with children and young people, including the production of child-friendly documentation, flexibility in the format for responses, sufficient time given to consultation, accessibility of resources, due respect given to each response and feedback provided on how the views of children and young people have been taken into account in decision-making.
4. Provide training to all professionals working directly with children and young people or whose work impacts them, to increase their understanding of children's rights concerning their role and their responsibility as duty bearers. Every relevant authority that works with children and young people should have a regular and meaningful engagement process with the children, young people and families who use their services or are subject to their policies.
5. Support the NI Youth Assembly to effectively engage with all systems within the NI Assembly, empowering Youth Assembly members to challenge and question the workings and decisions of our government and not simply be a convenient consultative body for Departments and statutory agencies.

Environmental Justice

The government must urgently act to protect children's rights concerning environmental degradation and climate change:

1. Take a child rights approach to environmental matters, including climate change action. This should include undertaking CRIA on the development of related policies, strategies, legislation and action plans.
2. Encourage meaningful and ongoing engagement of children and young people in developing and implementing actions to protect the environment and address climate change. Establish accessible engagement processes and recognise children's right to information and to protest, challenge and access legal complaints mechanisms.
3. Commit to a 'just transition' approach to climate action, to promote equality between generations, geographies and socioeconomic groups and to ensure that the cost of climate actions does not impact already disadvantaged groups.

Homelessness

The government must act to address homelessness and housing insecurity among children, young people and their families:

1. Prioritise the eradication of homelessness and housing insecurity affecting children and families in Northern Ireland.
2. Ensure that robust data are being collated and used to understand the profile of children, young people and families affected by homelessness and housing insecurity.
3. Review existing housing policy and support to ensure that prevention and early intervention are effective in their approach to children, young people, and families.

Challenging Discrimination

The government must act to protect children and young people from discrimination:

1. Develop and implement Age GFS legislation that covers all age groups to include the protection of children and young people from discrimination when accessing goods, facilities and services.
2. Act decisively to ensure that mental health legislation in NI provides all children aged under 18 with access to legal protections and safeguards that comply with ECHR and UNCRC.
3. Reform legislation to ensure children have equal protection from all forms of assault, including physical punishment, and strengthen the commitment to supporting families, including through dedicated and effective positive parenting support.

Children and Families Subject to Immigration Control

The government must ensure that the rights of children and families subject to immigration control are realised in Northern Ireland:

1. Implement NICCY's recommendations in *A Hostile Environment*, ensuring data are gathered on the number of children affected by NRPF, establishing clear referral pathways between the Home Office and HSC agencies, and assessing and addressing the needs of each child.
2. Bring forward a regional service model for separated children, supported by a CRIA.
3. Review the use of contingency accommodation in Northern Ireland and ensure that families have access to appropriate housing that supports their right to family life and appropriate services that promote their right to education, health care, and all other UNCRC rights.



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