



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Response to the Consultation on the Draft
Programme for Government 2024-2027**

November 2024

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1.0 Introduction

- 1.1 The Northern Ireland Human Rights Commission (the NIHRC), pursuant to section 69(1) of the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights in Northern Ireland (NI). The NIHRC is also required, by section 78A(1) of the Northern Ireland Act 1998, to monitor the implementation of Windsor Framework Article 2 to ensure there is no diminution of rights protected in the “Rights, Safeguards and Equality of Opportunity” chapter of the Belfast (Good Friday) Agreement 1998 as a result of the UK’s withdrawal from the EU.¹ In accordance with these functions, the following advice is submitted to the NI Executive to inform its planned legislative and policy developments presented in the Draft Programme for Government 2024-2027.
- 1.2 The NIHRC bases its advice on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), as incorporated by the Human Rights Act 1998, and the United Nations (UN) system and treaty obligations of the Council of Europe (CoE) and United Nations (UN).
- 1.3 The NIHRC also advises on the UK Government’s commitment, in Windsor Framework Article 2(1), to ensure there is no diminution of rights, safeguards and equality of opportunity in the relevant section of the Belfast (Good Friday) Agreement as a result of the UK’s withdrawal from the EU. This is given effect in UK law by section 7A of the EU (Withdrawal) Act 2018. In addition, section 6 of the Northern Ireland Act 1998 provides that the NI Assembly is prohibited from making any law which is incompatible with Windsor Framework Article 2. Section 24 of the 1998 Act also provides that all acts of the Departments should be compatible with Windsor Framework Article 2.
- 1.4 This briefing outlines our positions and recommendations on the various priorities presented by the NI Executive in the draft programme, based on relevant human rights standards and compliance with Windsor

¹ The Windsor Framework was formerly known as the Protocol on Ireland/Northern Ireland to the UK-EU Withdrawal Agreement and all references to the Protocol in this document have been updated to reflect this change. See Decision No 1/2023 of the Joint Committee established by the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023 laying down arrangements relating to the Windsor Framework.

Framework Article 2. The following sections will first detail the human rights framework guiding our approach, followed by dedicated sections for each priority area.

2.0 Relevant Human Rights Framework

- 2.1 The nine immediate priorities included in the draft Programme for Government, to grow a sustainable economy, deliver affordable childcare, cut health waiting times, end violence against women and girls, better support children with special educational needs, provide affordable social housing, build safer communities, protect the environment and reform public services, are welcome.
- 2.2 However, the NIHRC remains concerned that the draft Programme for Government places no emphasis on a human rights-based approach to delivering on its nine priority issues. A human rights-based approach is a conceptual framework informed by international human rights standards, which aims to put “human rights and corresponding State obligations at the heart of policy making”.² Thus, applying a human rights-based framework is important to safeguard rights for rights-holders, who can be individuals or groups that have entitlements in relation to duty bearers. Duty bearers are State, or delegated non-State actors, that have an obligation to ensure that the human rights of rights-holders are respected, protected and fulfilled.³
- 2.3 Additionally, the NIHRC has identified several priority issues which have implications for human rights protections in NI which have not been addressed within the draft Programme for Government. These issues include the minimum age of criminal responsibility, child, early and forced marriage in NI, children missing from care, conversion practices, physical punishment of children, tackling child sexual exploitation, remand of children, biometric data retention and rehabilitation of offenders. These issues are identified as red issues within the NIHRC’s Annual Statement and are therefore identified as issues requiring immediate action by the NI Executive. Further information on these issues can be found in the NIHRC’s Annual Statement 2023⁴ and Annual

² European Network of National Human Rights Institutions, ‘Human Rights-Based Approach’. Available at: [Human Rights-Based Approach - ENNHRI](#)

³ Ibid.

⁴ NI Human Rights Commission, ‘Annual Statement 2023’ (NIHRC, 2023).

Report on the Implementation of Article 2 of the Windsor Framework, published jointly with the Equality Commission for NI. ⁵ An up-to-date version of the Annual Statement for 2024 will be published in December 2024.

Human Rights-Based Approach

2.4 The PANEL principles offer guidance on how to achieve an effective human rights-based approach. These are:

- **Participation** – everyone is entitled to active participation in decision-making processes which affect the enjoyment of their rights;
- **Accountability** – duty-bearers are held accountable for failing to fulfil their obligations towards rights-holders. There should be effective remedies in place when human rights breaches occur;
- **Non-discrimination and equality** – all individuals are entitled to their rights without discrimination of any kind. All types of discrimination should be prohibited, prevented and eliminated;
- **Empowerment** – everyone is entitled to claim and exercise their rights. Individuals and communities need to understand their rights and participate in the development of policies which affect their lives; and
- **Legality** – approaches should be in line with the legal rights set out in domestic and international laws.

2.5 A human rights-based approach will take account of the full range of human rights protections to which the UK Government and NI Executive are bound to comply with, using them to inform legislative and policy developments. This includes human rights standards at an international, regional and domestic level. These include:

⁵ NI Human Rights Commission and Equality Commission for NI, 'Annual Report on the Implementation of Article 2 of the Windsor Framework 2023-2024' (NIHRC and ECNI, 2024).

- CoE European Convention on Human Rights 1950 (ECHR);⁶
- CoE European Social Charter 1961;⁷
- UN Convention on the Elimination of All Forms of Racial Discrimination 1965 (UN CERD);⁸
- UN International Covenant on Civil and Political Rights 1966 (UN ICCPR);⁹
- UN International Covenant on Economic, Social and Cultural Rights 1966 (UN ICESCR);¹⁰
- UN Convention on the Elimination of All Forms of Discrimination Against Women 1981 (UN CEDAW);¹¹
- UN Convention Against Torture, Inhuman or Degrading Treatment or Punishment 1984 (UN CAT);¹²
- UN Convention on the Rights of the Child 1989 (UN CRC);¹³
- CoE European Charter for Regional or Minority Languages 1992;¹⁴
- CoE Framework Convention for the Protection of National Minorities 1998;¹⁵
- UN Optional Protocol to the UN CRC on the Involvement of Children in Armed Conflict 2000;¹⁶
- UN Optional Protocol to the UN CRC on the Sale of Children, Child Prostitution and Child Pornography 2000;¹⁷
- CoE Convention on Action against Trafficking in Human Beings 2005;¹⁸
- UN Educational, Scientific and Cultural Organisation Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005;¹⁹
- UN Convention on the Rights of Disabled Persons 2006 (UN CRPD);²⁰

⁶ UK ratification 1951 and given further domestic effect by the Human Rights Act 1998.

⁷ UK ratification 1962. The UK has signed, but not ratified, the CoE Revised European Social Charter 1991.

⁸ UK ratification 1969.

⁹ UK ratification 1976.

¹⁰ UK ratification 1976.

¹¹ UK ratification 1986.

¹² UK ratification 1988.

¹³ UK ratification 1991.

¹⁴ UK ratification 2001.

¹⁵ UK ratification 1998.

¹⁶ UK ratification 2003.

¹⁷ UK ratification 2009.

¹⁸ UK ratification 2008.

¹⁹ UK ratification 2007.

²⁰ UK ratification 2009.

- CoE Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse 2007 (Lanzarote Convention);²¹ and
- CoE Convention on Preventing and Combating Violence Against Women and Domestic Violence 2011 (Istanbul Convention).²²

Windsor Framework Article 2

2.6 Windsor Framework Article 2 requires the UK Government to ensure that no diminution of rights, safeguards and equality of opportunities contained in the relevant part of the Belfast (Good Friday) Agreement 1998 occurs as a result of the UK's withdrawal from the EU. This commitment to ensure 'no diminution' is measured by the relevant EU standards as they were on the 31 December 2020.²³ This includes an obligation to "keep pace" with any changes made to the six Annex 1 Equality Directives which improve the minimum levels of protection available, after 1 January 2021.²⁴ These Annex 1 Equality Directives are the following:

- EU Racial Equality Directive;²⁵
- EU Employment Equality (Framework) Directive;²⁶
- EU Gender Goods and Services Directive;²⁷
- EU Gender Equality (Employment) Directive;²⁸
- EU Gender Equality (Self-Employment) Directive;²⁹ and
- EU Gender Equality in Social Security Directive.³⁰

2.7 The Court of Appeal in NI has confirmed that Windsor Framework Article 2 has direct effect.³¹ The Court of Appeal in NI also observed that

²¹ UK ratification 2018.

²² UK ratification 2022.

²³ UK Government, 'UK Government Commitment to No-diminution of Rights, Safeguards and Equality of Opportunity in Northern Ireland' (NIO, 2020), at para 13.

²⁴ Article 13, Windsor Framework to the UK-EU Withdrawal Agreement.

²⁵ Directive 2000/43/EC, 'Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin', 29 June 2000.

²⁶ Directive 2000/78/EC, 'Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation', 27 November 2000.

²⁷ Directive 2004/113/EC, 'Council Directive on Implementing the Principle of Equal Treatment between Men and Women in the access to and supply of goods and services', 13 December 2004.

²⁸ Directive 2006/54/EC, 'EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)', 5 July 2006.

²⁹ Directive 2010/41/EU, 'EU Parliament and Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity', 7 July 2010.

³⁰ Directive 79/7/EEC, 'Council Directive on the Progressive Implementation of the Principle of Equal Treatment for Men and Women in Matters of Social Security', 19 December 1978.

³¹ *In the Matter of an Application by Martina Dillon and others for Judicial Review* [2024] NICA 59, at para 83-85.

thereafter it is a question of law for the court considering whether there has been a breach of that obligation whether the relevant right or safeguard falls within the relevant chapter of the 1998 Agreement.³² The section of the Belfast (Good Friday) Agreement entitled 'Human Rights' contains a commitment to "the civil rights and religious liberties of everyone in the community".³³ The Court of Appeal in NI confirmed the relevant chapter was intended to extend further than the rights specifically listed and it encompassed a "broad suite of rights".³⁴ The Court of Appeal in NI also noted that "there is no reason to construe the broad language of the [Rights, Safeguards and Equality of Opportunity] chapter restrictively".³⁵ The High Court of Justice in NI has also held that, "a narrow interpretation of 'civil rights' undermines the forward-facing dimension of the non-diminution commitment in article 2(1)".³⁶ It is the NIHRC's considered opinion that the chapter represents a wide-ranging commitment to civil, political, economic, social and cultural rights and equality of opportunity.³⁷

2.8 The Court of Appeal in NI further held that the relevant EU law that underpin the rights and safeguards in the relevant part of the Belfast (Good Friday) Agreement is to be interpreted in accordance with the EU Charter on Fundamental Rights and general principles of EU law.³⁸

2.9 Recent EU legislative developments have engaged the obligation to keep pace with changes to the Annex 1 Equality Directives that enhance rights, as explained above.³⁹ More details will be provided in the section below 'Priority 1: Economy'.

³² Ibid, at para 83.

³³ Belfast (Good Friday) Agreement, 10 April 1998, Part 6 on Rights, Safeguards and Equality of Opportunity. See also UK Government, 'UK Government commitment to no-diminution of rights, safeguards and equality of opportunity in Northern Ireland', (NIO, 2020).

³⁴ *In the Matter of an Application by Martina Dillon and others for Judicial Review* [2024] NICA 59, at para 115; *In the Matter of an Application by Martina Dillon and others for Judicial Review* [2024] NIKB 11, at para 540.

³⁵ *In the Matter of an Application by Martina Dillon and others for Judicial Review* [2024] NICA 59, at para 115.

³⁶ *In the Matter of an Application by Martina Dillon and others for Judicial Review* [2024] NIKB 11, at para 554.

³⁷ NI Human Rights Commission and Equality Commission for NI, 'Working Paper: The Scope of Article 2(1) of the Ireland/ Northern Ireland Protocol', (NIHRC and ECNI, 2022).

³⁸ *In the Matter of an Application by Martina Dillon and others for Judicial Review* [2024] NICA 59, at para 126. See also *Secretary of State for Work and Pensions v AT* [2023] EW CA Civ 1307 at para 92; Tobias Lock, Eleni Frantziou and Anurag Deb, 'The Interaction between the EU Charter of Fundamental Rights and General Principles with the Windsor Framework' (NIHRC, 2024).

³⁹ Article 24, Directive 2024/1499/EU, 'Council Directive on Standards for Equality Bodies in the Field of Equal Treatment between Persons Irrespective of their Racial or Ethnic Origin, Equal Treatment in Matters of Employment and Occupation between Persons Irrespective of their Religion or Belief, Disability, Age or Sexual Orientation, Equal Treatment between Women and Men in Matters of Social Security and in the Access to and Supply of Goods and Services, and Amending Directives 2000/43/EC and 2004/113/EC, 7 May 2024; Article 25, Directive 2024/1500/EU, 'Directive of the European Parliament and of the Council on Standards for Equality Bodies in the Field of Equal Treatment and Equal Opportunities between Women and Men in Matters of Employment and Occupation, and Amending Directives 2006/54/EC and 2010/41/EU', 14 May 2024.

2.10 In 2023, the EU Pay Transparency Directive came into force and must be transposed by Member States by 7 June 2026.⁴⁰ The EU Directive aims to strengthen existing enforcement tools and procedures regarding the rights and obligations and equal pay provisions set out in the EU Gender Equality (Employment) Directive.⁴¹ The Equality Commission for NI and the NIHRC consider that the EU Pay Transparency Directive amends the EU Gender Equality (Employment) Directive and therefore triggers the dynamic alignment obligation.⁴²

2.11 The NIHRC recommends that the NI Executive prioritises, in the new Programme for Government, the action required to ensure full implementation of Windsor Framework Article 2 and required to comply promptly with the obligation to keep pace with the Annex 1 Directives.

2.12 The NIHRC recommends that in the development of any laws or policies, the NI Executive complies with Windsor Framework Article 2 and does so in all policy and processes at the earliest stage.

2.13 The NIHRC recommends that the NI Executive ensure that documents accompanying Bills and legislation (Explanatory and Financial Memoranda, human rights impact assessments) set out a detailed assessment of compliance or otherwise with Windsor Framework Article 2.

2.14 The NIHRC recommends that all NI departments swiftly update guidance on policy and legislative development to include consideration of Windsor Framework Article 2 and ensure the delivery of effective training on that updated guidance to all relevant officials.

⁴⁰ Directive 2023/970/EU, 'EU Parliament and Council Directive to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms', 10 May 2023.

⁴¹ Directive 2006/54/EC, 'EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)', 5 July 2006.

⁴² Equality Commission for NI and NI Human Rights Commission, 'Joint NI Human Rights Commission and Equality Commission for NI Briefing Paper on the EU Pay Transparency Directive' (ECNI and NIHRC, 2024).

Divergence of Rights on the Island of Ireland

- 2.15 As the legal obligation for NI equality law to keep pace with any EU changes to the six Equality Directives in Annex 1 to the Windsor Framework is relatively limited,⁴³ there is potential for equality and human rights on the island of Ireland to diverge further as a result of the UK's withdrawal from the EU.
- 2.16 By virtue of Windsor Framework Article 2(2), the NIHRC, the Irish Human Rights and Equality Commission and the Equality Commission for NI (the 'three Commissions') work together on rights falling within Article 2 that have an island of Ireland dimension. The NIHRC takes the view that long-term North-South equivalence of rights was envisaged by the Belfast (Good Friday) Agreement and is important for the enjoyment of rights on a cross-border basis and access to island of Ireland and cross-border services. It also underpins North-South co-operation, consistent with Windsor Framework Article 11.
- 2.17 The three Commissions identified a number of developments in areas of EU law which will potentially result in the divergence of rights on the island of Ireland.⁴⁴ This includes, for example, the EU Work-Life Balance Directive,⁴⁵ and the EU Accessibility Act.⁴⁶
- 2.18 The NIHRC recommends that, in addition to any changes required by the obligation under the Windsor Framework to keep pace with the Annex 1 Equality Directives, the NI Executive reviews new EU measures and caselaw with a view to ensuring, on a voluntary basis, that NI law reflects such developments to the extent that they enhance rights or equality and align with international human rights standards.**

⁴³ Article 13, Windsor Framework.

⁴⁴ Sarah Craig et al, 'European Union Developments in Equality and Human Rights: The Impact of Brexit on the Divergence of Rights and Best Practice on the Island of Ireland' (ECNI, NIHRC, IHREC 2022); Equality Commission for NI, NI Human Rights Commission and Irish Human Rights and Equality Commission, 'Policy Recommendations: EU Developments in Equality and Human Rights: The Impact of Brexit on the Divergence of Rights and Best Practice on the Island of Ireland' (ECNI, NIHRC and IHREC, 2023).

⁴⁵ Directive 2019/1158/EU, 'EU Parliament and Council Directive on Work-life Balance for Parents and Carers', 20 June 2019.

⁴⁶ Directive 2019/882/EU, 'EU Parliament and Council Directive on the Accessibility Requirements for Products and Services', 17 April 2019.

3.0 Priority 1: Economy

Employment Rights

- 3.1 According to the Draft Programme 2024-2027, the NI Executive is proposing to introduce new employment rights legislation and a Good Work Charter to ensure better quality jobs and promote a healthy work-life balance.⁴⁷
- 3.2 The NIHRC responded to the consultation launched by the Department for the Economy⁴⁸ in September 2024 highlighting a number of EU measures of which the Department should be aware, to ensure compliance with Windsor Framework Article 2.⁴⁹
- 3.3 As explained, Articles 2 and 13 of the Windsor Framework require dynamic alignment of NI equality law with any changes made by the EU to the six Annex 1 EU Equality Directives, which improve the minimum levels of protection, including adherence to relevant current and future CJEU case law.⁵⁰ Four of the Annex 1 EU Directives cover the area of employment equality on grounds of race and ethnicity, sexual orientation, religion and belief, disability, age and gender. These are:
- EU Racial Equality Directive;⁵¹
 - EU Employment Equality (Framework) Directive;⁵²
 - EU Equal Treatment Directive;⁵³ and

⁴⁷ NI Executive, 'Our Plan: Doing What Matters Most Draft Programme for Government 2024-2027' (NIE, 2024), at 17.

⁴⁸ Department for the Economy, 'The Good Jobs Employment Rights Bill Public Consultation' (DfE, 2024).

⁴⁹ NI Human Rights Commission, 'Response to the Department for the Economy Consultation on Employment Rights Bill' (NIHRC, 2024).

⁵⁰ Article 13, Ireland/NI Protocol to the UK-EU Withdrawal Agreement 2020; Directive 2000/43/EC, 'EU Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin', 29 June 2000; Directive 2000/78/EC, 'EU Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation', 27 November 2000; Directive 2004/113/EC, 'EU Council Directive on Implementing the Principle of Equal Treatment between Men and Women in the Access To and Supply of Goods and Services', 13 December 2004; Directive 2006/54/EC, 'EU Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation', 5 July 2006; Directive 2010/41/EU, 'EU Parliament and EU Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity', 7 July 2010.; Directive 79/7/EEC, 'EU Council Directive on the Progressive Implementation of the Principle of Equal Treatment for Men and Women in Matters of Social Security', 19 December 1978.

⁵¹ Directive 2000/43/EC, 'EU Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin', 29 June 2000.

⁵² Directive 2000/78/EC, 'EU Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation', 27 November 2000.

⁵³ Directive 2006/54/EC, 'EU Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation', 5 July 2006.

- EU Self-Employment Equal Treatment Directive.⁵⁴

- 3.4 The NIHRC, along with the Equality Commission for NI, has identified several measures which they consider amend and/or replace the EU Equality Directives in Annex 1. These include the EU Pay Transparency Directive⁵⁵ and two EU directives on binding standards for equality bodies.⁵⁶ Additional EU obligations, relevant to employment equality, include the EU Parental Leave Directive⁵⁷, the EU Pregnant Workers Directive⁵⁸ and other safeguards for part-time workers⁵⁹ and agency workers.⁶⁰ These fall within scope of Windsor Framework Article 2, requiring no diminution in standards in place on 31 December 2020.
- 3.5 In 2019, the EU adopted the EU Work-Life Balance Directive,⁶¹ which repeals and replaces the EU Parental Leave Directive.⁶² The EU Work-Life Balance Directive aims to improve families' access to family leave and flexible work arrangements, encourage a more equal sharing of parental leave between men and women, and to address women's underrepresentation in the labour market.⁶³
- 3.6 As this measure is not listed in Annex 1, there is no requirement under the Windsor Framework for NI law to keep pace with this change. However, the NI Executive can consider aligning with those developments which strengthen protections and ensure equivalence of

⁵⁴ Directive 2010/41/EU, 'EU Parliament and EU Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity', 7 July 2010.

⁵⁵ Council Directive 2024/1499/EU, 'Directive on Standards for Equality Bodies in the Field of Equal Treatment between Persons Irrespective of their Racial or Ethnic Origin, Equal Treatment in Matters of Employment and Occupation between Persons Irrespective of their Religion or Belief, Disability, Age or Sexual Orientation, Equal Treatment between Women and Men in Matters of Social Security and in the Access to and Supply of Goods and Services, and Amending Directives 2000/43/EC and 2004/113/EC', 7 May 2024.

⁵⁶ Directive 2024/1499/EU; Directive (EU) 2024/1500, 'Directive of the European Parliament and of the Council on Standards for Equality Bodies in the Field of Equal Treatment and Equal Opportunities between Women and Men in Matters of Employment and Occupation, and Amending Directives 2006/54/EC and 2010/41/EU', 14 May 2024.

⁵⁷ Directive 2010/18/EU, 'EU Council Directive Implementing the Revised Framework Agreement on Parental Leave', 8 March 2010.

⁵⁸ March 2010.

⁵⁸ Directive 92/85/EEC, 'EU Council Directive on the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers who have Recently Given Birth or are Breastfeeding', 19 October 1992.

⁵⁹ Directive 97/81/EC, 'EU Council Directive Concerning the Framework Agreement on Part-time Workers', 15 December 1997.

⁶⁰ Directive 2008/104/EC, 'EU Parliament and Council Directive on Temporary Agency Work', 19 November 2008.

⁶¹ Directive 2019/1158/EU 'EU Parliament and Council Directive on Work-life Balance for Parents and Carers', 20 June 2019.

⁶² Directive 2010/18/EU, 'EU Council Directive Implementing the Revised Framework Agreement on Parental Leave', 8 March 2010.

⁶³ Directive 2019/1158/EU 'EU Parliament and Council Directive on Work-life Balance for Parents and Carers', 20 June 2019.

rights on the island of Ireland.⁶⁴ Moreover, this would avoid NI law mirroring the more limited obligations of the now, outdated, EU Parental Leave Directive.⁶⁵

- 3.7 As previously stated, in May 2024, the EU Parliament and the EU Council adopted the two new directives strengthening standards for equality bodies.⁶⁶ The EU Directives amend provisions of the EU Equality Directives listed in Annex 1 and must be transposed by June 2026.⁶⁷ The previous UK Government confirmed that the proposals fall within scope of Windsor Framework Article 2.⁶⁸
- 3.8 In 2023, the EU Pay Transparency Directive came into force and must be transposed by Member States by 7 June 2026.⁶⁹ The EU Directive aims to strengthen the existing enforcement tools and procedures regarding the rights and obligations and equal pay provisions set out in the EU Gender Equality (Employment) Directive.⁷⁰ Article 3 of the EU Directive clarifies that discrimination includes “intersectional discrimination”.⁷¹ The NIHRC, and the Equality Commission for NI, take

⁶⁴ NI Human Rights Commission and Equality Commission NI, ‘Policy Recommendations: EU Developments in Equality and Human Rights: The Impact of Brexit on the Divergence of Rights and Best Practice on the Island of Ireland’ (NIHRC and ECNI, 2023).

⁶⁵ Directive 2010/18/EU, ‘EU Council Directive Implementing the Revised Framework Agreement on Parental Leave’, 8 March 2010.

⁶⁶ Directive 2024/1499/EU, ‘Council Directive on Standards for Equality Bodies in the Field of Equal Treatment between Persons Irrespective of their Racial or Ethnic Origin, Equal Treatment in Matters of Employment and Occupation between Persons Irrespective of their Religion or Belief, Disability, Age or Sexual Orientation, Equal Treatment between Women and Men in Matters of Social Security and in the Access to and Supply of Goods and Services, and Amending Directives 2000/43/EC and 2004/113/EC, 7 May 2024; Directive 2024/1500/EU, ‘Directive of the European Parliament and of the Council on Standards for Equality Bodies in the Field of Equal Treatment and Equal Opportunities between Women and Men in Matters of Employment and Occupation, and Amending Directives 2006/54/EC and 2010/41/EU’, 14 May 2024. More detail on the Commission’s advice on Windsor Framework Article 2 can be found in the following, NI Human Rights Commission and Equality Commission for NI, ‘Annual Report on the Implementation of Article 2 of the Windsor Framework 2023-2024’ (NIHRC and ECNI, 2024). See also the ‘Equality and Non-Discrimination – Consolidating, Strengthening and Clarifying Equality Protections’ section of this report.

⁶⁷ Article 24, Directive 2024/1499/EU, ‘Council Directive on Standards for Equality Bodies in the Field of Equal Treatment between Persons Irrespective of their Racial or Ethnic Origin, Equal Treatment in Matters of Employment and Occupation between Persons Irrespective of their Religion or Belief, Disability, Age or Sexual Orientation, Equal Treatment between Women and Men in Matters of Social Security and in the Access to and Supply of Goods and Services, and Amending Directives 2000/43/EC and 2004/113/EC, 7 May 2024; Article 25, Directive 2024/1500/EU, ‘Directive of the European Parliament and of the Council on Standards for Equality Bodies in the Field of Equal Treatment and Equal Opportunities between Women and Men in Matters of Employment and Occupation, and Amending Directives 2006/54/EC and 2010/41/EU’, 14 May 2024.

⁶⁸ Letter from the Minister of State for NI, Steve Baker, to the Chair of the House of Lords Sub Committee on the Protocol on Ireland/Northern Ireland, 18 September 2023.

⁶⁹ Directive 2023/970/EU, ‘EU Parliament and Council Directive to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms’, 10 May 2023.

⁷⁰ Directive 2006/54/EC, ‘EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)’, 5 July 2006.

⁷¹ The Commission considers that, pursuant to Articles 2 and 13 of the Windsor Framework, the relevant provisions of the EU Pay Transparency Directive amend and/or replace provisions in Directive 2006/54/EC, ‘EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and

the view that NI equality law must keep pace with these changes, further to the UK Government’s dynamic alignment obligation in the Windsor Framework.⁷² The definition of discrimination in NI equality law must be amended to include “intersectional” discrimination in line with the transposition deadline of 7 June 2026.⁷³ The NIHRC, and the Equality Commission for NI, take the view that NI equality law must keep pace with these changes, further to the UK Government’s dynamic alignment obligation in the Windsor Framework.⁷⁴

- 3.9 The NIHRC recommends that necessary amendments to NI law are made to keep pace with those provisions of the EU directives on minimum standards for equality bodies and the EU Pay Transparency Directive, which amend or replace provisions in the Annex 1 EU Equality Directives. This is required by the transposition deadline of June 2026.**
- 3.10 The NIHRC recommends that, in addition to any changes required by the obligation under the Windsor Framework to keep pace with the Annex 1 Equality Directives, the NI Executive, on a voluntary basis, ensures that NI law aligns with the EU Work-Life Balance Directive to the extent that it enhances equality and human rights protections and aligns with international human rights standards.**
- 3.11 The NIHRC recommends that the NI Executive and NI Assembly, working with the Department for the Economy, ensure the Employment Rights Bill amends the definition of discrimination in relevant NI employment equality law by June 2026, to include “intersectional discrimination” as required by the relevant provisions of the EU Pay Transparency Directive.**

Women in Matters of Employment and Occupation (Recast)’, 5 July 2006 which is listed in Annex 1 of the Windsor Framework. For further discussion of the EU Pay Transparency Directive see Section on ‘Right to Work and to Just and Favourable Conditions to Work – Gender Pay Gap’ below.

⁷² Equality Commission for NI and NI Human Rights Commission, ‘Briefing Paper: The EU Pay Transparency Directive: The UK Government’s Dynamic Alignment Obligations Relating to Windsor Framework Article 2’ (ECNI and NIHRC, 2024). See also the ‘Right to Work and to Just and Favourable Conditions of Work – Gender Pay Gap’ section of this report.

⁷³ Equality Commission for NI and NI Human Rights Commission, ‘Briefing Paper: The EU Pay Transparency Directive: The UK Government’s Dynamic Alignment Obligations Relating to Windsor Framework Article 2’ (ECNI and NIHRC, 2024).

⁷⁴ Equality Commission for NI and NI Human Rights Commission, ‘Briefing Paper: The EU Pay Transparency Directive: The UK Government’s dynamic alignment obligations relating to Windsor Framework Article 2’ (ECNI and NIHRC, 2024).

Persons with Disabilities

- 3.12 The draft Programme for Government identifies the NI Executive’s intention to introduce a new “Apprenticeship Inclusion Challenge Fund” to help people in communities, including people with disabilities, find “meaningful opportunities in local businesses”.⁷⁵
- 3.13 The UN CRPD Committee has recommended that the NI Executive should “develop and decide upon an effective employment policy for persons with disabilities aimed at ensuring decent work for all persons with disabilities”.⁷⁶
- 3.14 NI has the lowest employment rate for d/Deaf and disabled people and the largest gap between the employment rates of d/Deaf and disabled and non-disabled people within the UK.⁷⁷ In 2022, the Expert Advisory Panel for the Disability Strategy highlighted that the employment rate of working aged d/Deaf and disabled people in NI is significantly lower than in the rest of the UK and the EU.⁷⁸ The Expert Advisory Panel recommended that the Department for Communities addressed this issue by developing a new Disability Employment Strategy and ensuring funding for the Supported Employment model for d/Deaf and disabled people in NI.⁷⁹ In 2024, disability and employment was confirmed as a priority for the Minister for Communities, Gordon Lyons MLA, with work ongoing for developing a new Disability Employment Strategy.⁸⁰ More details are presented below.
- 3.15 The EU Employment Equality (Framework) Directive which protects against discrimination on the grounds of disability in employment and vocational training.⁸¹ As noted above, Articles 2 and 13 of the Windsor Framework require the law in NI to keep pace with any improvements to minimum standards of equality protection enshrined in this Directive on or after 1 January 2021, including the EU directive setting minimum

⁷⁵ NI Executive, ‘Our Plan: Doing What Matters Most Draft Programme for Government 2024-2027’ (NIE, 2024), at 17.

⁷⁶ CRPD/C/GBR/CO/1, ‘UN CRPD Committee Concluding Observations on the Initial Report of the UK of Great Britain and NI’, 3 October 2017.

⁷⁷ University of Ulster Economic Policy Centre, ‘Disability and the Labour Market’ (UUEPC, 2022).

⁷⁸ Disability Strategy Expert Advisory Panel, ‘Report and Recommendations’ (DfC, 2021), at 82.

⁷⁹ Disability Strategy Expert Advisory Panel, ‘Report and Recommendations’ (DfC, 2021), at 18.

⁸⁰ Email correspondence from Department of Communities to NI Human Rights Commission, 25 July 2024.

⁸¹ Directive 2000/78/EC, ‘EU Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation’, 27 November 2000.

standards for equality bodies.⁸² The obligation also requires compliance with relevant current and future CJEU case law.⁸³

- 3.16 In 2023, the NIHRC published research⁸⁴ which highlighted developments in CJEU caselaw of relevance to the EU Employment Equality (Framework) Directive, including the *Szpital Kliniczny* case on the concept of disability⁸⁵ and that there must be close scrutiny of justifications for the exclusion of persons with a disability from certain professional roles.⁸⁶
- 3.17 In 2023, the Court of Appeal in NI considered Windsor Framework Article 2 and confirmed that, since UN CRPD was part of the EU legal order prior to the UK's withdrawal from the EU, the NI Assembly was prohibited from enacting legislation contrary to the UN CRPD where matters fell within the competence of the EU.⁸⁷
- 3.18 The NIHRC recommends that the NI Executive, working with the Department for the Economy, ensures provision of long-term funding arrangements for new and existing disability employment projects.**
- 3.19 The NIHRC advises the NI Executive, and relevant NI departments, that the EU Framework Equality Directive and domestic law which gives effect to this Directive, should be interpreted in line with the CJEU decision in the *Szpital Kliniczny* case relating to disability discrimination.**

⁸² Council Directive (EU) 2024/1499, 'Directive on Standards for Equality Bodies in the Field of Equal Treatment between Persons Irrespective of their Racial or Ethnic Origin, Equal Treatment in Matters of Employment and Occupation between Persons Irrespective of their Religion or Belief, Disability, Age or Sexual Orientation, Equal Treatment between Women and Men in Matters of Social Security and in the Access to and Supply of Goods and Services, and Amending Directives 2000/43/EC and 2004/113/EC, 7 May 2024.

⁸³ Article 13, Ireland/NI Protocol to the UK-EU Withdrawal Agreement 2020.

⁸⁴ Sarah Craig et al, 'EU Developments in Equality and Human Rights: The Impact of Brexit on the Divergence of Rights and Best Practice on the Island of Ireland' (ECNI, NIHRC and IHREC, 2022), at 69. See also, Sarah Craig et al, 'EU Developments in Equality and Human Rights: The Impact of Brexit on the Divergence of Rights and Best Practice on the Island of Ireland: Update Paper on Developments post January 2022' (ECNI, NIHRC, and IHREC, forthcoming).

⁸⁵ *Szpital Kliniczny im. dra J. Babińskiego Samodzielny Publiczny Zakład Opieki Zdrowotnej w Krakowie*, Case C-16/19, 27 January 2021. The CJEU found that pursuant to Article 1 of the EU Employment Equality (Framework) Directive the definition of 'disability discrimination' should include discrimination between persons with disabilities. It also ruled under Article 2 of the EU Directive that any form of discrimination which is inextricably linked to a protected characteristic amounts to direct discrimination, rather than indirect discrimination.

⁸⁶ *TC and UB v Komisja Za Zashtita ot Diskriminatsia and VA ('Jurors')*, Case C-824/19, 21 October 2021; *XX v Tartu Vangla*, Case C-795/19, 15 July 2021.

⁸⁷ *Society for the Protection of the Unborn Child Pro-Life Ltd v Secretary of State for NI* [2023] NICA 35, at paras 57 and 68.

Disability Strategy

- 3.20 In 2020, the NI Executive committed to publishing a Disability Strategy. The Department for Communities appointed an Expert Advisory Panel and created a Co-Design Group for the Disability Strategy made up of key stakeholders, including the NIHRC. A cross-departmental working group was also created. In 2021, the Expert Advisory Panel for the Disability Strategy published its report, which called for a focus on the general principles of the UN CRPD as a guide to what should be included in a Disability Strategy.⁸⁸ The NIHRC identified, among other human rights considerations, the need to embed consideration of Windsor Framework Article 2 into the Disability Strategy.
- 3.21 **The NIHRC recommends that the NI Executive, working with the Department for Communities, publishes and effectively implements a robust and adequately resourced Disability Strategy, which takes a human rights-based approach in line with international human rights standards and Windsor Framework Article 2. This strategy should be accompanied by a measurable plan of action and effective monitoring mechanisms.**

Business and Human Rights

- 3.22 In 2023, the UN CRC Committee recommended that the UK Government and NI Executive:
- a) ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the State Party's territory in relation to international and national human rights, labour, environmental and other standards;
 - b) require companies to undertake assessments of consultations on and full public disclosure of the environmental, health-related and children's rights impacts of their business activities and their plans to address such impacts.⁸⁹

⁸⁸ Disability Strategy Expert Advisory Panel, 'Report and Recommendations' (DfC, 2021), at 4.

⁸⁹ CRC/C/GBR/CO/6-7, 'UN CRC Committee Concluding Observations on the Combined Sixth and Seventh Reports of the UK of Great Britain and NI', 2 June 2023, at paras 16(a) and 16(b).

- 3.23 In 2020, the UK Government published an update on implementing its National Action Plan, which aims to embed the UN Guiding Principles on Business and Human Rights. It highlights some of the key developments and projects but does not have a specific NI focus.
- 3.24 In June 2024, the EU adopted a new directive on corporate sustainability due diligence which sets out obligations for large companies operating within the EU and liability for violation of those obligations, in respect of actual and potential human rights adverse impacts, and environmental adverse impacts, within their own operations, the operations of their subsidiaries and business partners.⁹⁰ Small and medium businesses do not directly fall under the scope of the EU Directive. However, they may be impacted as direct or indirect business partners.⁹¹ The deadline for EU Members States to implement this EU Directive is July 2026 with a phased approach to its application to companies between 2027 and 2029. Where there is no requirement for NI law to keep pace with EU developments, the NI Executive, the Executive Office and other relevant NI departments can consider aligning with those developments which strengthen protections and ensure equivalence of rights on the island of Ireland.⁹²
- 3.25 In October 2024, the NI Business and Human Rights Index was launched. The Business and Human Rights Index creates a league table of businesses operating in NI. It aims to strengthen the NIHRC's work in promoting human rights within the NI business sector. It further supports the work of public authorities responsible for procuring services by assisting with due diligence and the incorporation of human rights considerations into tendering processes. Additionally, the project highlights good practice and learning experiences. The Business and Human Rights Index supports the previously introduced a procurement policy note that requires all government departments and designated public bodies conducting a procurement process to incorporate human rights considerations into the tendering exercises and contracts.⁹³ The Business and Human Rights Index also offers a source of information to

⁹⁰ Article 1, Directive 2024/1760/EU, 'EU Parliament and Council Directive on Corporate Sustainability Due Diligence' 13 June 2024.

⁹¹ EU Commission, 'Directive on Corporate Sustainability Due Diligence – Frequently Asked Questions' (EU Commission, 2024).

⁹² NI Human Rights Commission and Equality Commission NI, 'Policy Recommendations: EU Developments in Equality and Human Rights: The Impact of Brexit on the Divergence of Rights and Best Practice on the Island of Ireland' (NIHRC and ECNI, 2023).

⁹³ Department of Finance, 'Procurement Policy Note PPN 05/21: Human Rights in Public Procurement' (DoF, 2021).

inform future policy and legislative initiatives regarding modern slavery, business and human rights in NI.

- 3.26 **The NIHRC recommends that the NI Executive ensures that all relevant stakeholders in NI are provided with meaningful opportunities to assist in the design, implementation and monitoring of measures aimed at implementing the UN Guiding Principles on Business and Human Rights in NI.**
- 3.27 **The NIHRC recommends that the NI Executive adopts a national action plan on business and human rights for NI. This should be informed by the Public Procurement Note and NI Business and Human Rights Index.**
- 3.28 **The NIHRC recommends that the NI Executive Office reviews the EU Directive on Corporate Sustainability Due Diligence and, on a voluntary basis, ensures NI law aligns with changes that enhance equality or human rights protections and reflect international human rights standards.**

4.0 Priority 2: Childcare

- 4.1 In the draft Programme for Government, the NI Executive has identified as an immediate priority developing “an Early Learning and Childcare Strategy which improves provision and includes two high-profile targets: supporting the development of our children to give every child the best start in life, while supporting more affordable childcare”.⁹⁴

Accessible Childcare

- 4.2 The UN CRC Committee, the UN CEDAW Committee and the UN ICESCR Committee have made recommendations to the NI Executive concerning accessible childcare, including access to suitable, affordable childcare, and its availability to families in socioeconomically disadvantaged situations and in rural areas and providing access for

⁹⁴ NI Executive, ‘Our Plan: Doing What Matters Most – Draft Programme for Government 2024-2027’ (NIE, 2024), at 24.

men to take parental leave.⁹⁵ The UN CRPD Committee recommended that the UK Government and NI Executive develop and implement policies “securing sufficient and disability-sensitive childcare as a statutory duty across the State party”.⁹⁶

- 4.3 In 2020, the NI Executive committed to giving “immediate priority to developing arrangements to deliver extended, affordable, responsive, high-quality provision of early education and care initiatives for families with children aged three-four”.⁹⁷ Yet there remains no statutory duty in NI akin to that on local and public authorities in England, Scotland and Wales to provide adequate childcare provision.
- 4.4 In 2024, 19 per cent of families in NI use formal childcare with, on average, parents spending around £14,000 a year on formal childcare for a child under five years old.⁹⁸
- 4.5 The Pre-School Education Programme for three-to-four-year-olds in NI funds one year of non-compulsory education before a child starts primary school, however this early education initiative is more limited than the childcare schemes available elsewhere in the UK and Ireland.⁹⁹
- 4.6 There are tax, social security and subsidy schemes available in NI to help parents pay for childcare, with the permanent NI Childcare Subsidy Scheme the most recent addition.¹⁰⁰ However, research highlights that many childcare providers require advance payment and “many low-income families are not in a financial position to make such large,

⁹⁵ CRC/C/GBR/CO/6-7, 'UN CRC Committee Concluding Observations on the Sixth and Seventh Periodic Reports of the UK of Great Britain and NI', 2 June 2023, at para 36(a) and (b); CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI', 14 March 2019, at para 45; E/C.12/GBR/CO/6, 'UN ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016, at para 44.

⁹⁶ CRPD/C/GBR/CO/1, 'UN CRPD Committee Concluding observations on the Initial Report of the UK of Great Britain and NI', 3 October 2017, at para 21.

⁹⁷ NI Office, 'New Decade, New Approach' (NIO, 2020).

⁹⁸ NI Assembly Research and Information Service, 'Briefing Paper: Economic Inactivity, Key Employment Barriers and Childcare Costs Potentially Impacting Those Barriers: Initial Considerations for NI', 17 May 2024.

⁹⁹ UK Government, '15 hours Free Childcare for 3 and 4-year-olds'. Available at: <https://www.gov.uk/help-with-childcare-costs/free-childcare-and-education-for-2-to-4-year-olds>; Welsh Government, 'Childcare for 3 and 4 year olds'. Available at: <https://gov.wales/childcare-3-and-4-year-olds>; Scottish Government, 'Early Education and Care'. Available at: <https://www.gov.scot/policies/early-education-and-care/early-learning-and-childcare/>; Government of Ireland, 'Early Childhood Care and Education Programme'. Available at: <https://www.gov.ie/en/publication/2459ee-early-childhood-care-and-education-programme-ecce>

¹⁰⁰ UK Government, 'Tax-Free Childcare'. Available at: <https://www.gov.uk/tax-free-childcare>; NI Direct, 'Adviser Discretion Fund'. Available at: <https://www.nidirect.gov.uk/adviser-discretion-fund>; Employers for Childcare, 'New NI Childcare Subsidy Scheme to help with childcare costs', 25 June 2024; Department of Education, 'Press Release: Education Minister announces £25million package of measures for early learning and childcare in Northern Ireland', 23 May 2024; NI Assembly Hansard, 'Urgent Written Ministerial Statement: Early Learning and Childcare Measures 2024/25 – Paul Givan MLA, Minister of Education', 23 May 2024.

upfront payments. Furthermore, childcare payment reimbursement for such upfront payments is retrospective, which can further adversely impact parents' financial situation".¹⁰¹

4.7 In 2023, the Department of Education's independent review of childcare services in NI revealed that issues with the cost and accessibility of childcare in NI are having a significant effect on parents' employment, particularly for women, one parent families, low-income households and parents whose children have additional needs.¹⁰² Of parents/carers surveyed, 51 per cent said that there was not enough information about childcare provision, which is having a particular effect on parents whose main language is not English.¹⁰³

Early Learning and Childcare Strategy

4.8 The childcare strategy for NI expired in 1992. In 2015, the NI Executive consulted on a draft childcare strategy, but the consultation did not result in one being adopted.¹⁰⁴ In 2020, the NI Executive reaffirmed its commitment to publishing a new childcare strategy.¹⁰⁵

4.9 In 2022, the former Minister of Education, Michelle McIlveen MLA, advised of plans to develop a new integrated early learning and childcare strategy.¹⁰⁶ In 2023, the Department of Education's independent review of childcare services reinforced the need for a comprehensive childcare strategy to tackle the range of issues facing the sector.¹⁰⁷

4.10 In May 2024, the Minister of Education, Paul Givan MLA, advised that "a major data collection exercise will be taken forward to help evaluate 2024/2025 measures and inform the longer-term strategy".¹⁰⁸ There is no set timeframe for delivering the strategy, but the Minister of

¹⁰¹ NI Assembly Research and Information Service, 'Briefing Paper: Economic Inactivity, Key Employment Barriers and Childcare Costs Potentially Impacting Those Barriers: Initial Considerations for NI', 17 May 2024, at 2.

¹⁰² Department of Education, 'Review of Childcare Services in NI – Final Report' (DE, 2023), at 132-142.

¹⁰³ Ibid, at 21 and 56.

¹⁰⁴ Office of the First Minister and Deputy First Minister, 'Towards a Childcare Strategy - A Consultation Document' (OFMDFM, 2012).

¹⁰⁵ NI Office, 'New Decade, New Approach' (NIO, 2020).

¹⁰⁶ NI Assembly Hansard, 'Written Ministerial Statement: Department of Education - Update on Childcare Strategy Developments including Proposal to Offer Every Child in their Pre-School Year a Minimum of 22.5 Hours of Pre-School Education per Week', 7 September 2022.

¹⁰⁷ Ibid, at 143.

¹⁰⁸ NI Assembly Hansard, 'Urgent Written Ministerial Statement: Early Learning and Childcare Measures 2024/2025 – Paul Givan MLA, Minister of Education', 23 May 2024.

Education has stated that “a priority during 2024/2025 will be the collection of data to provide an evidence base on which further, informed decisions can be taken regarding longer-term models of support”.¹⁰⁹

4.11 The NIHRC recommends that the NI Executive, working with the Department of Education, ensures that childcare facilities and arrangements in NI are available, affordable and accessible. This includes ensuring access to affordable childcare options for families that are socioeconomically disadvantaged, families in rural and remote areas, and families with irregular work schedules.

4.12 The NIHRC recommends that the NI Executive, working with the Department of Education, urgently develops, implements and monitors an Early Learning and Childcare Strategy for NI, that has a measurable action plan and is adequately resourced. Parents, carers, guardians and representative organisations should be involved at every stage of the process.

4.13 The NIHRC recommends that the NI Executive and NI Assembly, working with the Department of Education, introduces statutory arrangements to deliver extended, affordable, responsive, high-quality provision of early education and care initiatives for families with children, using the provision available in other parts of the UK as a starting point.

5.0 Priority 3: Health Waiting Times

Emergency healthcare and NHS waiting lists

5.1 The draft Programme for Government states that the NI Executive’s focus will be on:

supporting those on cancer and time-critical waiting lists. It will not be possible to reduce our lengthy waiting times within the

¹⁰⁹ NI Assembly Hansard, ‘Written Question: Timeline for Early Learning and Childcare Strategy – Kate Nicholl MLA - AQW 14106/22-27’, 8 July 2024.

funding currently available. We will prepare for future investments that will provide improvements and efficiencies that help us reduce waiting times.¹¹⁰

- 5.2 The draft Programme for Government commits to “investing in our workforce, delivering digital capability and innovation, taking the difficult decisions about reconfiguration, and supporting a move to addressing health inequalities and improving health through primary, community and social care”.¹¹¹
- 5.3 In 2023, the UN CRC Committee and UN CRPD Committee have recommended that the NI Executive develop a strategy to address health inequalities and eliminate barriers to access to healthcare.¹¹²
- 5.4 The NIHRC welcomes the inclusion of reducing waiting times for healthcare as a priority for Government, but remains concerned that without adequate funding, issues with access to healthcare will persist and will disproportionately impact on already marginalised groups.
- 5.5 In 2024, the national health care system, particularly in NI, continued to be in unprecedented crisis.¹¹³ For example, hospital departments closing or subject to intermittent suspensions, patients being treated and accommodated within ambulances or corridors for excessive periods, rural healthcare services being centralised, patients spending years awaiting diagnosis or life-changing surgery, and General Practitioners being difficult to access.¹¹⁴ Challenging work conditions, poor terms of employment and reduced funding were also affecting the National Health Service in NI’s existing workforce, recruitment and

¹¹⁰ NI Executive, ‘Our Plan: Doing What Matters Most – Draft Programme for Government 2024-2027’ (NIE, 2024), at 28.

¹¹¹ Ibid.

¹¹² CRC/C/GBR/CO/6-7, ‘UN CRC Committee Concluding Observations on the Combined Sixth and Seventh Reports of the UK of Great Britain and NI’, 2 June 2023; CRPD/C/GBR/CO/1, ‘UN CRPD Committee Concluding Observations on the Initial Report of the UK of Great Britain and NI’, 3 October 2017.

¹¹³ British Medical Association, ‘From Bad to Worse: NI’s Care Crisis’. Available at: <https://www.bma.org.uk/news-and-opinion/from-bad-to-worse-northern-irelands-care-crisis>

¹¹⁴ British Medical Association, ‘From Bad to Worse: NI’s Care Crisis’. Available at: <https://www.bma.org.uk/news-and-opinion/from-bad-to-worse-northern-irelands-care-crisis>; ‘Ambulance wait times: Inquiry into deaths after delays’, *BBC News*, 4 January 2023; Allan Preston, ‘Councillor speaks of urgent need for health reform after “horrendous” hospital stay’, 9 January 2023; ‘South West Acute Hospital: Hundreds protest at cuts rally’, *BBC News*, 22 February 2023; ‘Northern Trust maternity services “fragile, vulnerable and unsustainable”’, *BBC News*, 21 November 2022; Aileen Moynagh and Marie-Louise Connolly, ‘Specialist GP clinics in NI to have services cut in half’, *BBC News*, 28 July 2023; Regulation and Quality Improvement Authority, ‘Inspection Report 8 November 2022-3 February 2023: Emergency Department, Royal Victoria Hospital’ (RQIA, 2023); Marie-Louise Connolly, ‘Royal Victoria Hospital: Emergency Department staff “disappointed” by patient safety report’, *BBC News*, 22 August 2023; Lyndsey Telford, ‘Mum fears her son could die waiting for life changing surgery’, *BBC News*, 3 October 2023; Dean McLoughlin, ‘Altnagelvin hospital: Midwife-led unit unable to reopen’, *BBC News*, 4 October 2023.

training.¹¹⁵ This all contributed to the broader issue of excessive waiting times at emergency departments and National Health Service waiting lists in NI.

Emergency Healthcare

- 5.6 In 2015, the NIHRC published its inquiry report into emergency healthcare in NI. The report made 26 recommendations, which included that the Department of Health develop dedicated Emergency Department minimum care standards rooted in human rights and provide a benchmark for patient experience within Emergency Departments.¹¹⁶ In 2024, many of these recommendations remained unaddressed.
- 5.7 In 2023/2024, 121,043 patients spent over 12 hours in an emergency department in NI, an increase from 106,990 in 2022/2023.¹¹⁷ This was also a significant increase from 45,401 in 2019/2020.¹¹⁸
- 5.8 In 2020, the NI Executive committed to making improvements to “urgent and emergency care” in NI.¹¹⁹ In 2022, the Department of Health consulted on its review of urgent and emergency care service in NI.¹²⁰ In 2024, the Department of Health also consulted on creating a network of hospitals for better outcomes, which included consideration of emergency healthcare.¹²¹ The outcomes of these consultation processes are awaited.
- 5.9 In 2023, the Regulation and Quality Improvement Authority reported several issues within the Royal Victoria Hospital’s emergency department which were affecting the provision of safe, effective patient care, including staffing, crowding, infection prevention control/environmental issues, patient care, medicines management and

¹¹⁵ House of Commons NI Affairs Committee, ‘The Funding and Delivery of Public Services in NI – Oral Evidence: Dr Tom Black (NI Council Chair at British Medical Association), Dolores McCormick (Associate Director, Employment Relations and Member Services at Royal College of Nursing), and Professor Mark Taylor (NI Director at Royal College of Surgeons)’, 24 May 2023; Eimear Flanagan, ‘Doctors: Almost one fifth of new GP trainee places in NI not filled’, *BBC News*, 31 July 2023.

¹¹⁶ NI Human Rights Commission, ‘Press Release: A and E Inquiry Findings Published’, 27 May 2015.

¹¹⁷ Information Analysis Directorate, ‘NI Statistics: Emergency Care 2023/2024’ (DoH, 2024), at Table 6.

¹¹⁸ *Ibid.*

¹¹⁹ NI Office, ‘New Decade, New Approach’ (NIO, 2020).

¹²⁰ Department of Health, ‘Review of Urgent and Emergency Care Services in NI: Consultation Report and Strategic Priorities’ (DoH, 2022).

¹²¹ Department of Health, ‘Hospitals – Creating a Network for Better Outcomes’ (DoH, 2024).

governance.¹²² However, while agreeing that the Royal Victoria Hospital's emergency department was "unsafe", staff at the hospital stated that the Regulation and Quality Improvement Authority's report is "wholly unsatisfactory" with a lack of "explicit focus on patient safety".¹²³

NHS Waiting Times

- 5.10 In recent years, there has been an "alarming growth in both the number of patients on elective care waiting lists, and the length of time they wait for assessment and treatment [in NI]".¹²⁴ In March 2023, 696,000 patients were on waiting lists in NI, with 197,345 (49 per cent) waiting over a year for an initial outpatient appointment, 64,513 (54 per cent) waiting over a year for inpatient treatment and 46,511 (27 per cent) waiting over 26 weeks for a diagnostic test.¹²⁵ Furthermore, available information suggested waiting list performance levels were "significantly worse in NI compared with the other UK regions".¹²⁶
- 5.11 The rise in waiting lists has been attributed to "a growing gap between rising population demand for care and available funding has significantly contributed to lengthy waiting times".¹²⁷ While "the COVID-19 pandemic exacerbated the challenges", it was noted "that the deterioration in waiting times has been longstanding".¹²⁸ In 2023, the NI Public Services Ombudsman found that there was "systemic maladministration" regarding waiting list communications in NI.¹²⁹
- 5.12 The House of Commons NI Affairs Committee found that the length of time some people are having to wait for healthcare in NI means they

¹²² Department of Health, 'Review of Urgent and Emergency Care Services in NI: Consultation Report and Strategic Priorities' (DoH, 2022).

¹²³ Marie-Louise Connolly, 'Royal Victoria Hospital: Emergency Department staff "disappointed" by patient safety report', *BBC News*, 22 August 2023.

¹²⁴ NI Audit Office, 'Press Release: Tackling waiting lists', 10 October 2023.

¹²⁵ NI Audit Office, 'Press Release: Tackling waiting lists', 10 October 2023; NI Audit Office, 'Tackling Waiting Lists' (NIAO, 2023), at para 1.4.

¹²⁶ NI Audit Office, 'Press Release: Tackling waiting lists', 10 October 2023; NI Audit Office, 'Tackling Waiting Lists' (NIAO, 2023), at para 1.6.

¹²⁷ NI Audit Office, 'Press Release: Tackling waiting lists', 10 October 2023; NI Audit Office, 'Tackling Waiting Lists' (NIAO, 2023), at paras 1.7; 1.8; 5.31; 5.23.

¹²⁸ NI Audit Office, 'Press Release: Tackling waiting lists', 10 October 2023; NI Audit Office, 'Tackling Waiting Lists' (NIAO, 2023), at para 3.19.

¹²⁹ NI Public Services Ombudsman, 'Forgotten: An Investigation into Healthcare Waiting List Communications' (NIPSO, 2023), at 5.

may never be treated.¹³⁰ The House of Commons NI Affairs Committee found that the delays are affecting the person's day-to-day life, not just their condition.¹³¹ Furthermore, it was stated that the situation is creating "moral distress" for healthcare workers in NI.¹³² It is also believed that there is not capacity within the private or public health services in NI to address waiting lists.¹³³

5.13 Waiting list initiatives have been trialled in NI, some of which have been successful in cutting waiting lists, but these are typically brought to an end due to budget cuts.¹³⁴ The former NI Director of the Royal College of Surgeons, Mark Taylor, stated that "in order to transform and deal with the firefighting, we need much more resource and we need it to be recurrent over three to five years so that you can plan, rather than on a yearly basis with temporary contracts and temporary solutions".¹³⁵

5.14 In 2024, commitments for March 2026 regarding waiting lists continued to not be met.¹³⁶ This included that no-one should wait more than 52 weeks for a first outpatient appointment and inpatient/day case treatment or 26 weeks for a diagnostics appointment.¹³⁷ Also that the gap between demand and capacity for elective care would have been eradicated.¹³⁸ The Department of Health previously stated that funding is an issue,¹³⁹ which remained the case.¹⁴⁰ The Department of Health also previously stated that "the deficit between demand and capacity has been going on for too long and the waiting list backlog has been exacerbated by the impact of COVID-19".¹⁴¹

5.15 The Comptroller and Auditor General for NI, Dorinnia Carville, noted that "lengthy waits place patients at risk of developing debilitation and complex conditions, potentially requiring more expensive treatment... As a result, reduced waiting times are essential to improve both patient

¹³⁰ House of Commons NI Affairs Committee, 'The Funding and Delivery of Public Services in NI – Oral Evidence: Dr Tom Black (NI Council Chair at British Medical Association), Dolores McCormick (Associate Director, Employment Relations and Member Services at Royal College of Nursing), and Professor Mark Taylor (NI Director at Royal College of Surgeons)', 24 May 2023, at 2-3.

¹³¹ Ibid.

¹³² Ibid.

¹³³ Ibid, at 13.

¹³⁴ Ibid, at 7 and 20.

¹³⁵ Ibid, at 8.

¹³⁶ Department of Health, 'Press Release: Progress report on five-year Elective Care Framework', 6 July 2023.

¹³⁷ Department of Health, 'Elective Care Framework: Restart, Recovery and Redesign' (DoH, 2021).

¹³⁸ Ibid.

¹³⁹ Department of Health, 'Press Release: Progress report on five-year Elective Care Framework', 6 July 2023.

¹⁴⁰ Ibid; NI Assembly Hansard, 'Official Report: Cross-border Healthcare – Mike Nesbitt MLA', 18 June 2026.

¹⁴¹ Department of Health, 'Press Release: Progress report on five-year Elective Care Framework', 6 July 2023.

health and public finances”.¹⁴² The Comptroller and Auditor General for NI further noted that, unless longer-term, sustainable funding framework for the health service is in place, “the Department [of Health] will likely have to address the most pressing clinical waits through available short-term funding. This approach is totally unsuitable and almost certainly stores up huge problems for the future”.¹⁴³

5.16 The NIHRC recommends that the NI Executive, working with the Department of Health, immediately develops, implements and monitors a targeted, measurable and appropriately financed plan of action aimed at eradicating unreasonable emergency healthcare waiting times and National Health Service waiting lists, and eliminating barriers in access to healthcare and services in NI. This includes ensuring that the resources and finances available are ring-fenced and sufficient to satisfy need on a long-term basis and to ensure effective communication with patients. This also includes ensuring consideration of specific needs, such as gender, age, disability, race or ethnicity, and rurality.

6.0 Priority 4: Ending Violence Against Women and Girls

6.1 It is proposed that there will be launched a delivery plan¹⁴⁴ and strategic framework¹⁴⁵, there will be a strategic approach to addressing harmful attitudes and behaviours¹⁴⁶, and the development of consistent communication and messages.¹⁴⁷ It is also proposed to institute a Change Fund to support community efforts.¹⁴⁸ There is to be a new emphasis on collaboration with stakeholders to better integrate Ending Violence Against Women and Girls (EVAWG) into policy development and service delivery¹⁴⁹.

¹⁴² NI Audit Office, ‘Press Release: Tackling waiting lists’, 10 October 2023.

¹⁴³ Ibid.

¹⁴⁴ NI Executive, ‘Our Plan: Doing What Matters Most Draft Programme for Government 2024-2027’ (NIE, 2024), at 30.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid, at 31.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid, at 32.

- 6.2 In May 2024, the UN Human Rights Committee recommended that the UK Government “withdraw its reservation to Article 59 of the Istanbul Convention”.¹⁵⁰ The UN Human Rights Committee, the UN CRC Committee, UN CEDAW Committee and UN CAT Committee have also made several recommendations for the UK Government and NI Executive to enhance measures to tackle violence against women and girls, with particular focus on deterrence, reporting, prosecution, data collection and specialised support, particularly for children, people seeking asylum, migrants, and persons with disabilities.¹⁵¹
- 6.3 EU obligations underpinning rights relevant to Windsor Framework Article 2 in this context include the EU Victims’ Directive¹⁵² as well as other EU laws which support victims.¹⁵³ In September 2024, the Court of Appeal in NI confirmed that the rights of victims of crime are given effect by civil rights and fall within the scope of the relevant chapter in the Belfast (Good Friday) Agreement and that specific rights in the EU Victims’ Directive were encompassed in the notion of victims’ rights in that chapter.¹⁵⁴ The EU Victims’ Directive recognises that where physical, sexual, psychological or economic violence is committed in a close relationship, this can cause psychological and physical trauma and such victims are therefore in need of special protection measures. The EU Directive further recognises that women are disproportionately affected by this harm.¹⁵⁵
- 6.4 In May 2024, the EU Directive on combating violence against women and domestic violence was adopted.¹⁵⁶ The purpose of the EU Directive is to strengthen and introduce measures on the definition of relevant criminal offences and penalties, the protection of victims and access to

¹⁵⁰ CCRP/C/GBR/CO/8, ‘UN Human Rights Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI’, 3 May 2024, at para 21(a).

¹⁵¹ Ibid, at paras 21(a) and 21(b); CRC/C/GBR/CO/6-7, ‘UN CRC Committee Concluding Observations on the Combined Sixth and Seventh Reports of the UK of Great Britain and NI’, 2 June 2023, at para 33(c); CEDAW/C/GBR/CO/8, ‘UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI’, 14 March 2019; CAT/C/GBR/CO/6, ‘UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 7 June 2019.

¹⁵² Directive 2012/29/EU, ‘EU Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime’, 25 October 2012.

¹⁵³ Directive 2011/36/EU ‘EU Council Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims’, 5 April 2011; Directive 2011/92/EU, ‘EU Parliament and Council Directive on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography’, 13 December 2011; Directive 2004/80/EC, ‘EU Council Directive Relating to the Compensation to Crime Victims’, 29 April 2004.

¹⁵⁴ *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NICA 59, at para 117.

¹⁵⁵ Recital 18, Directive 2012/29/EU, ‘EU Parliament and Council Directive Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime’, 25 October 2012.

¹⁵⁶ Directive 2024/1385/EU, ‘EU Parliament and Council Directive on Combating Violence Against Women and Domestic Violence’, 14 May 2024.

justice, victim support, enhanced data collection, prevention, coordination and cooperation.¹⁵⁷ The EU Directive sets minimum EU standards for specialist provision for victims of sexual harassment at work.¹⁵⁸

- 6.5 The NIHRC is examining the extent to which the EU Directive on Combating Violence against Women and Domestic Violence amends and/or replaces provisions of the EU Gender Equality (Employment) Directive, pursuant to Article 2 and Article 13 of the Windsor Framework.¹⁵⁹ While there is no requirement under the Windsor Framework for NI law to keep pace with EU developments beyond those relating to the EU Equality Directives listed in Annex 1, the Executive Office and other relevant departments can consider aligning, on a voluntary basis, with those developments which strengthen protections. This would also contribute to equivalence of rights on the island of Ireland.¹⁶⁰
- 6.6 In 2023/2024, there were 32,763 domestic abuse incidents and 19,954 domestic abuse crimes recorded in NI.¹⁶¹ In 2023, research found that 98 per cent of surveyed women in NI and 73 per cent of surveyed girls aged 12 to 17 years in NI reported having experienced at least one form of violence in their lifetime.¹⁶² In 2024, there was increasing acknowledgement of paramilitary-related coercive control, particularly against women.¹⁶³ Since January 2020, there have been 24 women killed by men in NI.¹⁶⁴
- 6.7 The NIHRC welcomes the NI Executive's commitment to tackling violence against women and girls, including by introducing its Ending Violence Against Women and Girls Strategy. The NIHRC notes that there are additional government strategies which concern issues

¹⁵⁷ Recital 1, *Ibid.*

¹⁵⁸ Article 28, 36 and Recital 65, *Ibid.*

¹⁵⁹ Directive 2006/54/EC, 'EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)', 5 July 2006.

¹⁶⁰ NI Human Rights Commission and Equality Commission NI, 'Policy Recommendations: European Union Developments in Equality and Human Rights: The Impact of Brexit on the Divergence of Rights and Best Practice on the Island of Ireland' (NIHRC and ECNI, 2023).

¹⁶¹ Police Service of NI, 'Domestic Abuse Incidents and Crimes Recorded by the Police in NI Update to 31 March 2024' (PSNI, 2024), at 1.

¹⁶² Susan Lagdon et al, 'Every Voice Matters: Violence Against Women in NI' (UU, 2023), at 1; Siobhán McAlister et al, 'It's Just What Happens: Girls' and Young Women's Views and Experiences of Violence in NI' (QUB, 2023), at 50.

¹⁶³ Aisling Swaine, 'When You Know What They are Capable Of': Paramilitary-related Gendered Coercive Control' (Foyle Family Justice Centre and UCD, 2024).

¹⁶⁴ Ita Dungan, 'A picture of violence: The 24 women killed in four years', *BBC News*, 16 October 2024.

relating to violence against women and girls, including the Department of Justice and Department of Health's Domestic and Sexual Abuse Strategy.¹⁶⁵ The Department of Justice has indicated that it is intended that the Domestic and Sexual Abuse Strategy and Ending Violence Against Women and Girls Strategy "will support and complement each other".¹⁶⁶ The NIHRC notes that there are other departmental strategies which may be useful to consider in relation to violence against women and girls, including the Modern Slavery and Human Trafficking Strategy 2024-2027.¹⁶⁷

6.8 The UK Government has placed a reservation against Article 59 of the Istanbul Convention, which allows the State to be a party to the Istanbul Convention, while excluding the legal effect of that specific provision. Article 59 of the Istanbul Convention requires States to grant residence to victims of domestic abuse whose immigration status depends on an abusive partner. Consequently, the reservation excludes many migrant women from the protections contained within the Istanbul Convention. In 2024, the No Recourse to Public Funds Rule continued to operate, preventing affected individuals with visas from accessing safe refuge accommodation or other support. The NIHRC appreciates that it falls outside the NI Executive's competence to remove the reservation to Article 59 of the Istanbul Convention, but the NI Executive could choose to mitigate against the impact of No Recourse to Public funds on victims of domestic abuse, which are disproportionately women.

6.9 The Domestic and Sexual Abuse Strategy considers human rights standards, prioritises specialised support for victims and wider families, and acknowledges that domestic and sexual abuse disproportionately affects women and children, which is welcome.¹⁶⁸ However, the Domestic and Sexual Abuse Strategy has been criticised for not including measures to deal with 'spiking'.¹⁶⁹

¹⁶⁵ Department of Justice and Department of Health, 'Domestic and Sexual Abuse Strategy 2024-2031' (DoJ and DoH, 2024).

¹⁶⁶ *Ibid*, at 1.

¹⁶⁷ Department of Justice, 'Modern Slavery and Human Trafficking Strategy 2024-2027' (DoJ, 2024).

¹⁶⁸ Department of Justice and Department of Health, 'Domestic and Sexual Abuse Strategy 2024-2031' (DoJ and DoH, 2024).

¹⁶⁹ 'Spiking not in NI strategy a "missed opportunity"', *BBC News*, 26 September 2024.

6.10 The Department for the Economy consulted on proposed regulations to operationalise the Domestic Abuse (Safe Leave) Act (NI) Act 2022, the outcome of which is still outstanding.¹⁷⁰

6.11 In June 2024, the High Court of Justice in NI considered a challenge regarding the compliance of section 12 of the 2022 Act, which provides anonymity laws for persons suspected of sexual offences, with Articles 8 (right to respect for private and family life) and 10 of the ECHR (right to freedom of expression).¹⁷¹ The High Court of Justice in NI found that the law violated Articles 8 and 10 of the ECHR by failing to strike an appropriate balance between the right to privacy of suspects and freedom of expression of the media.¹⁷² Consequently, section 12 of the 2022 Act has been struck down and is no longer enforceable. The Minister of Justice, Naomi Long MLA, has confirmed that the Department of Justice would not be appealing the High Court of Justice in NI's decision.¹⁷³

6.12 The NIHRC recommends that the NI Executive, working with the Department of Health and Department of Justice, ensures that there are specialised, accessible, gender-sensitive services for victims and survivors of domestic and sexual violence and abuse with guaranteed sustainable funding. This includes support to assist victims and survivors to exit from paramilitary linked coercive control. Such support should be available regardless of immigration status. This must be informed by and based upon disaggregated data and meaningful engagement with victims, survivors and representative organisations. This includes ensuring that there are sufficient refuge places available in NI for individuals that are accessible at the point of need.

6.13 The NIHRC recommends that the NI Executive, working with the Police Service of NI, take effective steps to address paramilitary links to coercive control, particularly against women. This includes ensuring adequate funding and sufficient specialised, gender-sensitive services.

¹⁷⁰ Department for the Economy, 'Domestic Abuse Safe Leave: Public Consultation' (DfE, 2024), at 9.

¹⁷¹ *In the Matter of an Application by Mediahuis Ireland Ltd and The Irish News* [2024] NIKB 45.

¹⁷² *Ibid*, at para 131.

¹⁷³ John Breslin, 'Justice Minister Naomi Long won't appeal ruling striking down "Jimmy Savile" provisions of sexual offences law', *Irish News*, 3 July 2024.

- 6.14 The NIHRC recommends that the NI Executive, working with the Department of Justice, amends the Justice (Sexual Offences and Trafficking Victims) Act (NI) 2022 in line with the High Court of Justice in NI judgment and repeal the provisions extending anonymity to individuals suspected of sexual offences.**
- 6.15 The NIHRC recommends that the NI Executive, in collaboration with the Department of Justice and the Department of Health, in respect of the Domestic and Sexual Abuse Strategy, and the Executive Office in respect of the Ending Violence against Women and Girls Strategy, consider and take into account the EU Victims' Directive and compliance with Windsor Framework Article 2 during the development and implementation of both Strategies.**
- 6.16 The NIHRC recommends that the NI Executive, working with the Executive Office, analyses the EU Directive on Combating Violence Against Women and Domestic Violence and consider whether and if so, to what extent, it amends or replaces provisions the EU Gender Equality (Employment) Directive.**
- 6.17 The NIHRC recommends that, in addition to making any changes required by the obligation under the Windsor Framework to keep pace with the Annex 1 Equality Directives, the NI Executive considers aligning, on a voluntary basis, with any enhancement to equality and human rights pursuant to the EU Directive on Combating Violence against Women and Domestic Violence.**

7.0 Priority 5: Children and Young People with Special Education needs

- 7.1 In the draft Programme for Government, the NI Executive identified "better support for children and young people with special educational needs" as an immediate priority. The NI Executive acknowledged that "the current education system is struggling to keep pace with the changing pupil profile and the model of support for children and young people needs significant transformation, which requires additional

investment”.¹⁷⁴ The NI Executive has committed to working to “transform the education system to provide high-quality, efficient and sustainable services for children with special educational needs and disability” and that “children and young people with special educational needs and disabilities and their families will be placed at the heart of” the programme of reform.¹⁷⁵

7.2 In 2023, UN CRC Committee recommended that the UK Government and NI Executive:

ensure inclusive education in mainstream schools for all children with disabilities, including by adapting curricula and training and assigning specialised teachers and professionals in integrated classes, so that children with disabilities and learning difficulties receive individual support and due attention.¹⁷⁶

7.3 The Special Educational Needs Disability Act (NI) 2016 has not been fully implemented as many provisions require supporting regulations, which are not yet in place. In 2021, the Department of Education consulted on new Special Educational Needs Regulations and a Code of Practice.¹⁷⁷ In 2024, work continued on finalising the new framework, prior to being introduced to the NI Assembly.¹⁷⁸

7.4 In 2023/2024, 68,200 pupils in schools in NI (19.2 per cent) had some form of special educational need.¹⁷⁹ Nearly 27,000 pupils in NI have a statement of special educational needs (7.6 per cent).¹⁸⁰ In 2023/2024, 83.8 per cent of pupils with any special needs were educated in a mainstream class in a mainstream school.¹⁸¹ There were also 7,200 children enrolled in 39 dedicated special schools in NI.¹⁸² Of pupils in special schools in NI, 54.4 per cent are entitled to free school meals,

¹⁷⁴ NI Executive, 'Our Plan: Doing What Matters Most – Draft Programme for Government 2024-2027' (NIE, 2024), at 34.

¹⁷⁵ Ibid.

¹⁷⁶ CRC/C/GBR/CO/6-7, 'UN CRC Committee Concluding Observations on the Sixth and Seventh Periodic Reports of the UK of Great Britain and NI', 2 June 2023, at para 47(b).

¹⁷⁷ Department of Education, 'New Special Educational Needs Framework'. Available at: <https://www.education-ni.gov.uk/articles/review-special-educational-needs-and-inclusion>.

¹⁷⁸ NI Assembly Hansard, 'Written Question: Special Educational Needs and Disability Act (Northern Ireland) 2016 – Nick Mathison MLA - AQW 8699/22-27', 26 March 2024.

¹⁷⁹ Department of Education, 'Annual Enrolments at Schools and in Funded Pre-school Education in NI 2023-2024' (DE, 2024), at para 4.1.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

¹⁸² Ibid, at para 4.2.

which is significantly higher than 27.7 per cent across all schools in NI.¹⁸³

- 7.5 In 2024, children with special educational needs in NI continued to experience uncertainty regarding school placements.¹⁸⁴ In June 2024, approximately 400 children with special educational needs in NI were on waiting lists for a suitable school place for the 2024/2025 academic year.¹⁸⁵ There have also been reports of nursery school children in NI being educated in the community and voluntary sector due to a lack of special school places.¹⁸⁶ While most children on waiting lists are provided with placements by the start of the school year, this is not guaranteed and the delay and lack of communication experienced while awaiting a decision by the Education Authority NI has caused parents and children “huge anxiety” and has been reported to be “mentally, emotionally and physically draining”.¹⁸⁷ It also affects the ability of parents to “plan accordingly”, which can result in children not being able to avail of or continue with their school placement.¹⁸⁸
- 7.6 The Minister of Education, Paul Givan MLA, advised that “meeting the demand for specialist education places for September [2024] remain[ed] a significant challenge”.¹⁸⁹ Work was undertaken by the Education Authority, supported by the Department of Education, “to create additional specialist education places in both special schools and specialist provision in mainstream schools for the 2024/2025 academic year”.¹⁹⁰ By 2 October 2024, the Education Authority NI confirmed that no child with a statement of special educational needs was left without

¹⁸³ Department of Education, ‘Annual Enrolments at Schools and in Funded Pre-school Education in NI 2023-2024’ (DE, 2024), at Section 5.

¹⁸⁴ Gráinne Connolly, ‘‘Breaking point’ as Special Educational Needs kids wait for school place’, *BBC News*, 17 June 2024; Robbie Meredith, ‘Robbie Meredith, ‘NI education: More than 100 schools refuse new Special Educational Needs classes’, *BBC News*, 11 April 2024; NI Education: Almost 400 children with special needs waiting on school place’, *BBC News*, 6 July 2023; ‘Almost 150 Special Educational Needs children in NI do not have a confirmed school place for September 2023’, *ITV News*, 27 July 2023; ‘Special educational needs: No school guarantee for 20 children’, *BBC News*, 17 August 2023; Robbie Meredith, ‘Special needs: No school places for more than 300 pupils’, *BBC News*, 23 June 2022.

¹⁸⁵ Gráinne Connolly, ‘‘Breaking point’ as Special Educational Needs kids wait for school place’, *BBC News*, 17 June 2024; Robbie Meredith, ‘Robbie Meredith, ‘NI education: More than 100 schools refuse new Special Educational Needs classes’, *BBC News*, 11 April 2024.

¹⁸⁶ Lauren Harte, ‘Education Authority statement as 42 nursery children with special educational needs educated outside school setting’, *Belfast Live*, 4 October 2023.

¹⁸⁷ ‘Special needs pupil ‘felt lonely’ during school place delay’, *BBC News*, 1 May 2024; ‘Almost 150 Special Educational Needs children in NI do not have a confirmed school place for September 2023’, *ITV News*, 27 July 2023; Robbie Meredith, ‘Special needs: No school places for more than 300 pupils’, *BBC News*, 23 June 2022.

¹⁸⁸ Robbie Meredith, ‘Special educational needs: Teen with autism may have to quit school’, *BBC News*, 16 August 2023.

¹⁸⁹ NI Assembly Hansard, ‘Written Question: School Placements in 2024-25 Academic Year - Gerry Kelly MLA - AQW 11237/22-27’, 15 May 2024.

¹⁹⁰ *Ibid.*

a confirmed school placement.¹⁹¹ However, some children due to benefit from these additional places faced further uncertainty after they were unable to start school as planned due to the building work not being completed in time on their classrooms.¹⁹²

7.7 In 2023, the Department of Education and Education Authority NI commenced an end-to-end review of special educational needs in NI.¹⁹³ This followed several critical reviews of special educational needs and services in NI,¹⁹⁴ including an Independent Review that reiterated the need for more effective use of the substantial funding to deliver high quality, child-centred provision.¹⁹⁵

7.8 In 2024, the end-to-end review was being undertaken over four phases,¹⁹⁶ with the outcome awaited. The Minister of Education emphasised “the need for sustained investment to deliver the fundamental reforms that are emerging from the end-to-end review of [special educational needs] and to deliver a high-quality, efficient, effective and sustainable [special educational needs] system for the future”.¹⁹⁷ The Minister of Education further advised that the Department of Education is in a similar position to where it was at the start of 2023,¹⁹⁸ with its resource allocation for 2024/2025 significantly less than what was required, leading to required reductions in spending.¹⁹⁹ However, the Minister of Education highlighted that the Department of Education is “very restricted in its ability to reprioritise or reduce spend due to the vast majority of its budget going to meet

¹⁹¹ NI Assembly Hansard, ‘Written Question: School Placements in 2024-2025 Academic Year – Justin McNulty MLA – AQW 16022/22’, 9 October 2024.

¹⁹² Robbie Meredith, ‘Family “in limbo” as building work delays school start’, *BBC News*, 5 September 2024; Robbie Meredith, ‘“Gut punch” for 19 Special Educational Needs pupils facing school start delay’, *BBC News*, 26 September 2024.

¹⁹³ Department of Education, ‘End to End Review of Special Educational Needs’. Available at: <https://www.education-ni.gov.uk/articles/end-end-review-special-educational-needs-sen>.

¹⁹⁴ NI Audit Office, ‘Special Educational Needs’ (NIAO, 2017); NI Audit Office, ‘Impact Review of Special Educational Needs’ (NIAO, 2020); NI Commissioner for Children and Young People, ‘Too Little Too Late: A Rights Based Review of Special Educational Needs in NI’ (NICCY, 2020); NI Assembly Public Accounts Committee, ‘Report on Impact Review of Special Educational Needs’ (NIA, 2021); NI Commissioner for Children and Young People, ‘Too Little, Too Late: Monitoring Report’ (NICCY, 2022).

¹⁹⁵ Department of Education, ‘Independent Review of Special Educational Needs Services and Processes’ (DE, 2023).

¹⁹⁶ NI Assembly Hansard, ‘Written Question: Update on Independent Review of Special Educational Needs – Stephen Dunne MLA – AQW 7510/22-27’, 4 March 2024.

¹⁹⁷ Department of Education, ‘Equality Impact Assessment Consultation Report on the 2023-2024 Resource Budget’ (DE, 2023); Robbie Meredith, ‘Schools’ funding for special needs teachers cut in half’, *BBC News*, 5 June 2023; Lauren Harte, ‘Education Authority statement as 42 nursery children with special educational needs educated outside school setting’, *Belfast Live*, 4 October 2023.

¹⁹⁸ Ibid.

¹⁹⁹ NI Assembly Hansard, ‘NI Assembly: Department of Education Budget Pressures – Cheryl Brownlee MLA’, 25 June 2024; NI Assembly Hansard, ‘Written Question: Financial Savings by Minister of Education – Jim Allister MP – AQW 10718/22-27’, 2 May 2024.

statutory and demand-led obligations, not to mention the fact that about 80 per cent of the total education budget is subsumed by staff costs".²⁰⁰

7.9 The NIHRC recommends that the NI Executive and NI Assembly, working with the Department of Education, ensures that the necessary revised Special Educational Needs Regulations and Code of Practice for NI are progressed as a matter of priority.

7.10 The NIHRC recommends that the NI Executive, working with the Department of Education and the Education Authority NI, ensures that the transformation of special education needs services in NI is robust, adequately funded and effectively implemented as a matter of priority. Targets for delivery should be set and monitored, prioritising children's needs and requisite support, including education, transport and other measures to ensure effective educational engagement and improve children's outcomes.

8.0 Priority 6: Housing

Homelessness

8.1 In the draft Programme for Government, the NI Executive committed to focusing "on preventing homelessness, making it brief, rare and non-recurrent by working collaboratively, prioritising housing solutions for those most in need and developing innovative funding models with third sector partners to purchase homes".²⁰¹ This includes the Department of Communities, Department of Health, Department of Justice and NI Housing Executive working together to "embed permanent systems change to prevent homelessness among young people coming out of care", which involves "bringing forward a pilot programme that will support young people leaving care and help to prevent this group from the risk of homelessness".²⁰² The NI Executive also committed to

²⁰⁰ NI Assembly Hansard, 'Written Question: Financial Savings by Minister of Education – Jim Allister MP – AQW 10718/22-27', 2 May 2024.

²⁰¹ NI Executive, 'Our Plan: Doing What Matters Most – Draft Programme for Government 2024-2027' (NIE, 2024), at 41.

²⁰² Ibid.

continuing its “programme of reform of the private rented sector” and to “review the NI Housing Executive Private Sector Grants, including the Disabled Facilities Grant, to ensure they effectively meet the needs of those they aim to help”.²⁰³

8.2 The UN CRC Committee recommended that the NI Executive “address the root causes of homelessness among children, strengthen measures to phase out temporary and ‘contingency’ accommodation schemes” and ensure that the best interest of the child are given primary consideration in all eviction matters.²⁰⁴ The UN ICESCR Committee has urged the NI Executive to take immediate measures, including allocating appropriate funds to local authorities, adequate provision of reception facilities and social rehabilitation centres.²⁰⁵ The UN ICESCR Committee also recommended that the private rental sector is effectively regulated.²⁰⁶ The UN ICESCR Committee further recommended that the NI Executive adopt all necessary measures to avoid the criminalisation of ‘rough sleeping’ and develop appropriate policies and programmes to facilitate the social reintegration of homeless persons.²⁰⁷

8.3 In 2023/2024, 16,943 presented as homeless to the NI Housing Executive and 11,537 households were accepted as statutorily homeless, an increase from 10,349 in 2022/2023.²⁰⁸ This figure does not include the unknown number of homeless that do not apply in the first place. Civil society organisations refer to such cases as the ‘hidden homeless’ and have raised specific concerns about the lack of support for this category of homelessness. Reasons for homelessness in NI include accommodation which is not reasonable; sharing breakdown/family dispute; loss of rented accommodation; marital/relationship breakdown; neighbourhood harassment; domestic violence; and no accommodation in NI.²⁰⁹

²⁰³ Ibid.

²⁰⁴ CRC/C/GBR/CO/6-7, ‘UN CRC Committee Concluding Observations on the Combined Sixth and Seventh Reports of the UK of Great Britain and NI’, 2 June 2023, at paras 46(b) and 46(c).

²⁰⁵ E/C.12/GBR/CO/6, ‘UN ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016, at para 52.

²⁰⁶ Ibid, at para 50(b).

²⁰⁷ Ibid, at para 52.

²⁰⁸ NI Statistics and Research Agency, ‘NI Housing Statistics 2023-2024’ (DfC, 2024); NI Statistics and Research Agency, ‘NI Housing Statistics 2022-2023’ (DfC, 2023).

²⁰⁹ NI Statistics and Research Agency, ‘NI Housing Statistics 2022-2023’ (DfC, 2023); NI Statistics and Research Agency, ‘NI Housing Statistics 2021-2022’ (DfC, 2022).

- 8.4 In 2022, a revised homelessness strategy was published that focuses on a range of principles including the steps taken being person centred, based on evidence and through partnership working.²¹⁰ In 2022/2023, there was notable progress in delivering the homelessness strategy's commitments concerning lived experience, undertaking a street needs audit, raising awareness and implementing a severe weather protocol.²¹¹ In 2024, the Department for Communities was also reviewing the housing supply strategy, with a view to this being a "whole-[NI] Executive strategy".²¹² This work is on-going.²¹³
- 8.5 In 2023, research by the NI Commissioner for Children and Young People found that "the right to family life and an adequate standard of living is the basic minimum a child should expect... [but] for too many NI has a long way to go to achieve the basic minimum for its children".²¹⁴ The Simon Community NI also published a report about mental health and homelessness in NI, which found difficulties in people accessing mental health support and registering with a General Practitioner.²¹⁵
- 8.6 In 2023, the NI Housing Executive's Chief Executive, Grainia Long, stated that:
- our statutory obligation is to provide solutions for homelessness, when it has occurred. However, demands for services meant that too often we are in 'emergency' or 'response' mode. A holistic approach to homelessness requires a strategic shift towards prevention. Widening NI Housing Executive's statutory obligations to 'prevention' of homelessness would enable use to focus and invest more in preventative measures.²¹⁶
- 8.7 The Private Tenancies Act (NI) 2022 amends the Private Tenancies Order (NI) 2006, giving enhanced safety standards and restrictions on

²¹⁰ NI Housing Executive, 'Ending Homelessness Together – Homelessness Strategy 2022-2027' (NIHE, 2022).

²¹¹ NI Housing Executive, 'Ending Homelessness Together: Homelessness Strategy 2022-2027 – Year One Annual Progress Report' (NIHE, 2024), at 5-7.

²¹² NI Assembly Hansard, 'Housing Supply Strategy – Gordon Lyons', 18 June 2024.

²¹³ Ibid.

²¹⁴ Mary Louise Corr et al, 'A Place to Call Home: A Rights Based Approach to Understanding the Lived Experience of Children and Families Facing Homelessness or Housing Insecurity' (NICCY, 2023), at 5.

²¹⁵ Simon Community NI, 'Mental Health and Homelessness' (SCNI, 2023), at 11-15.

²¹⁶ NI Housing Executive, 'Press Release: NI Housing Executive calls for legislation to prevent homelessness', 24 February 2023.

the frequency of rent increases. One immediate change provides for minimum lengths of notices to quit by both landlord and tenant.²¹⁷

- 8.8 The 2022 Act also committed the Department for Communities to holding a consultation on rent decreases and controls within six months of the legislation coming into force.²¹⁸ In 2023, following a consultation on the new intermediate rent policy,²¹⁹ the Department for Communities released a new housing policy.²²⁰ The new policy aims to increase the availability of affordable rented homes, with a specific focus on generating a fresh supply of 'intermediate rent' homes.²²¹
- 8.9 Despite these measures, in 2023/2024, homelessness due to loss of private rented accommodation due to property sale was a persisting issue.²²²
- 8.10 The inclusion of tackling homelessness as a priority for government is welcomed, but further measures can be taken to ensure people who become homeless are not criminalised as a result.
- 8.11 In 2024, concerns remained that the Vagrancy Act 1824 and Vagrancy (Ireland) Act 1847 criminalise homelessness.²²³ For example, section 3 of the 1847 Act provides that "every person... placing themselves in any public place, street, highway, court or passage to beg or gather alms shall be guilty of an offence". In 2021, the then Chief Constable of the Police Service of NI, Simon Byrne, confirmed that:

police officers do not, as a matter of course, use powers under the Vagrancy Act [1847] to address the general issue of homelessness... [For example, regarding begging] it is important to recognise that not all rough sleepers are involved in anti-social behaviour and criminality, such as begging or

²¹⁷ Article 11, Private Tenancies Act (NI) 2022.

²¹⁸ Article 5C(6), Private Tenancies Act (NI) 2022.

²¹⁹ Department for Communities, 'Consultation on Intermediate Rent Development of Policy and Model' (DfC, 2021).

²²⁰ Department for Communities, 'Press Release: New housing policy to deliver more affordable rented homes', 30 March 2023.

²²¹ Intermediate Rent introduces a novel housing rental approach within the local housing market. Its primary aim is to offer a supplementary rental option for lower to moderate-income households, granting them access to well-maintained, high-quality homes with extended lease terms at rents lower than the market rates. This model serves as a viable solution for households facing challenges in affording the prevailing rental prices in the open market, as well as for those aspiring to venture into affordable homeownership in the long run.

²²² NI Statistics and Research Agency, 'NI Housing Statistics 2023-2024' (DfC, 2024).

²²³ NI Policing Board, 'Question to the Chief Constable – Vagrancy Offences – John Blair', 1 April 2021; NI Assembly Hansard, 'Official Report: Vagrancy Laws – Repeal – Naomi Long MLA', 20 May 2024.

aggressive begging, and not all street beggars are homeless or rough sleepers. It is however, recognised that issues may be interrelated in some cases.²²⁴

8.12 In May 2024, the Minister for Justice, Naomi Long MLA, stated that:

it had been my intention to... [repeal the provisions of Vagrancy Act 1824 and the Vagrancy (Ireland) Act 1847 that apply in NI] in the previous [NI Assembly] mandate. However, the limitations of the then re-scoped Justice (Sexual Offences and Trafficking Victims) Bill and the subsequent engagement of the Department [of Justice]’s policy and legislative resources in the delivery of that meant that it was not possible to do that. However, I hope that we will be able to do it on this occasion. I do not believe that being homeless, in and of itself, should be punished. The police should not be the lead agency in tackling it. There are many people who should engage with those who do not have shelter and accommodation before the issue finds its way to the police.²²⁵

8.13 In 2024, work on reviewing the 1824 Act and 1847 Act was ongoing, with a view to the provisions that apply to NI being repealed.²²⁶

8.14 The NIHRC recommends that the NI Executive, working with the Department for Communities, leads a collaborative cross-departmental approach with the goal of eliminating all forms of homelessness in NI. This should include working with representative organisations and housing support organisations to identify effective early intervention models and to address the causes and impacts of homelessness.

8.15 The NIHRC recommends that the NI Executive, working with the Department for Communities and Department of Health, takes immediate, gender-sensitive steps to identify and address factors contributing to deaths of rough sleepers in NI.

²²⁴ NI Policing Board, 'Question to the Chief Constable – Vagrancy Offences – John Blair', 1 April 2021.

²²⁵ NI Assembly Hansard, 'Official Report: Vagrancy Laws – Repeal – Naomi Long MLA', 20 May 2024.

²²⁶ Ibid.

8.16 The NIHRC recommends that the NI Executive, working with the Department of Justice, ensures that homelessness is not criminalised in NI, including through measures such as promptly repealing NI-applicable provisions of the Vagrancy Act 1824 and the Vagrancy (Ireland) Act 1847.

Social Housing

8.17 In the draft Programme for Government, the NI Executive commits to ensuring “that the planning system supports the delivery of the appropriate supply of housing, creating sustainable and inclusive spaces, and work with NI Water to help facilitate housing growth”.²²⁷ The NI Executive further commits to delivering “a Northern Ireland Housing Supply Strategy to provide a long-term framework for the policies and actions required to increase the supply of homes across all tenures and reduce housing stress”.²²⁸

8.18 The UN CERD Committee, the UN CRC Committee and the UN ICESCR Committee have all made recommendations to the NI Executive to ensure the affordability of housing, to significantly increase the availability of adequate, long term social housing and ensure access for marginalised groups.²²⁹

8.19 On 31 March 2024, there were 47,312 applications on the social housing waiting list in NI, an increase from 45,105 applicants on 31 March 2023.²³⁰ Of these applicants, 35,464 were in housing stress, an increase from 32,633 on 31 March 2023.²³¹

8.20 In 2015, the NI Housing Executive reported that an overall requirement of 190,000 new dwellings was required in NI between 2008 and 2025, an annual figure of 11,200.²³² Current targets fall short of this. In 2024,

²²⁷ NI Executive, ‘Our Plan: Doing What Matters Most – Draft Programme for Government 2024-2027’ (NIE, 2024), at 40.

²²⁸ Ibid.

²²⁹ CERD/C/GBR/CO/24-26, ‘UN CERD Committee Concluding Observations on the Combined Twenty-fourth to Twenty-sixth Periodic Reports of the UK of Great Britain and NI’, 23 August 2024; CRC/C/GBR/CO/6-7, ‘UN CRC Committee Concluding Observations on the Combined Sixth and Seventh Reports of the UK of Great Britain and NI’, 2 June 2023; E/C.12/GBR/CO/6, ‘UN ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016.

²³⁰ Department for Communities, ‘NI Housing Statistics 2023-2024’ (DfC, 2024); Department for Communities, ‘NI Housing Statistics 2022-2023’ (DfC, 2024).

²³¹ Ibid.

²³² NI Housing Executive, ‘NI Housing Market Review and Perspectives 2015-2018’ (NIHE, 2015), at 23.

the total housing stock in NI was 835,988, an increase of only 7,159 dwellings from 2023.²³³ In 2023/2024, there were 2,746 new dwelling completions in the social sector, which is an increase from 1,449 in 2022/2023.²³⁴

- 8.21 The Housing (Amendment) Act (NI) 2020 enables housing associations to continue building new social housing and intermediate housing, including the Co-ownership Housing Scheme and ended the statutory right to buy scheme for Housing Associations, which should in practice help to maintain and increase NI's social housing stock.²³⁵ However, the right to buy scheme continues for the NI Housing Executive.
- 8.22 In 2023, following a public consultation,²³⁶ the Department for Communities published a new affordable housing policy, which aims to create an additional supply of 'intermediate rent' homes and provide a new affordable housing option.²³⁷ The intermediate rent policy aims to develop a framework for more high quality, secure and affordable housing in the long-term. However, rising rents and insecure rental arrangements continue to be a cause for concern.²³⁸
- 8.23 The NIHRC welcomes the NI Executive's commitment to introduce a Housing Supply Strategy and facilitate housing growth, however, work began on the Strategy in 2020, which was intended to be published by 2022, but has been delayed until 2025.²³⁹ There are also additional factors which affect the accessibility of social housing that require the NI Executive's attention.

Housing Selection Scheme

- 8.24 Social housing in NI is allocated through a points-based system, which uses common criteria to assess the housing needs of all social housing

²³³ Department for Communities, 'NI Housing Statistics 2023-2024' (DfC, 2024); Department for Communities, 'NI Housing Statistics 2022-2023' (DfC, 2024).

²³⁴ Ibid.

²³⁵ Department for Social Development, 'Facing the Future: The Housing Strategy for NI 2012-2017' (DSD, 2012).

²³⁶ NI Office, 'New Decade, New Approach' (NIO, 2020).

²³⁷ Department for Communities, 'Consultation on the New Housing Supply Strategy Call For Evidence' (DfC, 2022).

²³⁸ Department for Communities, 'Press Release: New housing policy to deliver more affordable rented homes', 30 March 2023.

²³⁹ Department for Communities, 'NI Housing Statistics 2023-2024' (DfC, 2024); NI Statistics and Research Agency, 'NI Housing Statistics 2022-2023' (DfC, 2023); NI Statistics and Research Agency, 'NI Housing Statistics 2021-2022' (DfC, 2022); NI Housing Executive, 'Ending Homelessness Together: Homelessness Strategy 2022-2027 – Year One Annual Progress Report' (NIHE, 2024), at 5-7.

²³⁹ Department for Communities, 'A New Housing Supply Strategy'. Available at: [A new housing supply strategy | Department for Communities \(communities-ni.gov.uk\)](https://www.communities-ni.gov.uk/a-new-housing-supply-strategy/)

applicants.²⁴⁰ The housing selection scheme is approved by the Department for Communities and implemented by the NI Housing Executive for all social housing, including housing provided for and managed by housing associations. Under this scheme applicants are assessed and awarded points according to their housing need. The level of points awarded determines the applicant's position on the social housing waiting list. Applicants may qualify for points under four categories – intimidation, insecurity of tenure, housing conditions and health or social well-being.²⁴¹

8.25 Since 2022, the NIHRC assisted several individuals who have not been awarded intimidation points, despite being victims of intimidation. Intimidation points are awarded to applicants whose home has been destroyed or seriously damaged or they are in serious and imminent risk of being killed or seriously injured as a result of a terrorist, racial or sectarian attack, or because of an attack motivated by hostility because of an individual's disability or sexual orientation or result of an attack due to neighbourhood nuisance or other similar forms of anti-social behaviour.²⁴² Yet, the definition of intimidation for this purpose excludes other common scenarios of intimidation such as domestic violence, coercive control or being intimidated on other grounds, such as nationality, gender, political opinion and other grounds. The effect of this is that no matter how at risk a person is, they will not receive the points. There is no official appeals mechanism, with only an informal complaints procedure available. The NIHRC has found that the complaints procedure is lengthy, the effects of which is exacerbated given the vulnerability of the individuals and households involved, many of whom remain at risk of death or serious injury whilst the complaint is being determined.

8.26 In 2024, independent research initiated by the NI Housing Executive was ongoing for the purposes of establishing options to reform the housing selection scheme.²⁴³ The NI Housing Executive intends that a revised scheme is implemented by mid-2026.²⁴⁴

²⁴⁰ Article 22, Housing (NI) Order 1981.

²⁴¹ NI Housing Executive, 'Housing Selection Scheme Rules' (NIHE, 2014).

²⁴² Ibid, at Rule 23.

²⁴³ Email from the NI Housing Executive to the Racial Equality Subgroup, 18 October 2024.

²⁴⁴ Ibid.

8.27 In 2024, the NIHRC initiated a judicial review challenging the operation and interpretation of the housing selection scheme on the grounds that, in some circumstances, it breaches Articles 2 (right to life), 3 (freedom from torture), 6 (right to a fair hearing), and 8 (right to respect for private and family life) of the ECHR. In October 2024, the leave hearing commenced. The High Court of Justice in NI indicated that several steps should be taken and further evidence provided before a decision on leave is made. The leave hearing is due to continue in February 2025.

Segregation

8.28 Across NI, 90 per cent of NI Housing Executive estates are segregated.²⁴⁵ The NI Housing Executive's Community Cohesion Strategy addresses segregation, with several actions aimed at supporting research into segregation and encouraging mixed housing schemes.²⁴⁶ Yet, intimidation continues.²⁴⁷ The NI Housing Executive has acknowledged that "political and sectarian displays are prevalent within housing estates and symbols such as murals, flags, kerb painting, bonfires and paramilitary memorials can create a 'chill factor' for visitors".²⁴⁸ It has also been reported that emblems and flags are being erected within new housing estates to demark territory.²⁴⁹ Yet, public authorities have been criticised for not addressing the root of the problem and not having a strategy in place that offers mitigating measures.²⁵⁰ For example, in 2024, the Cohesion Strategy, which expired in 2020, has not been updated.

8.29 In 2024, there was a rise in intimidation tactics being used against racial and ethnic minorities within housing estates in NI.²⁵¹ This has included racist and xenophobic posters, graffiti and physical attacks on property and individuals.²⁵² The posters indicate that the purpose of

²⁴⁵ Department for Communities, 'Housing Supply Strategy 2022 - 2037: Call for Evidence Summary Report' (DfC, 2021), at 28.

²⁴⁶ NI Housing Executive, 'Community Cohesion Strategy 2015-2020' (NIHE, 2015).

²⁴⁷ NI Assembly Hansard, 'Written Answers: Housing Stock - Minister for Communities, Deirdre Hargey MLA - AQW 2764/22-27', 16 August 2022; Jayne McCormack, 'Paramilitaries: Housing intimidation "rife" in NI', *BBC News*, 23 November 2023.

²⁴⁸ Commission on Flags, Identity, Culture and Tradition, 'Final Report' (CFICT, 2021), at para 14.12.

²⁴⁹ Alliance Party, 'Press Release: Bradshaw submits Private Member's Bill to tackle unwanted flags and banners on public property', 26 June 2024.

²⁵⁰ Brett Campbell, 'Belfast families living in fear on mixed estate where Catholics forced to flee', *Belfast Telegraph*, 29 September 2017; Alliance Party, 'Press Release: Bradshaw submits Private Member's Bill to tackle unwanted flags and banners on public property', 26 June 2024.

²⁵¹ Ita Dungan, 'Eight families forced from homes by racist attacks', *BBC News*, 4 July 2024; Jessica Rice, 'Man forced out of Belfast home after racist graffiti calls for public's support: "This is a time for action"', *Belfast Telegraph*, 4 July 2024.

²⁵² *Ibid.*

these actions is to ensure “no multiculturalism” and to promote segregation.²⁵³ Several families have been intimidated from their homes as a result.²⁵⁴

8.30 In 2024, a Private Members Bill was being explored that aims to clarify the requirement for public authorities to remove flags, banners and markings placed on public property in support of paramilitary groups, while also “enabling the reasonable and time-bound display of emblems placed for the purposes of legitimate commemoration or celebration”.²⁵⁵

Data Collection

8.31 In 2015, the Equality Commission for NI found that, despite monitoring guidance for public authorities, there is a lack of robust housing and communities data relating to several equality grounds.²⁵⁶ In 2019, the Equality Commission for NI reiterated its calls for improved data collection to address gaps and for data to be disaggregated, noting that “these shortfalls limit the ability to draw robust conclusions about inequalities, and/or progress in addressing the same, across the full range of equality categories and groups”.²⁵⁷ In 2024, these issues remained.

8.32 The NIHRC recommends that the NI Executive, working with the Department for Communities, promptly designs, implements, monitors and adequately resources an up-to-date housing supply strategy for NI through meaningful consultation with individuals that are affected and their representative organisations. This should include consideration of individuals or groups with specific needs.

8.33 The NIHRC recommends that the NI Executive, working with the Executive Office, Department for Communities and Department of Justice, takes concrete steps to promptly and robustly eradicate paramilitary and sectarian intimidation that cause families to be forced out of their homes. This requires a

²⁵³ Ibid.

²⁵⁴ Ibid.

²⁵⁵ Alliance Party, ‘Press Release: Bradshaw submits Private Member’s Bill to tackle unwanted flags and banners on public property’, 26 June 2024.

²⁵⁶ Equality Commission for NI, ‘Investigation Report under Schedule 9 of the NI Act 1998: Department for Social Development - Housing Policy Proposals’ (ECNI, 2015).

²⁵⁷ Equality Commission for NI, ‘Equality in Housing and Communities: Policy Recommendations’ (ECNI, 2019).

collaborative approach with housing providers, Police Service of NI and community representatives.

8.34 The NIHRC recommends that the NI Executive, working with the Department for Communities, in cooperation with the NI Housing Executive, revises the housing selection scheme to ensure that it considers properly an applicant’s circumstances and reflects up-to-date common challenges faced by individuals and households in NI, particularly in relation to intimidation points. This requires meaningful consultation with individuals affected and their representative organisations.

8.35 The NIHRC recommends that the NI Executive, working with the Department for Communities and the NI Housing Executive, ensures that an official mechanism to appeal housing selection decisions is in place, which is effectively implemented and monitored.

8.36 The NIHRC recommends that the NI Executive, working with the Department for Communities, ensures that comprehensive equality data on housing in NI is regularly gathered, monitored, evaluated and published. This data should be disaggregated in a way that reflects NI society. The NI Executive, in cooperation with the Department for Communities, housing providers, Police Service of NI and community representatives should take prompt, effective steps to address and eradicate any inequalities that are identified.

Accommodation for Refugees and People Seeking Asylum

8.37 In 2023, the UN CRC Committee recommended that the UK Government and NI Executive “strengthen measures to phase out temporary and “contingency” accommodation schemes”.²⁵⁸

8.38 In October 2024, the CoE European Commission against Racism and Intolerance recommended that the UK Government, and NI Executive, “as a matter of priority... prolong the move-on period between the

²⁵⁸ CRC/C/GBR/CO/6-7, ‘UN CRC Committee Concluding Observations on the Sixth and Seventh Periodic Reports of the UK of Great Britain and NI’, 2 June 2023, at para 46(a).

asylum support and the general social support systems well beyond 28 days to ensure there is no gap in support, notably as regards housing and payments ensuring subsistence”.²⁵⁹

8.39 The UK Government recognises that Windsor Framework Article 2 applies to “everyone who is subject to [NI]... law”.²⁶⁰ In May 2024, the High Court of Justice in NI confirmed that “[w]hilst it is true to say that the [Belfast (Good Friday) Agreement] did not expressly reference immigration or asylum, there is no basis to exclude such individuals from the wide compass of ‘everyone in the community’”.²⁶¹ The High Court of Justice in NI confirmed an earlier decision²⁶² and found a number of EU measures were relevant to refugees and people seeking asylum,²⁶³ including the EU Reception Directive which sets minimum standards for material reception conditions and requires states to ensure an adequate standard of living.²⁶⁴

8.40 While immigration and asylum procedures are ultimately the responsibility of the UK Home Office, NI Executive departments are responsible for ensuring the protection of the human rights of refugees and people seeking asylum in NI by, for example, providing support and services to assist in their resettlement in NI.

8.41 As of 31 March 2024, the reported number of people receiving asylum support in NI was 2,748.²⁶⁵ The actual number of people seeking asylum is likely to be higher, as some people may not be eligible for asylum support and, therefore will not be reflected in reported figures.²⁶⁶

²⁵⁹ CoE European Commission Against Racism and Intolerance, ‘Report on the UK (Sixth Monitoring Cycle)’ (ECRI, 2024), at para 86.

²⁶⁰ NI Office, ‘UK Government Commitment To “No Diminution of Rights, Safeguards and Equality of Opportunity” In NI: What Does It Mean and How Will It Be Implemented?’ (NIO, 2020), at para 8.

²⁶¹ *In the Matter of an Application by the NI Human Rights Commission for Judicial Review* [2024] NIKB 35, at para 69.

²⁶² *In the Matter of an Application by Aman Angsom for Judicial Review* [2023] NIKB 102, at para 94.

²⁶³ Directive 2005/85/EC, ‘EU Council Directive on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status’, 1 December 2005 Directive 2004/83/EC, ‘EU Council Directive on Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons who Otherwise Need International Protection and the Content of the Protection Granted’, 29 April 2004; Regulation 2013/604/EU, ‘EU Parliament and Council Regulation Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Application for International Protection Lodged in One of the Member States by a Third-country National or a Stateless Person’, 26 June 2013.

²⁶⁴ Directive 2003/9/EC, ‘EU Council Directive Laying Down Minimum Standards for the Reception of Asylum Seekers’, 27 January 2003.

²⁶⁵ Home Office, ‘Immigration System Statistics Year Ending March 2024: Asylum and Resettlement – Asylum Seekers in Receipt of Support’ (HO, 2024).

²⁶⁶ Law Centre NI, ‘Information Briefing: NI Refugee Statistics July 2023’. Available at: [Resource library | Law Centre Northern Ireland \(lawcentreni.org\)](https://www.lawcentreni.org/resource-library/).

- 8.42 Regarding contingency accommodation in NI, hotel managers and Mears Welfare Officers have confirmed awareness of the difficulties people seeking asylum are having in accessing healthcare, education and Migrant Help, but advised that delays often come down to capacity in local services, which they are unable to resolve in isolation.²⁶⁷ There have also been reports that when the move from contingency to dispersal accommodation occurs, it is conducted without any meaningful support to ensure access to education, healthcare and support services.²⁶⁸
- 8.43 After individuals and families receive their refugee status, they are evicted from Home Office dispersal accommodation and have 28 days to find alternative accommodation, referred to as 'moving on' accommodation.²⁶⁹ In 2024, reports suggest that this notice period is sometimes shorter in NI.²⁷⁰
- 8.44 Refugees that present to the NI Housing Executive as homeless will be offered available accommodation, which can often be temporary hotel accommodation, and often in a different area.²⁷¹ The Commission has received reports that this can be significantly disruptive and create anxiety.²⁷² For example, many of the individuals or families affected will have experienced trauma.²⁷³ Furthermore, the requirement to move from an area where an individual or family has settled affects access healthcare and education.²⁷⁴ Additionally, where hotels are used as move on accommodation, there are no available cooking facilities for individuals and families to prepare meals.²⁷⁵

8.45 The NIHRC recommends that the NI Executive, working with the Home Office and the Executive Office, review the support and accommodation provided to refugees and people seeking asylum in NI to ensure it is adequate, fit for purpose, culturally appropriate, in compliance with international human rights

²⁶⁷ Meeting between NI Human Rights Commission, Home Office and Mears Group PLC, 15 December 2022.

²⁶⁸ Meetings between NI Human Rights Commission and civil society organisations, May 2022, August 2022 and October 2022.

²⁶⁹ Section 22, Asylum Support Regulations 2000.

²⁷⁰ Meeting between the NI Human Rights Commission and the Horn of Africa People's Aid NI, 16 April 2024.

²⁷¹ Ibid.

²⁷² Ibid.

²⁷³ Ibid.

²⁷⁴ Ibid.

²⁷⁵ Ibid.

standards and EU standards falling within the scope of Windsor Framework Article 2, including the EU Reception Directive. This review should be conducted in consultation with refugees, people that are seeking asylum and their representative organisations.

8.46 The NIHRC recommends that the NI Executive, working with the Home Office and the Executive Office, develop and resource a realistic, long-term strategy aimed at expeditiously ending the use of as the 'contingency' asylum accommodation model in NI, including the use of hotels, particularly for families, children and persons with disabilities. The strategy should be culturally appropriate, take into account individual's specific needs and be developed in meaningful consultation with refugees, people that are seeking asylum and their representative organisations.

8.47 The NIHRC recommends that the NI Executive ensures that appropriate resource and support is available for the NI Housing Executive to provide appropriate 'move on' accommodation to individuals and families granted asylum in NI, as required. This accommodation should be of an adequate standard, culturally appropriate and located in an area where it is still reasonably possible for successful asylum applicants to continue to use the same healthcare or education provider that they had been utilising or engaging during the asylum application process.

9.0 Priority 7: Safer Communities

9.1 The Executive includes here domestic abuse, which was covered above in section 5, but also paramilitary intimidation and sectarianism.²⁷⁶ Further, it proposes a Speeding Up Justice Programme. There is to be investment in digital capabilities to support digital transformation within Criminal Justice Organisations, and the development of a cross-governmental strategy to reduce offending and reoffending, details on the latter are not however provided.²⁷⁷ The NI Executive also committed to seeking:

²⁷⁶ NI Executive, 'Our Plan: Doing What Matters Most Draft Programme for Government 2024-2027' (NIE, 2024), at 42.

²⁷⁷ Ibid, at 44-45.

to invest to drive much needed reform at a system level, underpinned by investment in digital capabilities – supporting digital transformation across Criminal Justice Organisations including the Police Service NI, the NI Courts and Tribunals Services and Public Prosecution Service, driving efficiencies through enhanced electronic communication between those organisations, and improving citizen interfaces e.g. enhanced communication with victims and witnesses.²⁷⁸

9.2 As noted, in September 2024, the Court of Appeal in NI confirmed that the rights of victims of crime are within the scope of the relevant chapter in the Belfast (Good Friday) Agreement, are within the competence of EU law, and are underpinned by EU law including the EU Victims' Directive²⁷⁹ and the EU Charter of Fundamental Rights.²⁸⁰ Other EU obligations underpinning the rights of victims include the EU Race Equality Directive,²⁸¹ as well as other relevant EU laws.²⁸² The EU Victims' Directive recognises that victims of hate crime are at a high risk of secondary and repeat victimisation and, as such, there should be a strong presumption that victims will benefit from special protection measures during criminal proceedings.²⁸³

Access to Justice

9.3 The UN CERD Committee recommended that the NI Executive “ensure that individuals belonging to ethnic minorities in... NI... have fair and effective access to legal aid to seek justice”.²⁸⁴ The UN CRC Committee recommended that all children have access to legal support and representations and remedies and provide adequate training to officials

²⁷⁸ NI Executive, 'Our Plan: Doing What Matters Most – Draft Programme for Government 2024-2027' (NIE, 2024), at 44.

²⁷⁹ Directive 2012/29/EU, 'EU Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.

²⁸⁰ *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NICA 59, at para 114-117, 126 and 136.

²⁸¹ Directive 2000/43/EC, 'EU Council Directive Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin', 29 June 2000.

²⁸² Directive 2011/36/EU 'EU Council Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims', 5 April 2011; Directive 2011/92/EU, 'EU Parliament and Council Directive on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography', 13 December 2011; Directive 2004/80/EC, 'EU Council Directive Relating to the Compensation to Crime Victims', 29 April 2004.

²⁸³ Articles 8-9 and Recitals 56-58, Directive 2012/29/EU, 'Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.

²⁸⁴ CERD/C/GBR/CO/24-26, 'UN CERD Committee Concluding Observations on the Combined Twenty-fourth to Twenty-sixth Periodic Reports of the UK of Great Britain and NI', 23 August 2024, at para 50.

working with children in the justice system who have on children's rights and child-friendly proceedings.²⁸⁵ The UN CRPD Committee recommended that the NI Executive ensure that "all persons with disabilities are provided with the right and adequate procedural accommodation within the justice system" and in addition "enable in particular deaf persons through the use of sign language interpreters to fully and equally participate as jurors in court proceedings".²⁸⁶

- 9.4 The EU Victims' Directive, which falls within the scope of Windsor Framework Article 2,²⁸⁷ includes the right of victims to understand and be understood in the context of criminal proceedings and the right to interpretation and translation services, to that end.²⁸⁸ The EU Interpretation Directive establishes minimum protections for suspected or accused persons who do not speak or understand the language of the criminal proceedings and facilitates the application of Article 6 of the ECHR.²⁸⁹ Article 6(3)(e) of the ECHR states that everyone charged with a criminal offence has the right "to have the free assistance of an interpreter if he cannot understand or speak the language used in court".

Live links and new technologies

- 9.5 In 2024, live links continue to operate in courts and tribunals.²⁹⁰ The NIHRC advised the Department of Justice that specific research should be undertaken to determine whether the use of live links had any adverse consequences for court users with disabilities, children, unrepresented litigants and/or individuals for whom English is not their first language.²⁹¹ Furthermore, the NIHRC advised that there should be clear guidance and safeguards in place to ensure technology and ways

²⁸⁵ CRC/C/GBR/CO/6-7, 'UN CRPD Committee Concluding Observations on the Combined Sixth and Seventh Reports of the UK of Great Britain and NI', 2 June 2023, at para 17.

²⁸⁶ CRPD/C/GBR/CO/1, 'UN CRPD Committee Concluding Observations on the Initial Report of the UK of Great Britain and NI', 3 October 2017, at para 33.

²⁸⁷ *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NICA 59, at para 117.

²⁸⁸ Directive 2012/29/EU, 'Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.

²⁸⁹ Recital 14, Directive 2010/64/EU, 'Directive of the European Parliament and of the Council on the Right to Interpretation and Translation in Criminal Proceedings', 20 October 2010.

²⁹⁰ Coronavirus Act 2020 (Extension of Provisions Relating to Live Links for Courts and Tribunals) Order (NI) 2024.

²⁹¹ NI Human Rights Commission, 'Consultation on Proposals on the Use of Live Links for Police Detention/Interviews' (DoJ, 2020); NI Human Rights Commission, 'Response to the Department of Justice's Consultation on Audio and Video Links for NI Court and Tribunal Hearings' (NIHRC, 2022); Letter from the NI Human Rights Commission to the Minister of Justice, Naomi Long MLA, 26 February 2024.

of working for the purpose of promoting access to justice, are accessible and used appropriately.²⁹²

- 9.6 In response, the Department of Justice stated that courts in NI are able to conduct case-by-case consideration of the individual needs of people with disabilities or for whom English is not their first language when determining whether it is in the interests of justice to use live links.²⁹³
- 9.7 Furthermore, in 2024, the Department of Justice, Police Service of NI, and NI Court and Tribunals Service continued to explore technological advancements and new ways of working for the purposes of improving access to justice in NI.²⁹⁴ That work was linked to implementing the Gillen review's recommendations.²⁹⁵ The newly proposed Justice Bill includes several provisions aimed at providing for the use of live links in police custody under certain circumstances. The NIHRC is currently reviewing the Bill.

9.8 The NIHRC recommends that the NI Executive, in collaboration with the Department of Justice, working with the Police Service of NI and NI Courts and Tribunals Service, ensures that the adoption of new technologies and ways of working do not inadvertently hinder access to justice for individuals with specific needs. This includes ensuring there is clear guidance and safeguards in place to ensure technology and ways of working for the purpose of promoting access to justice are accessible and used appropriately.

Legal Aid

- 9.9 The NI Executive has heavily referred to new technologies in relation to access to justice. The NIHRC notes that there are other issues affecting access to justice in NI.

²⁹² NI Human Rights Commission, 'Consultation on Proposals on the Use of Live Links for Police Detention/Interviews' (DoJ, 2020); NI Human Rights Commission, 'Response to the Department of Justice's Consultation on Audio and Video Links for NI Court and Tribunal Hearings' (NIHRC, 2022).

²⁹³ Letter from Minister of Justice, Naomi Long MLA, to NI Human Rights Commission, 7 March 2024.

²⁹⁴ Department of Justice, 'Digital Justice Strategy 2020-2025' (DoJ, 2020); NI Courts and Tribunals Service, 'Digital Strategy 2021-2026' (NICTS, 2022); Department of Justice, 'Consultation on Proposals on the Use of Live Links for Police Detention/Interviews' (DoJ, 2020); Department of Justice, 'Consultation on Use of Live Links for Courts and Tribunals' (DoJ, 2022).

²⁹⁵ John Gillen, 'Report into the Law and Procedures in Serious Sexual Offences in NI: Recommendations' (DoJ, 2019).

9.10 In 2024, civil and criminal legal aid were available in NI.²⁹⁶ Legal aid in NI costs more than £63.5 million per year.²⁹⁷ In NI, approximately 35 per cent of the total individuals who appear in the Magistrates' Court and 98 per cent of the total individuals who appear in the Crown Court were legally aided.²⁹⁸

9.11 In 2022 and 2023, the Law Society of NI and Bar of NI reported that cuts to the legal budget in NI, including legal aid:

would cause generational harm to the justice system to the detriment of some of society's most vulnerable. It has the potential to put many legal professionals out of business and force many others to withdraw vitally needed services from communities. The impact would not fall evenly and there is the potential to very significantly disadvantage rural communities.²⁹⁹

9.12 In 2023, barristers and solicitors in NI undertook a one-day strike across all criminal courts in protests against "wholly unreasonable delays" in receiving legal aid payments.³⁰⁰ It was reported that lawyers in NI faced a wait of up to six months to receive payment for work completed.³⁰¹ The Department of Justice stated that it was "sympathetic to the frustration" of lawyers in NI, but deemed the strike action "premature".³⁰²

9.13 The Department of Justice commenced a review of civil legal aid in NI.³⁰³ The review aims to ensure access to civil legal aid in NI is efficient, effective and responsive. The outcome of the review is awaited.³⁰⁴ The Minister of Justice, Naomi Long MLA, stated that "legal aid payments are forecast to be 30 per cent higher than the baseline

²⁹⁶ Department of Justice, 'Legal Aid'. Available at: [Legal Aid | Department of Justice \(justice-ni.gov.uk\)](https://justice-ni.gov.uk)

²⁹⁷ Ibid.

²⁹⁸ Ibid.

²⁹⁹ Law Society of NI and Bar of NI, 'Access to Justice Under Threat: A Joint Submission on the Draft NI Executive Budget 2022-2025' (LSNI and BNI, 2022), at 18; Letter from President of the Law Society of NI, Brian Archer, and Chair of the Bar of NI, Moira Smyth KC, to Permanent Secretary of the Department of Justice, Richard Pengelly, 24 April 2023.

³⁰⁰ 'NI barristers set date for strike action over pay', *BBC News*, 29 October 2023; Alan Erwin, 'NI solicitors to join one-day strike over legal aid payment delays', *Belfast Telegraph*, 16 November 2023.

³⁰¹ 'NI barristers set date for strike action over pay', *BBC News*, 29 October 2023.

³⁰² Ibid.

³⁰³ Department of Justice, 'Foundational Review of Civil Legal Services' (DoJ, 2024).

³⁰⁴ Ibid.

budget, which is a... challenge".³⁰⁵ The Minister of Justice further stated that the Department of Justice:

is facing increasing demand for services and inflationary cost rises, as well as the impact of pay awards... I am very conscious of the limited funding that the [NI] Executive had available to allocate. However, whilst the additional funding of £95 million of funding [to the Department of Justice] is welcome, it still leaves... [the Department of Justice] facing pressures of £351 million in 2024-2025. To put some perspective on the scale of the pressures involved, I will say that £351 million equates to the combined annual spend of prisons, courts and tribunals, legal aid, forensic science and the core Department. The severity of the financial position for [the Department of] Justice is exacerbated by the combined effects of historical underfunding compared with need for NI and the demand-led structure of the majority of services delivered by justice organisations.³⁰⁶

9.14 In 2024, the Justice Bill included an amendment to impose restrictions on taxation of legal aid and a technical amendment regarding legal aid and land registration.

Litigants in Person

9.15 In 2019, following research by the University of Ulster in conjunction with the NIHRC,³⁰⁷ a Litigant in Person Reference Group was established by the Department of Justice that comprised of litigants in person, statutory bodies, academics, and legal professionals.³⁰⁸ In 2024, the Reference Group continued to meet quarterly, which involved providing advice to the Department of Justice on access to justice.³⁰⁹

9.16 The NIHRC recommends that the NI Executive ensures that individuals in NI have fair and effective access to legal aid, as required. This includes ensuring that specific needs are

³⁰⁵ NI Assembly Hansard, 'Committee for Justice: Briefing by Minister of Justice, Naomi Long MLA', 24 April 2024.

³⁰⁶ NI Assembly Hansard, 'Justice: Budgetary Situation – Naomi Long MLA', 20 May 2024.

³⁰⁷ Gráinne McKeever et al, 'Litigants in Person in NI: Barriers to Legal Participation' (UU, NIHRC and Nuffield Foundation, 2018).

³⁰⁸ Department of Justice, 'Terms of Reference: Litigants in Person Reference Group' (DoJ, 2019).

³⁰⁹ Department of Justice, 'Litigants in Person Reference Group Publications'. Available at: <https://justice-ni.gov.uk/publications/litigants-person-reference-group/>

considered and accommodated. This also includes allocating ring-fenced resources that are adequate to ensure an efficient legal aid system in NI.

9.17 The NIHRC recommends that the NI Executive, working with the Department of Justice, promptly implements the recommendations contained in the Gillen Reviews and the Ulster University and NIHRC’s research on litigants in person to ensure that everyone has access to justice in law and practice. This includes ensuring that comprehensive consideration is given to the needs of individuals with specific needs including children, persons with disabilities, unrepresented litigants and individuals for whom English is not their first language.

Rule of law: Non-State actors

9.18 The draft Programme for Government states that the NI Executive remain committed to tackling paramilitarism and organised crime and we will continue to support the cross-Executive efforts aimed at addressing them. This will build on work to date that has demonstrated the links from vulnerability to paramilitary harm and other types of harm and violence, and we will seek to address the root causes of violence.³¹⁰

9.19 International human rights bodies have made recommendations in relation to the ongoing effect of paramilitarism in NI. The UN CERD Committee has recommended that the UK Government and NI Executive:

adopt robust measures to prevent and combat paramilitary racist violence and intimidation against ethnic minorities and migrants in NI, systematically collect information of these acts of intimidation and ensure that cases of paramilitary racist violence and intimidation are promptly and effectively investigated, prosecuted and punished with appropriate

³¹⁰ NI Executive, 'Our Plan: Doing What Matters Most Draft Programme for Government 2024-2027' (NIE, 2024), at 17.

sanctions, and that victims have access to effective protection and redress.³¹¹

9.20 In 2023, the UN CRC Committee recommended that the UK Government and NI Executive “strengthen measures to protect children from intimidation, racist attacks and other forms of violence committed by non-State actors, including so-called ‘paramilitary organisations’ in NI, and from recruitment by such actors into violent activities”.³¹²

9.21 In 2023/2024, it was reported that paramilitarism continues to affect up to 40 per cent of adults and 45 per cent of young people in NI.³¹³ In the same period there was one security related death, the same as 2022/2023.³¹⁴ There were 25 casualties of paramilitary style assaults, a decrease from 32 in 2022/2023 and the lowest number since 1983/1984.³¹⁵ There were 25 shooting incidents (a decrease from 37 in 2022/2023), seven bombing incidents (an increase from six in 2022/2023) and 12 casualties from paramilitary style shootings (an increase from 11 in 2022/2023).³¹⁶

9.22 The continued presence of paramilitary groups in NI has a specific effect on already marginalised and high risk groups. In 2024, there were increasing reports of links between paramilitarism and racist or xenophobic incidents and crimes in NI.³¹⁷ Individuals living in poverty are at heightened risk of debt vulnerability, which continues to have an added dimension with paramilitary groups often operating as illegal lenders.³¹⁸ Also in 2024, a report on the effects of paramilitarism on women in NI was published, noting that:

³¹¹ CERD/C/GBR/CO/24-26, ‘UN CERD Committee Concluding Observations on the Combined Twenty-fourth to Twenty-sixth Reports of the UK and Great Britain and NI’, 23 August 2024, at para 22.

³¹² CRC/C/GBR/CO/6-7, ‘UN CRC Committee Concluding Observations on the Combined Sixth and Seventh Reports of the UK of Great Britain and NI’, 2 June 2023, at para 34(b).

³¹³ Organised Crime Task Force, ‘Annual Report 2022/23: Threat and Assessment’ (OCTF, 2024), at Appendix 2.

³¹⁴ Police Service of NI, ‘Police Recorded Security Situation Statistics - 1 April 2023 to 31 March 2024’ (PSNI, 2024), at 1.

³¹⁵ Ibid.

³¹⁶ Ibid.

³¹⁷ Lyndsey Telford, ‘Who is behind the Belfast race violence?’, *BBC News*, 10 August 2024; Andrew Madden and Brett Campbell, ‘Fears nurses could flee NI due to paramilitary-linked disorder’, *Belfast Telegraph*, 6 August 2024; Rebecca Black, ‘Paramilitary element suspected in latest disorder in Belfast’, *Independent*, 6 August 2024; ‘Man’s head “stamped on” during racist attack’, *BBC News*, 5 August 2024; Sara Girvin, ‘Why has there been a spike in racist attacks in south Belfast?’, *BBC News*, 17 October 2023; Brett Campbell, ‘“Racist” anti-immigration posters erected in Newtownards in suspected co-ordinated UDA campaign’ *Belfast Telegraph*, 1 December 2023.

³¹⁸ House of Commons NI Affairs Committee, ‘The Effect of Paramilitary Activity and Organised Crime on Society in NI: Second Report of Session 2023-2024’ (NIAC, 2024), at para 30; Jordan Moats, ‘Fears energy payments could be taken by paramilitary loan sharks in NI’, *ITV News*, 24 January 2023; Consortium for the Regional Support for Women in Disadvantaged and Rural Areas ‘Women Living with Debt’ (CRSWDRA, 2022); ‘Spotlight: Paramilitary loan sharks targeting food bank users’, *BBC News*, 13 December 2022.

paramilitarism plays a dualistic role in (some) women's experiences of intimate partner violence. First, paramilitary conventions hold an implicit presence and are tacitly used as the basis for controls over a community, home or relationship. Second, paramilitary conventions have an explicit presence and are used in a tactical way within a community, home or relationship. The coercer, or the wider group, use paramilitary convention as a strategic instrument, to threaten, instil fear and ultimately exert control over a woman.³¹⁹

9.23 Notable work has already been progressed to tackle paramilitarism in NI by the NI Executive. In 2016, the Programme on Paramilitarism and Organised Crime was established by the NI Executive.³²⁰ The NI Affairs Committee has published an inquiry report into the effect of paramilitary activity and organised crime on society in NI.³²¹ It noted the enduring impact of paramilitarism through the physical or psychological harm to victims and survivors of violence, the harm to communities through coercive control and the perpetuation of societal trauma.³²² The NI Affairs Committee commended the progress of the Tackling Paramilitarism Programme, particularly for its trauma-informed and public health approach.³²³ However, the NI Affairs Committee has highlighted concerns that "funding for projects and programmes to tackle paramilitarism are often short-term, resulting in a focus on crisis interventions rather than systemic change".³²⁴ The Committee recommended that the UK Government and NI Executive extend the multi-year funding period for Phase Three of the Programme on Paramilitarism and Organised Crime from three years to five years.³²⁵

³¹⁹ Aisling Swaine, "When You Know of What They're Capable of": Paramilitary-related Gendered Coercive Control' (Foyle Family Justice Centre, 2024), at 6.

³²⁰ NI Executive, 'Executive Programme for Tackling Paramilitary Activity and Organised Crime'. Available at: [Executive programme for tackling paramilitary activity and organised crime | Northern Ireland Executive](#)

³²¹ UK Parliament, 'House of Commons: NI Affairs Committee - The Effect of Paramilitary Activity and Organised Crime on Society in NI - Second Report of Session 2023-2024' (HC, 2024).

³²² Ibid, at 4; Aisling Swaine, "When You Know What They are Capable Of": Paramilitary-related Gendered Coercive Control' (Foyle Family Justice Centre and UCD, 2024).

³²³ UK Parliament, 'House of Commons: NI Affairs Committee - The Effect of Paramilitary Activity and Organised Crime on Society in NI - Second Report of Session 2023-2024' (HC, 2024), at 4.

³²⁴ Ibid.

³²⁵ UK Parliament, 'House of Commons: NI Affairs Committee - The Effect of Paramilitary Activity and Organised Crime on Society in NI - Second Report of Session 2023-2024' (HC, 2024), at 77.

9.24 In 2023, the Independent Reporting Commission, created under the Fresh Start Agreement 2015, published its sixth annual report, which concluded that:

the threat level for NI-related Terrorism was increased during the year to “severe”. Coercive control continues to be an unacceptable feature of life in many communities where the paramilitaries operate. Instability at political level has also not helped. For those reasons, we say there are no grounds for complacency. Rather, the need for a continued sustained focus on tackling and ending paramilitarism remains essential. There exists an opportunity to advance efforts to tackle paramilitarism, but this requires further risk-taking and additional measures to supplement current valuable efforts.³²⁶

9.25 The Independent Reporting Commission recommended that “funding and commitment to tackling paramilitarism must be long-term, multi-year and sustainable, allowing progress and innovation to bed in and avoiding a stop-start approach that is constrained by short budget cycles and associated pressures”.³²⁷

9.26 The NIHRC recommends that the NI Executive, working with the UK Government, allocates sufficient and sustained long-term resources to the programme to end paramilitarism, and that the Executive Office establishes consistent monitoring to ensure the steps taken to end paramilitarism in NI are reflective of the Independent Reporting Commission’s recommendations.

9.27 The NIHRC recommends that the NI Executive, working with the Police Service NI, take effective steps to address paramilitary links to racist, xenophobic and coercive control incidents and crimes in NI. This includes investigating, prosecuting and punishing such incidents and crimes and ensuring an effective remedy for victims and survivors. It also includes developing specific programmes aimed at challenging and neutralising racist, xenophobic and controlling views, perceptions or disinformation, and building sustainable good relations. It

³²⁶ Independent Reporting Commission, ‘Sixth Report’ (IRC, 2023), at para 1.36.

³²⁷ Ibid, at para 1.65.

should also involve the Police Service of NI, and other relevant bodies, building enduring relationships and undertaking meaningful engagement with affected individuals and representative organisations.

9.28 The NIHRC recommends that the NI Executive, working with the Police Service NI, take effective steps to address paramilitary links to coercive control, particularly against women. This includes ensuring adequate funding and sufficient specialised, gender-sensitive services.

Sectarianism

9.29 In seeking to address the root causes of other types of harm and violence,³²⁸ consideration should be given to sectarianism.

9.30 In 2017, the CoE Advisory Committee on the Framework Convention for the Protection of National Minorities recommended that:

the NI Executive should endeavour to implement the 'good relations' duty as provided under the NI Act 1998 in a manner that does not run counter to the equality duty and that does not prevent access to rights of persons belonging to all national and ethnic minorities.³²⁹

9.31 In Windsor Framework Article 2, the UK Government commits to ensuring there is no diminution of the rights, safeguards and equality of opportunity provisions set out in the relevant chapter of the Belfast (Good Friday) Agreement 1998, including the "the right to freedom from sectarian harassment". In September 2024, the Court of Appeal in NI confirmed that the rights of victims of crime are within the scope of the relevant chapter in the Belfast (Good Friday) Agreement and that specific rights in the EU Victims' Directive were encompassed in the notion of victims' rights in that chapter.³³⁰ Relevant EU underpinning

³²⁸ NI Executive, 'Our Plan: Doing What Matters Most Draft Programme for Government 2024-2027' (NIE, 2024), at 17.

³²⁹ ACFC/OP/IV(2016)005, 'CoE Advisory Committee on the Framework Convention for the Protection of National Minorities Fourth Opinion on the UK', 27 February 2017, at 2.

³³⁰ *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NICA 59, at para 117.

law includes the EU Victims' Directive³³¹ and the EU Charter of Fundamental Rights.³³² The EU Victims' Directive recognises that victims of hate crime are at a high risk of secondary and repeat victimisation and that, as such, there should be a strong presumption that those victims will benefit from special protection measures during criminal proceedings.³³³

9.32 In 2022, in response to a public consultation on the EU Racial Equality Directive, the NIHRC highlighted the complex interplay between ethnicity, nationality and sectarianism in NI, recommending that sectarianism is recognised as a type of racial discrimination within the EU Directive.³³⁴ To the extent that the EU makes amendments to this Directive to enhance protections, NI equality law must be amended to keep pace with this change.

9.33 In 2023/2024, 1,091 sectarian incidents were recorded, a decrease from 1,238 in 2022/2023.³³⁵ In 2023/2024, 730 sectarian crimes were recorded, a decrease from 921 in 2022/2023.³³⁶

9.34 In 2021, following a recommendation from Judge Marrinan,³³⁷ the Department of Justice agreed in principle that there should be a definition of sectarian offences provided in legislation and acknowledged the merit in considering the Scots law definition carefully in relation to its implementation in NI.³³⁸ The Department of Justice also agreed in principle to include a new statutory aggravation for sectarian prejudice (subject to an agreed definition of sectarianism), which could be monitored by the Victims of Crime Commissioner.³³⁹ By 2027, the Department of Justice intends to bring forward provisions for the

³³¹ Directive 2012/29/EU, 'EU Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012. Other relevant EU measures include: Directive 2011/36/EU 'EU Council Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims', 5 April 2011; Directive 2011/92/EU, 'EU Parliament and Council Directive on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography', 13 December 2011; Directive 2004/80/EC, 'EU Council Directive Relating to the Compensation to Crime Victims', 29 April 2004.

³³² *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NIKB 11, at para 582.

³³³ Article 8 and Recitals 56-58, Directive 2012/29/EU, 'Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.

³³⁴ NI Human Rights Commission, 'Response to the European Commission Consultation on the Racial Equality Directive (Directive 2000/43/EC)' (NIHRC, 2022).

³³⁵ Police Service of NI, 'Incidents and Crimes with a Hate Motivation Recorded by the Police in NI: Update to 31st March 2024' (PSNI, 2024), at 5.

³³⁶ *Ibid.*

³³⁷ Independent Hate Crime Review Team, 'Hate Crime Legislation in NI: Independent Review' (DoJ, 2020), at Recommendation 12.

³³⁸ Department of Justice, 'Review of Hate Crime Legislation in NI - Departmental Response' (DoJ, 2021), at 6-7.

³³⁹ *Ibid.*

proposed statutory aggravation model in a Sentencing Bill.³⁴⁰ It is unclear if this will include an agreed definition of sectarianism and reference to sectarian prejudice.

9.35 The NIHRC recommends that the NI Executive, in collaboration with the Department of Justice and Executive Office, promptly and effectively implement the recommendations of the Independent Hate Crime Review Team, including introducing legislation that provides statutory definitions for 'sectarianism' and 'good relations'.

9.36 The NIHRC advises that the NI Executive, in collaboration with the Department of Justice should consider carefully Windsor Framework Article 2, including the provisions of the EU Victims' Directive, in the development of hate crime legislation including sectarian hate crime, and ensure that a victim-centred approach is adopted when investigating, prosecuting and remedying hate crimes.

10.0 Priority 8: Environment

10.1 In the draft Programme for Government, the NI Executive identified "protecting... the environment" as an immediate priority.³⁴¹ The NI Executive stated that "tackling climate change and paying attention to our natural environment are critical for our wellbeing and our prosperity and can help unlock new opportunities".³⁴² The NI Executive committed to setting carbon budgets for NI and developing a Climate Action Plan, which will detail "cross-cutting steps to reduce carbon emissions, adapt to changing weather patterns, and work towards net zero".³⁴³ The NI Executive acknowledged that the Climate Action Plan "will need to ensure that reaching net zero has to be affordable for households and businesses, providing a commitment to supporting the cost of this transition in a fair and balanced way".³⁴⁴

³⁴⁰ Email correspondence from the Department of Justice to the NI Human Rights Commission, 10 July 2024.

³⁴¹ NI Executive, 'Our Plan: Doing What Matters Most – Draft Programme for Government 2024-2027' (NIE, 2024), at 46.

³⁴² Ibid.

³⁴³ Ibid, at 47.

³⁴⁴ Ibid.

10.2 The UN CERD Committee recommended that the UK Government and NI Executive “take effective measures to address structural inequalities and discriminatory barriers in social determinants of health, including climate change and environmental health hazards”.³⁴⁵ The UN CRC Committee has made recommendations to the NI Executive on reducing carbon emissions, adopting legislation on air quality and promoting children’s awareness and preparedness of climate change.³⁴⁶ The UN CRC Committee also recommended that the NI Executive ensures that “children are not threatened for exercising their right to freedom of association and peaceful assembly, including for their involvement in climate activism”.³⁴⁷ The UN CEDAW Committee recommended that NI “review its policy on fracking and its impact on the rights of women and girls and consider introducing a comprehensive and complete ban on fracking”.³⁴⁸ The UN CEDAW Committee also recommended that there is “equal participation of rural women and girls in policymaking on disaster mitigation and climate change”.³⁴⁹

10.3 In September 2024, the Court of Appeal in NI held that the relevant chapter of the Belfast (Good Friday) Agreement is a broad suite of rights so there is no reason to construe the broad language of the chapter restrictively.³⁵⁰ In particular, the NIHRC considers that the full range of rights in the ECHR, to the extent that they are underpinned by EU law in force in NI on or before 31 December 2020, fall within the scope of the non-diminution commitment in Windsor Framework Article 2.³⁵¹ In April 2024, the ECtHR found that the right to respect for private and family life in Article 8 of the ECHR encompasses a right to effective protection by the State authorities from the serious adverse effects of climate change on lives, health, well-being and quality of life.³⁵²

10.4 The EU Charter of Fundamental Rights also continues to apply in the application and interpretation of the Withdrawal Agreement, and

³⁴⁵ CERD/C/GBR/CO/24-26, ‘UN CERD Committee Concluding Observations on the Combined Twenty-fourth to Twenty-sixth Periodic Reports of the UK of Great Britain and NI’, 23 August 2024, at para 44(a).

³⁴⁶ CRC/C/GBR/CO/6-7, ‘UN CRC Committee Concluding Observations on the Combined Sixth and Seventh Reports of the UK of Great Britain and NI’, 2 June 2023, at para 45.

³⁴⁷ *Ibid*, at para 27(c).

³⁴⁸ CEDAW/C/GBR/CO/8, ‘UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI’, 14 March 2019, at para 54(b).

³⁴⁹ *Ibid*, at para 54(c).

³⁵⁰ *In the Matter of an Application by Martina Dillon and others for Judicial Review* [2024] NICA 59, at para 115.

³⁵¹ NI Human Rights Commission and Equality Commission NI, ‘Annual Report of the NIHRC and the ECNI on the Implementation of Article 2 of the Windsor Framework 2022–2023’ (NIHRC and ECNI, 2023), at para 4.84.

³⁵² *Verein Klima Seniorinnen Schweiz and Others v. Switzerland* (2024) ECHR 304.

provisions relevant to its implementation, including provisions of EU law falling within the scope of the Windsor Framework.³⁵³ The Court of Appeal in NI has confirmed that relevant underpinning EU law should be interpreted in accordance with the EU Charter and general principles of EU law.³⁵⁴ Article 37 of the EU Charter on Fundamental Rights requires environmental protections to be integrated into EU policies of the EU.³⁵⁵

10.5 Prior to the UK's withdrawal from the EU, EU environmental law and governance mechanisms were deeply embedded in NI. Article 5(4) of the Windsor Framework provides for the continued application of EU law and governance mechanisms in some areas of environmental regulation, but it largely omits other key conservation areas.³⁵⁶ The Court of Appeal in NI in *Dillon* relied upon the position of the UK Supreme Court in *Allister*³⁵⁷ in finding that section 7A of the EU Withdrawal Act 2018, which incorporates the Withdrawal Agreement into domestic law, has "powerful legal effects within the UK, including the possibility of prevailing over primary legislation".³⁵⁸

10.6 The Climate Change Act (NI) 2022 includes targets for net zero greenhouse gas emissions by 2050. The 2022 Act also requires the publication of five-year Climate Action Plans, the appointment of an NI Climate Commissioner and the establishment of a Just Transition Commission. The UK Environment Act 2021 also requires that an Environmental Improvement Plan for NI is published. In September 2024, after significant delay, the first Environmental Improvement Plan for NI was published.³⁵⁹

10.7 In 2023, the UK's Climate Change Committee found that planning for climate change in NI "remains at an early stage" with very limited

³⁵³ *Secretary of State for Work and Pensions v AT* [2023] EW CA Civ 1307, at para 92; *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NICA 59, at para 126. See also Tobias Locket al, 'The Interaction between the EU Charter of Fundamental Rights and General Principles with the Windsor Framework' (NIHRC, 2024).

³⁵⁴ *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NICA 59, at para 126.

³⁵⁵ Article 37, EU Chapter of Fundamental Rights 2009.

³⁵⁶ Mary Dobbs and Viviane Gravey, 'Environment and Trade', in Chris McCrudden, *The Law and Practice of the Ireland-NI Protocol* (CUP, 2020), at 247.

³⁵⁷ *In the Matter of an Application by James Hugh Allister and Others for Judicial Review* [2023] UKSC 5, at para 66; *In the Matter of an Application by James Hugh Allister and Others for Judicial Review* [2022] NICA 15.

³⁵⁸ *In the Matter of an Application by Martina Dillon and Others for Judicial Review* [2024] NICA 59, at para 69.

³⁵⁹ Department for Agriculture, Environment and Rural Affairs, 'Environmental Improvement Plan for NI' (DAERA, 2024).

evidence of delivery and implementation.³⁶⁰ The Department of Agriculture, Environment and Rural Affairs consulted on ways to become net zero in NI.³⁶¹ The NIHRC provided a response which highlighted that all decisions taken by NI Executive Departments in relation to climate action should be informed by international human rights standards.³⁶² In 2024, the draft Climate Action Plan was in development.³⁶³ As a cross-department plan, the Climate Action Plan requires approval by the NI Executive, with a public consultation expected thereafter.³⁶⁴

10.8 In May 2024, the NI Affairs Committee, following an inquiry into renewable energy and net zero in NI, reported that “NI would have to double its renewable generation capacity to meet its 2030 targets”.³⁶⁵ The key barriers to NI achieving its net zero goals were inadequate infrastructure to support NI’s net zero transition, an unsupportive policy environment, and a lack of consumer awareness.³⁶⁶

Environmental Regulation

10.9 In 2020, the NI Executive committed to establishing “an Independent Environmental Protection Agency to oversee this work and ensure targets are met”.³⁶⁷ In 2024, the NI Environment Protection Agency continues to sit within the Department of Agriculture, Environment and Rural Affairs. Consequently, NI remains the only part of the UK not to have an independent environmental regulator.

10.10 In 2022, a report on air pollution found that “some pollutants in some parts of NI continue to exceed air quality objectives”.³⁶⁸ In 2023, further research estimated that air pollution was attributable to 900 premature deaths annually in NI.³⁶⁹ Additionally, in 2023, there were

³⁶⁰ UK Climate Change Committee, ‘Adapting to Climate Change: Progress in NI’ (UKCC, 2023).

³⁶¹ Department of Agriculture, Environment and Rural Affairs, ‘Consultation on NI’s 2030 and 2040 Emissions Reduction Targets and First Three Carbon Budgets and Seeking Views on Climate Change Committee Advice Report: The Path to a Net Zero NI’ (DAERA, 2023).

³⁶² Letter from the NI Human Rights Commission to the Department for Agriculture, Environment, and Rural Affairs, 11 October 2023.

³⁶³ NI Assembly Hansard, ‘Current Issues: Mr Andrew Muir MLA, Minister of Agriculture, Environment and Rural Affairs, Committee for Agriculture, Environment and Rural Affairs’, 6 June 2024.

³⁶⁴ Ibid.

³⁶⁵ Letter from Former Chair of the NI Affairs Committee, Sir Robert Buckland, to Interim Minister for the Economy, Deirdre Hargey MLA, 24 May 2024.

³⁶⁶ Ibid.

³⁶⁷ NI Office, ‘New Decade New Approach’, (NI Office, 2020), at 44.

³⁶⁸ Department for Agriculture, Environment and Rural Affairs, ‘Air Pollution in NI: 2021’ (DAERA, 2022).

³⁶⁹ Queen’s University Belfast and Technology University Dublin ‘Air Pollution and Mortality on the Island of Ireland’ (QUB and TUD, 2023).

significant issues in NI with flooding and water ways, including the presence of toxic algae in Lough Neagh.³⁷⁰ In 2024, the issues in NI's water ways continued.³⁷¹

10.11 In February 2024, the Chair of the Office for Environmental Protection, Dame Glenys Stacey urged the restored NI Executive to take urgent action over the failure to meet statutory deadlines, including the Environmental Improvement Plan and the Nutrient Action Plan.³⁷² The Chair of the Office for Environmental Protection stated that the lack of a Nutrient Action plan "is even more concerning given the issues at Lough Neagh".³⁷³ In July 2024, the Office for Environmental Protection launched an investigation of the Department of Agriculture, Environment and Rural Affairs' failure to meet its legal obligation to publish an Environmental Improvement Plan.³⁷⁴ In September 2024, the Office for Environmental Protection found that "a critical plan designed to protect and improve NI's water needs to be strengthened and implemented without further delay".³⁷⁵

Fracking

10.12 Under the Petroleum (Production) Act (NI) 1964, the Department for the Economy has the power to grant petroleum licenses for exploration and extraction.

10.13 In April 2024, Minister for the Economy, Conor Murphy, stated he would bring forward a proposal to ban all onshore oil and gas exploration and production.³⁷⁶ In the meantime, the Minister for the Economy confirmed

³⁷⁰ Anna Maguire, and Jessica Lawrence, 'Downpatrick flooding has "ripped the heart" out of town', *BBC News*, 2 November 2023; 'Newry swamped by floods a second time as country braces for Storm Ciarán', *The Irish Times*, 1 November 2023; Gillian Anderson, 'Department for Infrastructure responds after claims Derry treated with "utter contempt" over flooding', *Derry Journal*, 24 March 2023; 'Rural residents "living in fear and dread" over flooding', *The Irish News*, 30 January 2023; 'Flooding in Tyrone and Donegal causes "catastrophic damage"', *BBC News*, 23 July 2023; Louise Cullen and Alan Haslam, 'Portrush: Beaches red-flagged for toxic algae risk', *BBC News*, 26 July 2023; Louise Cullen, 'Lough Neagh: The year the UK's largest lake turned green', *BBC News*, 2 January 2024; Louise Cullen, 'Lough Neagh: Toxic algae potentially waking again', *BBC News*, 7 March 2024

³⁷¹ 'Earl and minister hold "constructive" Lough Neagh talks', *BBC News*, 17 July 2024.

³⁷² Office for Environmental Protection, 'Press Release: Office for Environmental Protection urges restored NI Executive to act over failure to meet statutory deadlines', 21 February 2024.

³⁷³ *Ibid.*

³⁷⁴ Office for Environmental Protection, 'Press Release: The Office for Environmental Protection investigates the Department for Agriculture, Environment and Rural Affairs over failure to publish environmental improvement plan', 8 July 2024.

³⁷⁵ Office for Environmental Protection, 'Press Release: The Office for Environmental Protection urges the Department of Agriculture, Environment and Rural Affairs to help improve water quality', 3 September 2024; Office for Environmental Protection, 'A Review of Implementation of the Water Framework Directive Regulations and River Basin Management planning in NI' (OEP, 2024).

³⁷⁶ Department for the Economy, 'Press Release: Murphy proposes to ban onshore oil and gas exploration', 29 April 2024.

that the Department for the Economy would not accept or process applications for onshore petroleum licenses.³⁷⁷

- 10.14 The NIHRC recommends that the NI Executive, working with the Department of Environment, Agriculture and Rural Affairs, ensures climate justice values are adopted in all laws and policies aimed at tackling climate change, including ensuring there is a focus on the specific needs of and preventative measures for individuals or communities most affected, including children. This includes taking steps to monitor and address poor air quality in NI.**
- 10.15 The NIHRC recommends that the NI Executive, working with the Department of Environment, Agriculture and Rural Affairs and other key stakeholders, takes effective steps to mitigate the risk of future flooding events in NI.**
- 10.16 The NIHRC recommends that the NI Executive, working with the Department of Environment, Agriculture and Rural Affairs and other key stakeholders, takes effective steps to ensure good air quality and good quality water ways in NI.**
- 10.17 The NIHRC recommends that the NI Executive brings forward legislation for a complete ban on fracking in NI and, in the interim, reviews the current policy on fracking on this basis.**
- 10.18 The NIHRC recommends that the NI Executive, working with the Department of Environment, Agriculture and Rural Affairs, promptly introduces and ensures long-term resources for an effective and independent environmental regulator.**
- 10.19 The NIHRC recommends that any legislative or policy decisions made by Department of Environment, Agriculture and Rural Affairs in relation to climate change and environmental regulation consider expressly and provide for the interplay of the ECHR, the EU Charter of Fundamental Rights and Windsor Framework Article 2.**

³⁷⁷ Department for the Economy, 'Press Release: Murphy proposes to ban onshore oil and gas exploration', 29 April 2024.

11.0 Priority 9: Public Services

Prison conditions

- 11.1 The draft Programme for Government provides a commitment to actively seek to achieve “the necessary prosecution resources, and capacity within the courts and Probation Board for Northern Ireland to process cases and capacity in prisons to hold people safely and securely and support their rehabilitation”.³⁷⁸
- 11.2 The inclusion of a commitment to look more closely at the capacity of prisons in the draft Programme for Government is welcome, but should be part of a wider suite of measures to ensure prison conditions are human rights compliant, including by tackling overcrowding.
- 11.3 The UN Human Rights Committee recommended that the UK Government and NI Executive “should intensify its efforts to ensure that conditions of detention fully comply with relevant international human rights standards, including the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)”.³⁷⁹ The UN Human Rights Committee has made further recommendations concerning limiting the use of solitary confinement, ensuring body searches are supervised and limited to exceptional circumstances and the prevention of self-inflicted deaths in custody.³⁸⁰ The UN CEDAW Committee recommended that the NI Executive “take further measures to improve the provision of mental health care in all prisons, taking into account the particular needs of women”.³⁸¹ The UN CAT Committee also made recommendations to the NI Executive concerning improving prison conditions, recruitment and training of prison personnel, implementing preventative strategies relating to prisoner violence and limiting and effectively investigating deaths in custody.³⁸²

³⁷⁸ NI Executive, ‘Our Plan: Doing What Matters Most Draft Programme for Government 2024-2027’ (NIE, 2024), at 30.

³⁷⁹ CCPR/C/GBR/CO/8, ‘UN Human Rights Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI’, 3 May 2024, at para 33.

³⁸⁰ Ibid, at paras 34(a)-34(d).

³⁸¹ CEDAW/C/GBR/CO/8, ‘UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI’, 14 March 2019.

³⁸² CAT/C/GBR/CO/6, ‘UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 7 June 2019.

- 11.4 In 2023, the Global Alliance of National Human Rights Institutions Sub-Committee on Accreditation reiterated its concerns that the NIHRC is not able to enter places of detention, such as prisons, without providing advance notice.³⁸³
- 11.5 In 2022/2023, the overall daily average prison population increased to 1,685 from 1,494 in 2021/2022.³⁸⁴ The number of men in NI prisons increased to 1,607 from 1,428 in 2021/2022.³⁸⁵ The number of women in NI prisons increased to 78 from 66 in 2021/2022.³⁸⁶ In 2022/2023, the number of prisoners on remand in NI increased to 607 from 546 in 2021/2022.³⁸⁷
- 11.6 In 2023/2024, there were 154 prisoner-on-prisoner assaults, and 54 prisoner assaults on prison staff across all NI prisons.³⁸⁸
- 11.7 In 2024, concerns regarding overcrowding in NI prisons continue.³⁸⁹ In 2024, the Minister of Justice, Naomi Long MLA, reiterated concerns about the pressures of an increasing prisoner population in NI.³⁹⁰ This is, in part, being managed by the reopening of older accommodation within the prison estate, which are “much less suitable environments for prisoners and are more staff-intensive to operate”.³⁹¹ The Minister of Justice advised that the recruitment of staff continues across all operational areas of the NI Prison Service.³⁹²
- 11.8 A key contributor to the rise in the NI prison population is the high number of prisoners on remand.³⁹³ In 2023, the Criminal Justice Inspection NI recommended changes to bail laws to assist with tackling

³⁸³ Global Alliance of National Human Rights Institutions, ‘Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation – March 2023’ (GANHRI, 2023).

³⁸⁴ NI Statistics and Research Agency, ‘NI Prison Population 2022/2023’ (DoJ, 2023), at 3.

³⁸⁵ Ibid.

³⁸⁶ Ibid.

³⁸⁷ Ibid.

³⁸⁸ Email correspondence from the Department of Justice to the NI Human Rights Commission, 16 July 2024.

³⁸⁹ Meeting between NI Human Rights Commission and NI Prison Service, 24 February 2023; Meeting between Department of Justice and NI Prison Service, 4 August 2023; Julian O’Neill, ‘Old cell block to re-open due to rising prisoner numbers’, *BBC News*, 24 July 2024; Department of Justice, ‘Press Release: Long announces prison staff increase in response to rising prisoner numbers’, 23 July 2024.

³⁹⁰ NI Assembly Hansard, ‘Oral Question: Prison Population – Nick Mathison MLA - AQO 301/22-27’, 22 April 2024.

³⁹¹ Ibid.

³⁹² Ibid.

³⁹³ Meeting between NI Human Rights Commission and NI Prison Service, 24 February 2023; Meeting between Department of Justice and NI Prison Service, 4 August 2023; NI Commission for Human Rights Visit to Maghaberry Care and Supervision Unit, 19 January 2024; Department of Justice, ‘Press Release: Long announces prison staff increase in response to rising prisoner numbers’, 23 July 2024.

the level and impact of remand across the criminal justice system.³⁹⁴ However, in 2024, the Minister of Justice advised that there are no plans to take forward a Bail Bill.³⁹⁵

11.9 In 2022, Criminal Justice Inspection NI raised significant concerns regarding the treatment of prisoners and patients in Care and Supervision Units within NI prisons.³⁹⁶ The Criminal Justice Inspection found that prisoners experienced regimes amounting to solitary confinement and their treatment did not meet the UN Standard Minimum Rules for the Treatment of Prisoners.³⁹⁷ In 2023, the Criminal Justice Inspection NI found that the challenging findings of its review of Care and Supervision Units prompted substantial action.³⁹⁸ The Criminal Justice Inspection highlighted improvements in governance and oversight arrangements, leading to better access to purposeful activity for individuals held in the units.³⁹⁹ However, there are continuing concerns that measures are needed to support the increasing number of people with complex mental health needs in NI prisons.⁴⁰⁰ For instance, personality disorders are not recognised in legislation under the Mental Health (NI) Order 1986, leading to a lack of services in prison custody.⁴⁰¹ In 2024, the UK National Preventative Mechanism noted, “while steps have been made to improve this, funding is a constraint”.⁴⁰²

11.10 In February 2024, the Criminal Justice Inspection NI published a follow up report on its previous inspection of Maghaberry Prison.⁴⁰³ Despite reporting reasonably good progress against its 2022 inspection, the Criminal Justice Inspection NI reiterated concerns with the approach to adult safeguarding due to ineffective collaboration between prison and health leaders.⁴⁰⁴ A lack of leadership and co-ordination regarding

³⁹⁴ Criminal Justice Inspection NI, ‘The Operation of Bail and Remand in NI’ (CJI, 2023).

³⁹⁵ NI Assembly Question, ‘Written Question: Proposals for a Bail Act – Michelle McIlveen MLA - AQW 10810/22-27’, 26 April 2024.

³⁹⁶ Criminal Justice Inspection NI, ‘A Review into the Operation of Care and Supervision Units in the NI Prison Service’ (CJINI, 2022), at 4.

³⁹⁷ Ibid.

³⁹⁸ Criminal Justice Inspection NI, ‘A Review into the Operation of Care and Supervision Units in the NI Prison Service’ (CJINI, 2023).

³⁹⁹ Ibid.

⁴⁰⁰ Ibid.

⁴⁰¹ UK National Preventative Mechanism, ‘UK NPM Submission: Human Rights Committee 140th Session’ (NPM, 2024), at 15.

⁴⁰² Ibid.

⁴⁰³ Criminal Justice Inspection NI, ‘Report of an Independent Review of Progress at Maghaberry Prison: 31 October – 2 November 2023’ (CJI, 2024).

⁴⁰⁴ Ibid, at 14-15.

tackling the availability of drugs and other contraband in Maghaberry also remains a concern.⁴⁰⁵ Much also remained to be done to support prisoner rehabilitation and planning for their release.⁴⁰⁶ In addition, the Criminal Justice Inspection published a follow up report of its previous inspection on Magilligan Prison.⁴⁰⁷ The Criminal Justice Inspection advised that progress in addressing the key concern related to illicit substances has been too slow.⁴⁰⁸ The Criminal Justice Inspection also reported that progress had been made against recommendations related to the delivery of education provision, but more needed to be done.⁴⁰⁹

11.11 In February 2024, the Criminal Justice Inspection NI concluded its inspections of Maghaberry and Magilligan by recognising the challenges faced by the NI Prison Service due to the current population numbers and resource constraints.⁴¹⁰ However, the Criminal Justice Inspection highlighted that, “ambition and action are needed to support prisoners leaving custody healthier, more employable, making better choices and less likely to return to prison”.⁴¹¹

Deaths in Custody

11.12 In 2023, following the death of a prisoner at Maghaberry Prison, the Criminal Justice Inspection NI found that prison governors waited for the Prisoner Ombudsman for NI’s and Coroner’s report to be delivered before taking action, rather than conducting their own immediate investigation.⁴¹² In February 2024, the Criminal Justice Inspection NI found reasonable progress had been made to address this, with leaders taking immediate action following a death in custody, due to the introduction of a corporate Quick Time Learning process in mid-2023.⁴¹³

⁴⁰⁵ Ibid, at 11-12.

⁴⁰⁶ Ibid, at 15-16. See also: Criminal Justice Inspection NI, ‘A Review of Probation Approved Premises in NI’ (CJINI, 2023).

⁴⁰⁷ Criminal Justice Inspection NI, ‘Report of an Independent Review of Progress at Magilligan Prison: 31 October – 2 November 2023’ (CJI, 2024).

⁴⁰⁸ Ibid, at 9-11.

⁴⁰⁹ Ibid, at 16.

⁴¹⁰ Ibid.

⁴¹¹ Criminal Justice Inspection NI, ‘Press Release: Report of an Independent Review of Progress (IRP) at Magilligan Prison’, 8 February 2024; Criminal Justice Inspection NI, ‘Press Release: Report of an Independent Review of Progress (IRP) at Maghaberry Prison’, 8 February 2024.

⁴¹² NI Prison Service, ‘Annual Report and Accounts 2022-23’ (NIPS, 2023).

⁴¹³ Criminal Justice Inspection NI, ‘Report of an Independent Review of Progress at Maghaberry Prison: 31 October – 2 November 2023’ (CJI, 2024), at 10-11.

11.13 In 2023/2024, there were four deaths in custody.⁴¹⁴ The NI Prison Service was also notified of three deaths that occurred within 14 days of release during 2023/2024.⁴¹⁵ Two of these deaths were suspected drugs overdoses following release from Maghaberry Prison.⁴¹⁶ In 2024, inquests and reports of the Prisoner Ombudsman for NI were awaited on deaths of prisoners in NI that occurred in 2023/2024.⁴¹⁷

11.14 In 2024, the Prisoner Ombudsman for NI published its investigation reports into two deaths of prisoners that occurred in 2020. Following its investigations the Prisoner Ombudsman made several recommendations for improving the promptness of the NI Prison Service's response to medical emergencies.⁴¹⁸ The Prisoner Ombudsman for NI also updated its terms of reference for investigations into deaths in custody.⁴¹⁹

11.15 The NIHRC recommends that the NI Executive, working with the Department of Justice and the NI Prison Service, implements the Prisoner Ombudsman for NI and Criminal Justice Inspection NI's recommendations, particularly in relation to the use of Care and Supervision Units in NI and deaths in custody. Immediate steps should be taken to have measures in place to ensure solitary confinement can be avoided, while also maintaining public safety, particularly during future pandemics or emergencies. Disaggregated data on cases of deaths in custody and the causes of those deaths, particularly related to suicides among persons deprived of their liberty should also be compiled.

11.16 The NIHRC recommends that the NI Executive, working with the Department of Justice and NI Prison Service, takes immediate steps to reduce the number of prisoners on remand within the NI prison population. Additionally, effective measures should be in place to ensure prisoners held on long-term remand in NI have access to and are encouraged to commit to education and rehabilitation programmes.

⁴¹⁴ Email correspondence from the Department of Justice to the NI Human Rights Commission, 16 July 2024.

⁴¹⁵ Ibid.

⁴¹⁶ Ibid.

⁴¹⁷ Ibid.

⁴¹⁸ Prisoner Ombudsman for NI, 'Investigation Report into the Circumstances Surrounding the Death of Kenneth Ramage' (PONI, 2024); Prisoner Ombudsman for NI, 'Investigation Report into the Circumstances Surrounding the Death of Mr O' (PONI, 2024)

⁴¹⁹ Prisoner Ombudsman for NI, 'Annual Report 2022-2023' (PONI, 2024), at 13.

11.17 The NIHRC recommends that the NI Executive, working with the Department of Justice and the NI Prison Service, effectively monitors and develops measures in NI prisons aimed at reducing prisoner violence. Furthermore, that the NI Executive, working with the Department of Justice ensures that prison officers and prisoners that are victims of violence in prisons are effectively supported.

Alternatives to Imprisonment

11.18 In the draft Programme for Government, the NI Executive committed to focusing on “preventing people from entering the justice system, where possible, through early intervention, diversion and the use of community sentencing”.⁴²⁰

11.19 This is a welcome inclusion in the draft Programme for Government. International human rights bodies have already provided recommendations to the NI Executive on alternatives to prison. The UN Human Rights Committee recommended that the NI Executive “should intensify its efforts to ensure that conditions of detention fully comply with relevant international human rights standards”.⁴²¹ In particular, the UN Human Rights Committee recommended that the NI Executive should “continue its efforts to reduce prison overcrowding, particularly through wider application of non-custodial measures, as provided for in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), as an alternative to imprisonment”.⁴²² In 2019, the UN CAT Committee recommended that the NI Executive “continue its efforts to improve conditions of detention and alleviate overcrowding of penitentiary institutions and other detention facilities, including through the application of non-custodial measures”.⁴²³

11.20 In 2022/2023, on average there were 1,068 daily immediate custody prisoners in NI, this was an increase from 941 in 2021/2022.⁴²⁴ This is the highest immediate custody daily population in NI since

⁴²⁰ NI Executive, ‘Our Plan: Doing What Matters Most – Draft Programme for Government 2024-2027’ (NIE, 2024), at 45.

⁴²¹ CCPR/C/GBR/CO/8, ‘UN Human Rights Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI’, 28 March 2024, at para 35.

⁴²² Ibid, at para 35(a).

⁴²³ CAT/C/GBR/CO/6, ‘UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 7 June 2019, at para 21(a).

⁴²⁴ Department of Justice, ‘NI Prison Population 2022/2023’ (DOJ, 2023), at 3.

2016/2017.⁴²⁵ In 2022/2023, there were 205 immediate custody prisoners in NI serving six to 12 months, an increase from 171 in 2021/2022.⁴²⁶ There were 74 prisoners serving three to six months, an increase from 68 in 2021/2022.⁴²⁷

11.21 In 2020/2019, 18.5 per cent of the 14,923 adults and young people released from custody in NI reoffended within the first year of release.⁴²⁸ Of the 708 young people released from custody in NI, 25 per cent reoffended within one year of release.⁴²⁹ Of individuals who received a supervised community disposal, 28.8 per cent of adults and 49.5 per cent of young people, reoffended within one year of completion.⁴³⁰

11.22 Some progress has been made in implementing the Adult Restorative Justice Strategy, which includes a priority to promote understanding and awareness of restorative justice practices.⁴³¹ A new Protocol governing the use of restorative interventions in the criminal justice system in NI is also operational.⁴³² However, the implementation of the adult restorative justice strategy has been hindered by “the finite resources associated with the strategy, both in terms of staffing and funding”.⁴³³ The Department of Justice acknowledges that “there is clearly a need for secure, long-term funding for restorative justice”. However, the necessary fund has not been created, “which restricts the potential for strategic and innovative developments from being established and up-scaled”.⁴³⁴ Furthermore, “the current financial climate has meant that baselines across Government are under increasing pressure, seemingly with no good news on the horizon”.⁴³⁵

11.23 The NIHRC recommends that the NI Executive and NI Assembly, working with the Department of Justice, introduces, implements

⁴²⁵ Ibid.

⁴²⁶ Ibid, at 11.

⁴²⁷ Ibid.

⁴²⁸ Department of Justice, 'Analytical Services Group: Adult and Youth Reoffending in NI (2020/2021 Cohort)' (DoJ, 2023), at 1.

⁴²⁹ Ibid.

⁴³⁰ Ibid.

⁴³¹ Department of Justice, 'Adult Restorative Justice Strategy for NI: Restoring Relationships, Redressing Harm 2022-2027' (DoJ, 2022), at 51.

⁴³² Department of Justice, 'Restorative Justice Protocol: A Protocol for Community-Based and Non-statutory Restorative Justice Organisations and Independent Restorative Practitioners in Northern Ireland' (DOJ, 2023).

⁴³³ Department of Justice, 'Restoring Relationships, Redressing Harm: Adult Restorative Justice Strategy – Annual Progress Report 2022/2023' (DoJ, 2023), at 19.

⁴³⁴ Ibid.

⁴³⁵ Ibid.

and monitors the necessary legislation for ensuring that there is a statutory basis for the use of restorative approaches in the adult justice system in NI.

11.24 The NIHRC recommends that the NI Executive, working with the Department of Justice, ensures long-term sustainable funding for the effective implementation of adult restorative justice in NI.

12.0 People, Planet, Prosperity and Peace

12.1 In addition to the key priority areas put forward, the Missions—People, Planet, and Prosperity—are all underpinned by a cross-cutting commitment to Peace. These missions involve the development of strategies across the various areas they encompass, as well as additional strategies the NI Executive is planning in the areas of sexual orientation, gender equality, racial equality, integration of refugees and asylum seekers, disability and poverty.

LGBTQI+ Strategy

12.2 In 2020, the Independent Hate Crime Review recommended that statutory aggravations for the purposes of sentencing should be added to all existing offences in NI, including homophobic hate crime, following the model adopted in Scotland.⁴³⁶ The NIHRC highlighted the relevance of the EU Victim’s Directive⁴³⁷ and Windsor Framework Article 2 in the context of hate crime.⁴³⁸ The Department of Justice is consulting on measures to strengthen hate crime legislation in two stages, phase one was consulted on in 2022 with phase two of the consultation process expected in 2025.⁴³⁹ In 2024, work continued on the Department of Justice’s intentions to introduce a statutory aggravator model through a Sentencing Bill and provisions for victims of hate crime in a Victims Bill.⁴⁴⁰

⁴³⁶ Independent Hate Crime Review Team, 'Hate Crime Legislation in NI: Independent Review' (DoJ, 2020).

⁴³⁷ Directive 2012/29/EU, 'EU Parliament and Council Directive establishing minimum standards on the rights, support and protection of victims of crime', 25 October 2012.

⁴³⁸ NI Human Rights Commission, 'Response to Public Consultation on Improving the Effectiveness of Hate Crime Legislation in NI', (NIHRC, 2022). See also 'Hate Crime' in this section below.

⁴³⁹ Email correspondence from the Department of Justice to the NI Human Rights Commission, 10 July 2024.

⁴⁴⁰ Ibid.

- 12.3 In October 2024, the Minister for Communities, Gordon Lyons MLA, confirmed that the Department for Communities was moving “forward on development of the Social Inclusion Strategies on a phased basis”.⁴⁴¹ The Anti-poverty Strategy and Disability Strategy were identified as priorities.⁴⁴² The details of the proposed timetable for the next steps in developing the Lesbian, Gay, Bisexual, Transgender, Queer (or Questioning), Intersex+ Strategy is expected “in the coming months”.⁴⁴³ However, final decisions on content and timelines for implementation will be subject to agreement by the NI Executive.⁴⁴⁴
- 12.4 Windsor Framework Articles 2 and 13 require the law in NI to keep pace with any improvements to minimum standards of equality protection in the six Annex 1 EU Equality Directives, including the Employment Equality (Framework) Directive which protects against discrimination on the grounds of sexual orientation.⁴⁴⁵ That EU Directive was amended, in 2024, by the EU directive on strengthening the role of equality bodies, requiring domestic legislation to keep pace.⁴⁴⁶ The obligation also requires compliance with current and future CJEU case-law.⁴⁴⁷

⁴⁴¹ Letter from Minister for Communities, Gordon Lyons MLA, to Gender Equality Co-design Group Members, 11 October 2024.

⁴⁴² Ibid.

⁴⁴³ Ibid.

⁴⁴⁴ Email correspondence from the Department for Communities to the NI Human Rights Commission, 25 March 2024.

⁴⁴⁵ Directive 2000/43/EC, ‘EU Council Directive on Implementing the Principle of Equal Treatment Between Persons Irrespective of Racial or Ethnic Origin’, 29 June 2000; Directive 2000/78/EC, ‘EU Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation’, 27 November 2000; Directive 2004/113/EC, ‘EU Council Directive on Implementing the Principle of Equal Treatment Between Men and Women in the Access To and Supply of Goods and Services’, 13 December 2004; Directive 2006/54/EC, ‘EU Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation’, 5 July 2006; Directive 2010/41/EU, ‘EU Parliament and EU Council Directive on the Application of the Principle of Equal Treatment Between Men and Women Engaged in an Activity in a Self-employed Capacity’, 7 July 2010.; Directive 79/7/EEC, ‘EU Council Directive on the Progressive Implementation of the Principle of Equal Treatment for Men and Women in Matters of Social Security’, 19 December 1978.

⁴⁴⁶ Council Directive (EU) 2024/1499, ‘Directive on Standards for Equality Bodies in the Field of Equal Treatment between Persons Irrespective of their Racial or Ethnic Origin, Equal Treatment in Matters of Employment and Occupation between Persons Irrespective of their Religion or Belief, Disability, Age or Sexual Orientation, Equal Treatment between Women and Men in Matters of Social Security and in the Access to and Supply of Goods and Services, and Amending Directives 2000/43/EC and 2004/113/EC, 7 May 2024. This is one of two EU directives aimed at strengthening equality bodies Council of EU, ‘Press Release: Strengthening the role of equality bodies across the EU: Council adopts two directives’, 7 May 2024. More detail on the Commission’s advice and recommendations is available in NI Human Rights Commission and Equality Commission for NI, ‘Annual Report on the implementation of Article 2 of the Windsor Framework 2023-2024’, (NIHRC and ECNI, 2024), at para 3.59-3.69. See also the ‘Equality and Non-Discrimination – Consolidating, Strengthening and Clarifying Equality Protections’ section.

⁴⁴⁷ More detail on the Commission’s advice on Windsor Framework Article 2 can be found in the following, NI Human Rights Commission and Equality Commission for NI, ‘Annual Report on the Implementation of Article 2 of the Windsor Framework 2023-2024’ (NIHRC and ECNI, 2024), at para 3.59-3.69. See also the ‘Equality and Non-Discrimination – Consolidating, Strengthening and Clarifying Equality Protections’ section of this report.

12.5 The NIHRC recommends that the NI Executive prioritise the publication and implementation of adequately resourced Lesbian, Gay, Bisexual, Transgender, Queer (or Questioning), Intersex+ Strategy for NI which takes a human rights-based approach in line with international human rights standards and Windsor Framework Article 2. Any strategy should be accompanied by a measurable plan of action and effective monitoring mechanisms.

Race Relations (NI) Order 1997

12.6 In August 2024, the UN CERD Committee recommended that the NI Executive “ensure the delivery of a renewed Racial Equality Strategy in NI”.⁴⁴⁸ The UN CERD Committee also recommended that the UK Government and NI Executive “ensure meaningful consultations and engagement with civil society organisations in the development, implementation, monitoring and evaluation of the progress and final outcome of policy measures, plans and strategies”.⁴⁴⁹

12.7 Windsor Framework Articles 2 and 13 require the law in NI to keep pace with any improvements to minimum standards of equality protection enshrined in the six Annex 1 Equality Directives, including the EU Racial Equality Directive, which protects against discrimination on the grounds of race and ethnicity across a range of areas, including employment and vocational training, access to goods and services, education and social security.⁴⁵⁰ This Directive was amended in 2024 by the EU directive on strengthening the role of equality bodies, requiring domestic legislation

⁴⁴⁸ CERD/C/GBR/CO/24-26, ‘UN CERD Committee Concluding Observations on the Combined Twenty-fourth to Twenty-sixth Periodic Reports of the UK of Great Britain and NI’, 23 August 2024, at para 18(c).

⁴⁴⁹ CERD/C/GBR/CO/24-26, ‘UN CERD Committee Concluding Observations on the Combined Twenty-fourth to Twenty-sixth Periodic Reports of the UK of Great Britain and NI’, 23 August 2024, at para 18(d).

⁴⁵⁰ Directive 2000/43/EC, ‘EU Council Directive on Implementing the Principle of Equal Treatment Between Persons Irrespective of Racial or Ethnic Origin’, 29 June 2000; Directive 2000/78/EC, ‘EU Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation’, 27 November 2000; Directive 2004/113/EC, ‘EU Council Directive on Implementing the Principle of Equal Treatment Between Men and Women in the Access To and Supply of Goods and Services’, 13 December 2004; Directive 2006/54/EC, ‘EU Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation’, 5 July 2006; Directive 2010/41/EU, ‘EU Parliament and EU Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity’, 7 July 2010.; Directive 79/7/EEC, ‘EU Council Directive on the Progressive Implementation of the Principle of Equal Treatment for Men and Women in Matters of Social Security’, 19 December 1978.

to keep pace.⁴⁵¹ The obligation also requires compliance with current and future CJEU case-law.⁴⁵²

12.8 In 2022, the EU Commission consulted on the EU Racial Equality Directive to assist in identifying potential gaps and suitable measures to address them.⁴⁵³ The NIHRC responded to this consultation in 2022 highlighting the need to identify discrimination arising from algorithms and data-driven technology and address intersectional and multiple discrimination.⁴⁵⁴ In 2024, the EU Commission has not published its next steps on review and reform of the EU Racial Equality Directive.

12.9 In 2015, the Executive Office committed to reviewing the Race Relations (NI) Order 1997.⁴⁵⁵ In 2023, the Executive Office published a consultation on its review of the Race Relations (NI) Order 1997, with a view to bringing forward stronger legislation to protect minority ethnic communities from racism and discrimination.⁴⁵⁶ The consultation included several proposals, including provision of goods and services, education and employment.⁴⁵⁷ It also included a proposal to introduce a provision to enact Ethnic Equality Monitoring through secondary legislation, after it pushes forward with Public Sector Ethnic Equality Monitoring.⁴⁵⁸ The NIHRC responded to the consultation, noting the importance of a human rights-based approach and compliance with Windsor Framework Article 2, including the obligation to keep pace with any changes to the EU Race Equality Directive.⁴⁵⁹

⁴⁵¹ Council Directive (EU) 2024/1499, 'Directive on Standards for Equality Bodies in the Field of Equal Treatment between Persons Irrespective of their Racial or Ethnic Origin, Equal Treatment in Matters of Employment and Occupation between Persons Irrespective of their Religion or Belief, Disability, Age or Sexual Orientation, Equal Treatment between Women and Men in Matters of Social Security and in the Access to and Supply of Goods and Services, and Amending Directives 2000/43/EC and 2004/113/EC, 7 May 2024. This is one of two EU directives aimed at strengthening equality bodies Council of EU, 'Press Release: Strengthening the role of equality bodies across the EU: Council adopts two directives', 7 May 2024. More detail on the Commission's advised and recommendations is available in NI Human Rights Commission and Equality Commission for NI, 'Annual Report on the implementation of Article 2 of the Windsor Framework 2023-2024', (NIHRC and ECNI, 2024), at paras 3.59-3.69.

⁴⁵² More detail on the Commission's advice on Windsor Framework Article 2 can be found in the following, NI Human Rights Commission and Equality Commission for NI, 'Annual Report on the Implementation of Article 2 of the Windsor Framework 2023-2024' (NIHRC and ECNI, 2024). See also the 'Equality and Non-Discrimination – Consolidating, Strengthening and Clarifying Equality Protections' section of this report.

⁴⁵³ EU Commission, 'Addressing Possible Gaps in the Racial Equality Directive – Public Consultation' (EU, 2022).

⁴⁵⁴ NI Human Rights Commission, 'Response to the European Commission Consultation on the Racial Equality Directive (Directive 2000/43/EC)' (NIHRC, 2022).

⁴⁵⁵ The Executive Office, 'Racial Equality Strategy 2015-2025' (TEO, 2015).

⁴⁵⁶ The Executive Office, 'Review of the Race Relations (NI) Order 1997: Consultation Document' (TEO, 2023).

⁴⁵⁷ Ibid.

⁴⁵⁸ Ibid; Directive 2000/43/EC, 'Council of the EU Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin', 29 June 2000.

⁴⁵⁹ NI Human Rights Commission, 'Response to The Executive Office's Consultation on the Review of the Race Relations (NI) Order 1997' (NIHRC, 2023).

12.10 It is understood that legislation relating to the review of the Race Relations (NI) Order 1997 will be considered during the NI Assembly's 2025/2026 session.⁴⁶⁰

12.11 In 2015, the Executive Office committed to an independent review of the progress of implementation of the Racial Equality Strategy 2015-2025.⁴⁶¹ In 2023, the Executive Office commissioned this independent review. The NIHRC met with the Independent Review team and raised several issues including ethnic equality monitoring, multiple intersectional discrimination, racial profiling and the UK Government and NI Executive's commitment under Windsor Framework Article 2, particularly in relation to the obligation to 'keep pace' with the EU Racial Equality Directive.⁴⁶² In 2024, the outcome of the independent review was under consideration by the NI Executive.⁴⁶³

12.12 The NIHRC recommends that the NI Executive and NI Assembly promptly amend the Race Relations (NI) Order 1997 so that it imposes a duty on specified public authorities to collect data on racial equality and sets racial equality objectives.

12.13 The NIHRC recommends that the Executive Office, in its review of race equality legislation monitor any proposed changes to the EU Racial Equality Directive, as well as relevant CJEU case law, in line with the obligation to under Windsor Framework Article 2 to keep pace with the Annex 1 Equality Directives.

12.14 The NIHRC recommends that the NI Executive, working with the Executive Office, ensures that intersectional multiple discrimination claims in NI are effectively addressed, including providing for intersectionality within equality legislation as required by human rights law and the EU Pay Transparency Directive pursuant to Articles 2 and 13 of the Windsor Framework.

⁴⁶⁰ Email correspondence from the Executive Office to the NI Human Rights Commission, 23 July 2024.

⁴⁶¹ The Executive Office, 'Racial Equality'. Available at: [Racial Equality | The Executive Office \(executiveoffice-ni.gov.uk\)](https://www.executiveoffice-ni.gov.uk)

⁴⁶² Meeting between NI Human Rights Commission and the Independent Review of Progress on the Implementation of the Racial Equality Strategy 2015-2025, 3 November 2023; Directive 2000/43/EC, 'Council of the EU Directive on Implementing the Principle of Equal Treatment Between Persons Irrespective of Racial or Ethnic Origin', 29 June 2000.

⁴⁶³ Email correspondence from the Executive Office to the NI Human Rights Commission, 23 July 2024.

Refugee Integration Strategy

12.15 In 2023, the UN CRC Committee recommended that the UK Government and NI Executive “strengthen measures to ensure that all asylum-seeking, refugee and migrant children have equal and prompt access to education, health services, housing, psychosocial support, and social protection including benefit entitlements”.⁴⁶⁴

12.16 Despite a commitment within the Racial Equality Strategy 2015-2025,⁴⁶⁵ NI remains the only part of the UK without a Refugee Integration Strategy. In 2021, the Executive Office consulted on a draft Refugee Integration Strategy,⁴⁶⁶ which sought to address the pressure “exerted on the voluntary sector to backfill, what should be, essential services”.⁴⁶⁷ The NIHRC responded to the consultation raising several concerns, particularly around the language used throughout the proposed draft strategy.⁴⁶⁸ The NIHRC also highlighted relevant EU minimum standards within scope of Windsor Framework Article 2 of relevance to people seeking asylum and refugees, including the EU Reception Directive.⁴⁶⁹

12.17 The NIHRC recommends that the NI Executive prioritises the introduction of a Refugee Integration Strategy that reflects the outcomes of the consultation process and the NI Affairs Committee’s inquiry, and takes a human rights-based approach in line with international human rights standards and Windsor Framework Article 2. The final strategy should be accompanied by a comprehensive action plan and adequate, long-term resources.

12.18 The NIHRC recommends that the NI Executive, monitors any proposed changes to the EU Racial Equality Directive, as well as relevant CJEU case law, in line with the obligations under

⁴⁶⁴ CRC/C/GBR/CO/6-7, ‘UN CRC Committee Concluding Observations on the Sixth and Seventh Periodic Reports of the UK of Great Britain and NI’, 2 June 2023, at para 50(d).

⁴⁶⁵ The Executive Office, ‘Racial Equality Strategy 2015-2025’ (TEO, 2015).

⁴⁶⁶ The Executive Office, ‘Refugee Integration Strategy Consultation Document’ (TEO, 2021).

⁴⁶⁷ Fiona Murphy and Ulrike M Vieten, ‘Asylum Seekers and Refugees’ Experiences of Life in NI’ (QUB, 2017).

⁴⁶⁸ NI Human Rights Commission, ‘Response to Public Consultation on Draft Refugee Integration Strategy’ (NIHRC, 2022).

⁴⁶⁹ Directive 2003/9/EC, ‘Council Directive Laying Down Minimum Standards for the Reception of Asylum Seekers’ 27 January 2003.

Windsor Framework Article 2 to keep pace with the Annex 1 Equality Directives.

12.19 The NIHRC recommends that the NI Executive reviews the race equality legislation to ensure the inclusion of the definition of discrimination in line with the EU Pay Transparency Directive.

Gender Equality Strategy

12.20 In 2017, the UN CRPD Committee recommended that the UK Government and NI Executive “in close consultation with organisations of women and girls with disabilities, mainstream the rights of women and girls with disabilities into disability and gender equality policies”.⁴⁷⁰

12.21 In 2016, the UN ICESCR Committee recommended that the UK Government and NI Executive “take all necessary measures to ensure the full enjoyment of economic, social and cultural rights by all persons under its jurisdiction”.⁴⁷¹

12.22 Windsor Framework Articles 2 and 13 require the law in NI to keep pace with any improvements to minimum standards of equality protection enshrined in the six Annex 1 EU Equality Directives, including four equal treatment directives which protect against gender discrimination in the areas of employment and vocational training,⁴⁷² access to goods and services,⁴⁷³ and social security.⁴⁷⁴ In addition to the developments set out below, these Directives were amended in 2024 by the EU directives on setting minimum standards for equality bodies, requiring domestic

⁴⁷⁰ CRPD/C/GBR/CO/1, ‘UN CRPD Committee Concluding Observations on the Initial Report of the UK of Great Britain and NI’, 3 October 2017, at para 19.

⁴⁷¹ E/C.12/GBR/CO/6, ‘UN ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016, at para 8.

⁴⁷² Directive 2006/54/EC, ‘EU Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation’, 5 July 2006; Directive 2010/41/EU, ‘EU Parliament and EU Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity’, 7 July 2010.

⁴⁷³ Directive 2004/113/EC, ‘EU Council Directive on Implementing the Principle of Equal Treatment between Men and Women in the Access to and Supply of Goods and Services’, 13 December 2004.

⁴⁷⁴ Directive 79/7/EEC, ‘EU Council Directive on the Progressive Implementation of the Principle of Equal Treatment for Men and Women in Matters of Social Security’, 19 December 1978.

legislation to keep pace.⁴⁷⁵ The obligation also requires compliance with current and future CJEU case-law.⁴⁷⁶

12.23 The rights, safeguards and equality of opportunity provisions set out in the relevant chapter of the Belfast (Good Friday) Agreement 1998 include the “right to equal opportunity in all social and economic activity, regardless of ... gender”. To the extent that additional EU obligations fall within scope of Windsor Framework Article 2, such as the EU Parental Leave Directive⁴⁷⁷ and the EU Pregnant Worker’s Directive,⁴⁷⁸ there should be no diminution of rights, safeguards and equality of opportunity following the UK withdrawal from the EU.

12.24 In June 2023, the EU Pay Transparency Directive came into force.⁴⁷⁹ The EU Directive aims to strengthen the existing enforcement tools and procedures regarding the rights and obligations and equal pay provisions set out in the EU Gender Equality (Employment) Directive.⁴⁸⁰ The NIHRC, and the Equality Commission for NI, take the view that NI equality law must be amended to keep pace with these changes within the transposition deadline, further to the UK Government’s obligation to keep pace with changes to the six Annex 1 EU Equality Directives which enhance rights.⁴⁸¹

⁴⁷⁵ Council Directive 2024/1499/EU, ‘Directive on Standards for Equality Bodies in the Field of Equal Treatment between Persons Irrespective of their Racial or Ethnic Origin, Equal Treatment in Matters of Employment and Occupation between Persons Irrespective of their Religion or Belief, Disability, Age or Sexual Orientation, Equal Treatment between Women and Men in Matters of Social Security and in the Access to and Supply of Goods and Services, and Amending Directives 2000/43/EC and 2004/113/EC’, 7 May 2024; Directive (EU) 2024/1500, ‘Directive of the European Parliament and of the Council on Standards for Equality Bodies in the Field of Equal Treatment and Equal Opportunities between Women and Men in Matters of Employment and Occupation, and Amending Directives 2006/54/EC and 2010/41/EU’, 14 May 2024.

⁴⁷⁶ More detail on the Commission’s advice on Windsor Framework Article 2 can be found in the following, NI Human Rights Commission and Equality Commission for NI, ‘Annual Report on the Implementation of Article 2 of the Windsor Framework 2023-2024’ (NIHRC and ECNI, 2024), at para 3.59-3.69. See also the ‘Equality and Non-Discrimination – Consolidating, Strengthening and Clarifying Equality Protections’ section of this report.

⁴⁷⁷ Directive 2010/18/EU, ‘EU Council Directive Implementing the Revised Framework Agreement on Parental Leave’, 8 March 2010.

⁴⁷⁸ Directive 92/85/EEC, ‘EU Council Directive on the Introduction of Measures to Encourage Improvements in the Safety and Health at Work of Pregnant Workers and Workers who have Recently Given Birth or are Breastfeeding’, 19 October 1992.

⁴⁷⁹ Directive 2023/970/EU, ‘EU Parliament and Council Directive to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms’, 10 May 2023. For further discussion of the EU Pay Transparency Directive see section on ‘Right to Work and to Just and Favourable Conditions to Work – Gender Pay Gap’ below.

⁴⁸⁰ Directive 2006/54/EC, ‘EU Parliament and Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)’, 5 July 2006.

⁴⁸¹ Equality Commission for NI and NI Human Rights Commission, ‘Briefing Paper: The EU Pay Transparency Directive: The UK Government’s Dynamic Alignment Obligations Relating to Windsor Framework Article 2’ (ECNI and NIHRC, 2024)

12.25 In 2020, the New Decade, New Approach Agreement included a commitment by the NI Executive to publish a new Gender Equality Strategy.⁴⁸² The Department for Communities appointed an Expert Advisory Panel and created a Co-Design Group made up of key stakeholders, including the NIHRC. A cross-departmental working group was also created. In 2021, the Expert Advisory Panel published its report, which highlighted key human rights obligations relevant to gender equality and outlined several key themes for discussion by the Co-Design Group.⁴⁸³ In October 2024, the Minister for Communities, Gordon Lyons MLA, confirmed that the Department for Communities was moving “forward on development of the Social Inclusion Strategies on a phased basis”.⁴⁸⁴ The details of the proposed timetable for the next steps in developing the Gender Equality Strategy is expected in “the coming months”.⁴⁸⁵

12.26 In 2021, research demonstrated the existence of a gender-neutral approach within policymaking in NI which demonstrated a detrimental impact on the effectiveness of policies.⁴⁸⁶ Consequently, experts recommended that a gender-sensitive approach, which includes gender budgeting, is adopted within policymaking in NI.⁴⁸⁷ This gender-sensitive approach is supported by the EU Pay Transparency⁴⁸⁸ and EU Victims Directive.⁴⁸⁹ In 2024, this research and its recommendations are still relevant.⁴⁹⁰

12.27 The NIHRC recommends that the NI Executive, working with the Department for Communities, promptly publishes and implements a robust, gender-sensitive Gender Equality Strategy, which takes a human rights-based approach in line with international human rights standards and Windsor Framework Article 2. This strategy should be accompanied by measurable

⁴⁸² NI Office, 'New Decade, New Approach' (NIO, 2020).

⁴⁸³ Department for Communities, 'Gender Equality Strategy Expert Advisory Panel Report' (DfC, 2021), at 12.

⁴⁸⁴ Letter from Minister for Communities, Gordon Lyons MLA, to Gender Equality Co-design Group Members, 11 October 2024.

⁴⁸⁵ Ibid.

⁴⁸⁶ Joan Ballantine et al, 'Gender Budgeting: Working Paper 1 – What Does the Literature Tell Us? Lessons for NI' (Ark Working Papers, 2021).

⁴⁸⁷ Joan Ballantine et al, 'Gender Budgeting: Working Paper 1 – What Does the Literature Tell Us? Lessons for NI' (Ark Working Papers, 2021).

⁴⁸⁸ Directive 2023/970/EU, 'EU Parliament and Council Directive to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms', 10 May 2023.

⁴⁸⁹ Recital 61, Directive 2012/29/EU, 'Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.

⁴⁹⁰ Meeting between Ulster University Gender Budgeting Group and NI Human Rights Commission, 4 July 2024.

plan of action and effective monitoring mechanisms that are guided by gender budgeting.

12.28 The NIHRC recommends that the NI Executive, working with the Department for Communities, in line with the obligation to keep pace with the Annex 1 Equality Directives, reflect the EU Pay Transparency Directive in the development and implementation of a Gender Equality Strategy.

12.29 The NIHRC recommends that, in addition to any changes required by the obligation under the Windsor Framework to keep pace with the Annex 1 Equality Directives, the NI Executive, working with the Department for Communities, reflect those provisions of the EU Directive on Combating Violence Against Women which strengthen rights and align with international human rights standards in the development and implementation of the Gender Equality Strategy.

Contact us

Please send any queries to Colin.Caughey@nihrc.org
and Eilis.Haughey@nihrc.org

www.nihrc.org | info@nihrc.org | +44 (0)28 9024 3987
4th Floor, Alfred House, 19-21 Alfred Street, Belfast, BT2 8ED

