



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Submission to the UN Committee on the
Rights of the Child 88th Session on the
Sixth Periodic Report of the United Kingdom
of Great Britain and Northern Ireland on
compliance with the UN Convention on the
Rights of the Child**

List of Issues

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1.0 Introduction

- 1.1 The Northern Ireland Human Rights Commission (NIHRC) is one of three A-status National Human Rights Institutions in the United Kingdom (UK). Established in 1999, the NIHRC reviews the adequacy and effectiveness of law and practice relating to the protection of human rights in Northern Ireland (NI).¹ This submission considers the protection of human rights in NI in the context of the UN Convention on the Rights of the Child (the Committee). In this submission, the NIHRC proposes questions that the Committee may wish to ask the UK.
- 1.2 Due to the word limit, this submission refers to children throughout when referencing children and young people.

2.0 Article 2 – Non-discrimination

Discrimination in the provision of goods, facilities and services

- 2.1 The Committee previously recommended that the UK, including NI, expand legislation to protect all children against discrimination.²
- 2.2 Discrimination on the basis of age is prohibited regarding employment and vocational training,³ however there remains no prohibition on discrimination in the provision of goods, facilities and services in NI based on age.⁴
- 2.3 What effective measures are being taken to ensure non-discrimination in the provision of goods, facilities and services in NI based on age?**

¹ The NIHRC was established pursuant to Section 69(1) the NI Act 1998.

² CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 22.

³ Employment Equality (Age) Regulations (NI) (2006).

⁴ This refers to non-discrimination, save where there is an objective justification.

4.0 Article 4 – Implementation of UN CRC

Implementation within domestic law

4.1 In NI, a piecemeal approach towards implementation of the UN CRC into domestic law exists. For example, child-related legislation may refer to the best interests of the child.⁵ There is disparity across the UK – England adopts a similar approach to NI, citing that “existing legislation already protects human rights”,⁶ Wales places a duty on Ministers to have due regard to the UN CRC when developing child-related policies,⁷ and Scotland is working towards incorporating UN CRC into domestic law.⁸

4.2 What concrete steps are being taken to ensure full implementation of UN CRC within domestic law in NI and consistency across the UK?

Bill of Rights

4.3 The Committee previously recommended that the UK expedite the process of the Bill of Rights for NI.⁹

4.4 A Bill of Rights for NI is the “missing piece in the jigsaw” of the implementation of the Belfast (Good Friday) Agreement 1998, which is more crucial in the context of the UK leaving the EU.¹⁰ Additionally, “the impact of the Troubles is still felt heavily” on children in NI,¹¹ including segregation, community division, criminal coercion, exploitation and assault by paramilitary-style gangs.¹² In addition, persistent child poverty and inequalities in health and education remain significant issues. A Bill of Rights could establish a rights-based framework for addressing these issues.

⁵ See Children’s (NI) Order 1995.

⁶ House of Lords Hansard, ‘Oral Question – UN CRC – Baroness Berridge – Column 1275, Volume 807’, 16 November 2020.

⁷ Rights of Children and Young Persons (Wales) Measure 2011.

⁸ UN Convention on the Rights of the Child (Incorporation) (Scotland) Bill.

⁹ CRC/C/GBR/CO/5, ‘UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI’, 12 July 2016, at para 7(b).

¹⁰ Colin Murray *et al*, ‘Discussion Paper on Brexit’ (IHREC and NIHRC, 2018), at vii and xii.

¹¹ NI Assembly Ad Hoc Committee on a Bill of Rights, ‘Children’s Rights in NI: NI Commissioner for Children and Young People’, 2 July 2020.

¹² *Ibid*, at 2.

4.5 In 2020, a NI Assembly Ad Hoc Committee on a Bill of Rights was created to consider the creation of a Bill of Rights and is due to submit a report to the NI Assembly in February 2022.¹³ The Ad Hoc Committee has engaged with the NI Commissioner on for Children and Young People as part of this process.¹⁴ However, there is no timeframe for implementing the outcomes of these considerations.

4.6 What steps are being taken to ensure that an implementation timeframe is published alongside the NI Assembly Ad Hoc Committee on a Bill of Rights for NI’s report and that children’s rights are reflected?

UK’s withdrawal from the EU

4.7 The transition period for the UK leaving the EU comes to an end on 31 December 2020. The Ireland/NI Protocol commits to non-diminution of rights in the context of the rights, safeguards and equality of opportunity section of the Good Friday (Belfast) Agreement 1998 and EU law on non-discrimination.¹⁵ This will be monitored through a Dedicated Mechanism, which includes the NIHRC.

4.8 The UK’s withdrawal from the EU may adversely affect children’s rights. The possibility of a hard border poses particular concerns for children in NI as many regularly cross the border including for education, health, family and social reasons.¹⁶ The long term loss of EU funding streams - including the EU Social Fund, PEACE funding and INTERREG funds – is likely to impact on families and children who are already experiencing socio-economic disadvantage.¹⁷ Any reduction in co-operation on policing and justice matters may have implications for child safeguarding.¹⁸

4.9 What effective measures are being taken to ensure children are not adversely affected by the UK leaving the EU,

¹³ NI Office, ‘New Decade, New Approach’ (NIO, 2020), at Part 2, para 28;

¹⁴ NI Assembly Ad Hoc Committee on a Bill of Rights, 2 July 2020.

¹⁵ Article 4(1), Protocol on Ireland and NI of the Draft Withdrawal Agreement 2018; Article 2(1), Protocol on Ireland and NI of the Withdrawal Agreement 2019.

¹⁶ NI Commissioner for Children and Young People, ‘Statement on Children’s rights in NI’ (NICCY, 2018), at 67.

¹⁷ Roundtable with civil society organisations, 23 September 2020.

¹⁸ NI Commissioner for Children and Young People, ‘Statement on Children’s rights in NI’ (NICCY, 2018), at 69.

including ensuring access to and funding of beneficial support and services?

Child-specific strategies

4.10 The Committee previously recommended expediting the finalisation of a child rights indicator framework.¹⁹

4.11 The Children's Services Co-operation Act (NI) 2015 Act requires, inter alia, the NI Executive to adopt a Children and Young Persons Strategy. Following a consultation in 2017, the Department of Education published a ten year Strategy 2019-2029.²⁰

4.12 Work is underway to develop departmental Delivery Plans and indicators,²¹ however, the "data does not currently exist or is not available in an appropriate format" to enable the Department of Education to develop appropriate indicators.²² The Department of Education is taking steps to address this.²³

4.13 The NI Executive and other relevant public authorities do not undertake children's budgeting or Child Rights Impact Assessments and there is no requirement to do so.

4.14 What effective measures are being taken to ensure data collection in NI is disaggregated in a way that is useful in developing appropriate children's rights indicators?

4.15 What effective measures are being taken to introduce children's budgeting and Child Rights Impact Assessments as a requirement for all relevant public authorities in NI?

NI Commissioner for Children and Young People

4.14 The NI Commissioner for Children and Young People was established as an executive Non-Departmental Public Body in

¹⁹ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 14.

²⁰ Department of Education, 'Children and Young People's Strategy 2019-2029' (DoE, 2019).

²¹ The Executive Office, 'Outcomes Delivery Plan – December 2019' (TEO, 2019), at 91.

²² Department of Education, 'Children and Young People's Strategy 2019-2029' (DoE, 2019), at para 7.12.

²³ Ibid.

2003.²⁴ The Commissioner has highlighted the need for legislative reform to increase its powers and duties in order to improve compliance with the Paris Principles. This includes making the Commissioner an institution of the NI Assembly and strengthening its investigatory powers.²⁵

4.15 What effective measures are being taken to ensure that the NI Commissioner for Children and Young People is compliant with the Paris Principles?

5.0 Article 6 – Right to Life

Infant mortality

- 5.1 The Committee previously recommended automatic, independent and public reviews of unexpected death or serious injury involving children were introduced.²⁶
- 5.2 Unlike in the rest of the UK,²⁷ NI has not implemented its statutory mechanisms for reviewing child deaths. The Safeguarding Board (NI) Act 2011 requires the Safeguarding Board NI to establish processes to review child deaths in NI.²⁸ However, the Department of Health has not commenced Regulations to enable implementation of this requirement.
- 5.3 There is strong support for establishing child death reviews,²⁹ particularly as NI has the highest rate of infant mortality in the UK.

²⁴ Commissioner for Children and Young People (NI) Order 2003.

²⁵ NI Commissioner for Children and Young People, 'Report to the Office of the First Minister and Deputy First Minister under Article 24 of the Commissioner for Children and Young People (NI) Order (2003)' (NICCY, 2013).

²⁶ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 28(b).

²⁷ Child Death Overview Panel in England; Child Death Review Programme in Wales; National Hub for Reviewing and Learning from the Deaths of Children and Young People in Scotland.

²⁸ Sections 3(5) and 7(1)(b), Safeguarding Board (NI) Act 2011.

²⁹ Alexis Jay, 'Independent Review of the Safeguarding Board for NI' (DoH, 2016); Justice O'Hara, 'The Inquiry into Hyponatraemia-related Deaths' (DoF, 2018); Royal College of Paediatrics and Child Health, 'State of Child Health 2020' (RCPCH, 2020), at 12; 'Child death panel: Lack of progress criticised by children's commissioner', *BBC News*, 17 December 2019.

In 2018, there were 79 stillbirths and 97 infant deaths registered in NI.³⁰ This represents a ratio of 4.2 per 1,000 live births.³¹

5.4 What effective measures are being taken to establish comprehensive processes to review child deaths in NI?

6.0 Article 12 – Right to Express Views

Participation of children

- 6.1 The Committee previously recommended the establishment of structures for the active and meaningful participation of children in policy making.³²
- 6.2 In 2020, a survey of 1,065 children in NI found that 772 (72.5 per cent) of respondents felt that their voice has not been considered as important and 937 (88 per cent) felt that it is important that young people are part of the decision-making process.³³
- 6.3 Section 3(4) of the Children Services Cooperation Act (NI) 2015 for the first time placed a statutory duty on the NI Executive to consult with children and their representatives, in this case for the purposes of the Children and Young Person's Strategy. In July 2020, the NI Assembly also announced plans to introduce a youth assembly.³⁴
- 6.4 However, civil society representatives have indicated that engagement with children is usually limited to the consultation stage of a policy proposal and is not embedded within all stages of the policy process.³⁵ Civil society representatives have also reported

³⁰ In 2018, there were 2,449 infant deaths in England, 109 in Wales and 163 in Scotland. There were 2,520 still births in England, 138 in Wales and 190 in Scotland. See Registrar General, 'Annual Report 2018: Stillbirths and Infant Deaths' (NISRA, 2019).

³¹ For 2018 in England the ratio was 3.9 per 1,000 live births, in Wales it was 3.5 and in Scotland it was 3.2. See Nuffield Trust, 'Infant and Neonatal Mortality' (NT, 2020).

³² CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 31.

³³ NI Youth Forum, 'Our Voices Aren't in Lockdown' (PHF, 2020), at 6.

³⁴ The youth assembly will have 90 members, 54 of whom will be drawn from the NI Assembly constituencies and 36 from specific sections of the community. The core age range of the members will be 13 to 17 years old, but there will be an upper age limit of 21 years of age. It is expected to have two plenary sittings a year and have up to four committees, which will meet more regularly at Parliament Buildings and other locations. See 'NI Youth Assembly to be introduced at Stormont', *BBC News*, 22 July 2020.

³⁵ Roundtable discussion with civil society organisations, 23 September 2020.

that there is limited evidence that the views expressed by children during consultations were implemented within the strategy.³⁶

6.5 What effective measures are being taken to ensure children in NI can meaningfully participate and that when reasonable their views are implemented in legislative developments that affect them?

7.0 Article 16 – Right to Privacy

Stop and search

7.1 The UN CRC previously made detailed recommendations on the stop and search of children, including that any data collected should be disaggregated.³⁷

7.2 In 2019/20, 3,211 minors in NI, including 60 aged 12 and under, were stopped and searched.³⁸ This data is not disaggregated, including an on-going issue with the community background of persons being stopped and searched under the Justice and Security (NI) Act 2007 not being recorded.³⁹

7.3 What effective measures are being taken to ensure the stop and search of children in NI is proportionate and non-discriminatory, taking into consideration the age of the child?

7.4 What effective measures are being taken to ensure comprehensive data on the use of stop and search on children in NI is collected, disaggregated (including community background) and published?

³⁶ Ibid.

³⁷ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 38.

³⁸ Police Service NI, 'Use of Stop and Search Powers by the Police in NI: 1 April 2019 to 31 March 2020' (PSNI, 2020), at 7.

³⁹ *In the Matter of an application by Stephen Ramsey (No 2)* [2020] NICA 14, at paras 55-58; David Seymour, 'Report of the Independent Reviewer Justice and Security (NI) Act 2007: Twelfth Report - 1 August 2018-31 July 2019', (NIO, 2020), at para 7.30-7.44.

Anonymity

7.5 Section 44 of the Youth Justice and Criminal Evidence Act 1999 prevents anyone under 18 allegedly involved in an offence from being named in the media.⁴⁰ However, unlike in England and Wales, NI has not enacted this provision. Article 22 of the Criminal Justice (Children) (NI) Order 1998 places reporting restrictions for minors in post-charge and court scenarios, but not for minors who are pre-charge.

7.6 What effective measures are being taken to ensure all children in NI allegedly involved in an offence are granted anonymity at every stage of the criminal justice process, including the pre-charge stages?

8.0 Article 18 – Childcare Services

Childcare provision

8.1 In 2016, it was reported that “the cost of childcare remains high [in NI] and it is higher than other parts of the UK”.⁴¹ The cost of childcare in NI continues to rise. In 2018, the average cost of a full-time childcare place in NI was £166 per week.⁴²

8.2 The New Decade, New Approach agreement 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 3-4”.⁴³ 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 and a number of other statutory duties. The scheme implemented in England whereby all working parents of 3 and 4 year olds have access to up to 570 hours free childcare per year has not been implemented in NI. A separate scheme providing up to 30 hours free childcare for 3 to 4 year olds

⁴⁰ This provision applies in England, Wales and NI.

⁴¹ Equality Commission NI, 'Gender Equality: Policy Priorities and Recommendations' (ECNI, 2016), at para 8.9.

⁴² Employers for Childcare, 'NI Childcare Survey 2019' (EfC, 2019)

⁴³ NI Office, 'New Decade New Approach' (NI Office, 2020), at 40.

per week is available in England for working parents that earn a certain amount. This scheme is not available in NI.⁴⁴

8.3 What effective measures are being taken to introduce and implement a statutory duty to provide adequate and effectively resourced childcare provision in NI?

Childcare strategy

8.4 The last and only 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 a new childcare strategy being adopted.⁴⁵

8.5 The New Decade, New Approach agreement committed to publishing a Childcare Strategy.⁴⁶ In July 2020, it was confirmed that the “design, planning and phased implementation [of a child care strategy] will take a number of years and may require primary legislation” and that any advances in moving this forward was delayed by having to re-direct staff resources due to COVID-19.⁴⁷ A funding bid submitted by the Department of Education indicates that it is not expected that the childcare strategy will progress until at least 2021/2022, with implementation in 2022/2023.⁴⁸

8.6 What effective measures are being taken to promptly publish and implement an up-to-date childcare strategy in NI?

⁴⁴ Gov.uk 'Help with childcare costs: 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>

⁴⁵ The Executive Office 'Towards a Childcare Strategy - A Consultation'. Available at: <https://www.executiveoffice-ni.gov.uk/consultations/towards-childcare-strategy-consultation>

⁴⁶ NI Office, 'New Decade, New Approach' (NIO, 2020), at 27.

⁴⁷ NI Assembly Hansard, 'Written Answers: Update on Childcare Strategy – Peter Weir MLA - AQO 507/17-22', 24 July 2020.

⁴⁸ NI Assembly Hansard, 'Written Questions – Childcare Strategy – Rachel Woods MLA – AQW 8101/17-22', 2 October 2020.

9.0 Articles 19 and 37 – Torture, Abuse and Exploitation

Spit and bite guards

- 9.1 In March 2020, spit and bite guards were introduced by the Police Service NI to protect officers during the COVID-19 pandemic with a lower age limit of 10 years old, reflecting NI’s age of criminal responsibility.⁴⁹ Police Service NI’s guidance requires best interests of the child are considered and that the presumption is spit and bite guards should not be used where officers are aware that a member of the public is “vulnerable by way of age (under 18)”.⁵⁰ In November 2020, spit and bite guards had been used on four children aged between 15 and 17 years old in NI.⁵¹
- 9.2 The Policing Board NI recommends that spit and bite guards are replaced by Personal Protective Equipment for the purpose of protecting officers from COVID-19.⁵² However, as of 18 December 2020, the Police Service NI will expand the use of spit and bite guards as a response to the pandemic.⁵³
- 9.3 What effective measures are being taken to prohibit the use of spit and bite guards on children and ensure their use does not extend beyond the pandemic?**

Physical punishment of children

- 9.4 The Committee previously recommended the abolition of corporal punishment of children and the repeal of all legal defences such as reasonable chastisement.⁵⁴ Unlike in Scotland and (shortly in) Wales,⁵⁵ the Law Reform (Miscellaneous Provisions) (NI) Order 2006

⁴⁹ Rebecca Black, ‘PSNI to deploy spit and bite guards in custody suites’, *Belfast Telegraph*, 27 March 2020; Andrew Quinn, ‘Man on NI bus says he has COVID-19, spits at PSNI officers and is arrested for drugs offences’, *Newsletter*, 29 May 2020; ‘Newtownabbey man spat blood in policeman’s face before claiming he had COVID-19, court told’, *Belfast Telegraph*, 17 June 2020.

⁵⁰ Letter from Police Service NI to NI Human Rights Commission, 23 November 2020.

⁵¹ Roundtable discussion with civil society organisations, 23 September 2020

⁵² Policing Board NI, ‘Report on the Thematic Review of the Policing Response to COVID-19’ (PBNI, 2020), at 12.

⁵³ Letter from Police Service NI to NI Human Rights Commission, 23 November 2020.

⁵⁴ CRC/C/GBR/CO/5, ‘UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI’, 12 July 2016, at para 40.

⁵⁵ Children (Equal Protection from Assault) (Scotland) Act 2019; Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020.

continues to allow for a defence of reasonable punishment of a child, and provides that this is a defence to a charge of common assault tried summarily.

- 9.5 There are no statistics on the number of cases where the defence of reasonable chastisement has been used in NI.⁵⁶

9.6 What effective measures are being taken to repeal the defence of reasonable chastisement of children in NI and to develop and implement a strategy to effectively promote positive and non-violent forms of discipline in NI?

Domestic abuse

- 9.7 The rate of victims per 1000 children in NI has increased from 3.6 in 2014/2015 to 6.2 in 2018/2019.⁵⁷ This data is not disaggregated.⁵⁸ General statistics indicate that domestic abuse in NI has increased during the COVID-19 pandemic.⁵⁹

- 9.8 The UK is working towards, but has not ratified the Istanbul Convention.⁶⁰

- 9.9 In March 2020, the Domestic Abuse and Family Proceedings Bill was introduced to the NI Assembly. The NIHRC recommended that the Bill is amended to ensure the best interests of the child are paramount regarding a child's involvement in any related court proceedings and evidence gathering, including that the Barnahus approach is adopted.⁶¹

9.10 What effective measures are being taken to ensure data on domestic abuse in NI includes child-related information that is comprehensive and disaggregated?

⁵⁶ Meeting between Department of Justice and NI Human Rights Commission, 29 November 2018.

⁵⁷ Children and Young People's Strategic Partnership, 'How are Children and Young People in NI Doing? Tenth Outcome Monitoring Report' (CYPSP, 2019), at 71.

⁵⁸ Roundtable discussion with civil society organisations, 23 September 2020.

⁵⁹ Police Service NI, 'Domestic Abuse Calls Received by Police in NI: Weekly Management Information on Domestic Abuse Calls Received by Police Service NI Since COVID-19 Lockdown Measures were Introduced on 23 March 2020 – 1 July 2020' (PSNI, 2020), at 2.

⁶⁰ Preventing and Combating Violence against Women and Domestic Violence (Ratification of Convention) Act 2017.

⁶¹ NI Human Rights Commission, 'Advice to the Department of Justice: Domestic Abuse and Family Proceedings Bill' (NIHRC 2020); Oral Evidence of NI Human Rights Commission to the Committee for Justice, 2 July 2020.

9.11 What effective measures are being taken to ensure the best interests of the child is a primary concern in tackling domestic abuse in NI, for example, by adopting the Barnahus approach where appropriate?

Historical institutional abuse

9.12 On 31 March 2020, the Historical Institutional Abuse Redress Board was established, as introduced by the Historical Institutional Abuse (NI) Act 2019. On 3 April 2020, the application process for eligible candidates opened and will run for five years. However, the Historical Institutional Abuse redress scheme is not available to child victims of clerical abuse outside the setting of a residential institution.

9.13 What effective measures are being taken to ensure all victims of human rights violations outside the remit of the Historical Institutional Abuse Inquiry have access to an effective remedy?

Female Genital Mutilation

9.14 Female Genital Mutilation is an offence in NI.⁶² The NI Maternity Information System has been adapted to capture cases where female genital mutilation is identified during pregnancy and childbirth. There are no exact figures available, but the Department of Health reported a small number of cases have been identified by this process.⁶³

9.15 Anecdotal evidence suggests that most Female Genital Mutilation procedures take place outside NI. A Guardian Project and Operation Limelight have been established in other parts of the UK to tackle such instances, but not in NI.⁶⁴

⁶² Female Genital Mutilation Act 2003; Serious Crimes Act 2015.

⁶³ Email from Department of Health to NI Human Rights Commission, 6 October 2017.

⁶⁴ Manchester Safeguarding Board, 'The Guardian Project', (MSB, 2017); Safeguarding Hub, 'Female Genital Mutilation - Operation Limelight'. Available at: <https://safeguardinghub.co.uk/female-genital-mutilation-operation-limelight/>

9.16 What measures are being developed to implement an effective female genital Mutilation Action Plan for NI that includes providing specialised, accessible support for actual and potential child victims that is sufficiently and promptly available and adequately funded?

9.17 What effective measures are in place to ensure extraterritorial female genital mutilation procedures on children based in NI are prevented, such as introducing the Guardian Project or Operation Limelight in NI?

Intersex Genital Mutilation

9.18 The law in NI does not provide for the recognition of intersex persons. In 2003, departmental guidance was issued for medical practitioners on consent for examination, treatment or care, including providing guidance on the parameters of children's capacity to consent.⁶⁵ There is no policy in NI on medical treatment for intersex persons.

9.19 There is no published data on the number of children in NI who would be classed as intersex or those undergoing surgery or medical treatment regarding disorders of sexual differentiation/development.

9.20 What effective measures are being taken to legally recognise intersex children in NI and to ensure intersex children in NI are not subject to non-consensual medical intervention?

Bullying

9.21 The Address Bullying in Schools (NI) Act 2016 introduced a statutory definition of bullying and places duties on grant-aided schools to take steps to prevent bullying and to record bullying incidents. However, to-date the 2016 Act has not been commenced.

⁶⁵ Department of Health, Social Services and Public Safety, 'Reference Guide to Consent for Examination, Treatment or Care' (DHSSP, 2003).

9.22 There is evidence that specific groups of children in NI feel particularly affected by bullying. For example, of 532 lesbian, gay, bisexual and transgender post-primary pupils surveyed in 2016, 255 (48 per cent) had experienced bullying as a result of their sexual orientation or gender identity, with 287 (54 per cent) feeling unsupported by the school and 239 (45 per cent) stating that school was not a safe place to be.⁶⁶

9.23 What effective measures are being taken to implement the Address Bullying in Schools (NI) Act 2016?

9.24 What other effective measures are being taken to address bullying that specific groups of children are experiencing in NI, such as by lesbian, gay, bisexual and transgender post-primary pupils?

Paramilitary activities

9.25 The Committee previously recommended that immediate and effective measures are adopted to protect children in NI from violence and recruitment by non-State actors involved in paramilitary activities.⁶⁷

9.26 In 2019/2020, as in the previous year, three casualties of paramilitary style assaults were children.⁶⁸ Research shows that paramilitary activity is most prevalent in communities that suffer serious social and economic deprivation including educational under-attainment.⁶⁹

9.27 The New Decade New Approach agreement includes a commitment to “ending paramilitarism”.⁷⁰ This includes a continued commitment by the UK Government to ensure the Police Service NI is “appropriately resourced to deal with” paramilitarism.⁷¹

⁶⁶ Public and Corporate Economic Consultants, ‘Department of Education: Post Primary School Experiences of 16-21 Year Olds’ (PACEC, 2016), at 3.

⁶⁷ CRC/C/GBR/CO/5, ‘UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI’, 12 July 2016, at para 47.

⁶⁸ Police Service NI, ‘Police Recorded Security Situation Statistics: 1 April 2018 to 31 March 2019’ (PSNI, 2019), at 1; Police Service NI, ‘Police Recorded Security Situation Statistics: 1 April 2019 to 31 March 2020’ (PSNI, 2020), at 1.

⁶⁹ Independent Reporting Commission, ‘Second Report’ (IRC, 2019).

⁷⁰ NI Office, ‘New Decade, New Approach’ (NI Office, 2020), at 9.

⁷¹ Ibid, at 48 and 53.

9.28 What effective measures are being taken to ensure children are fully protected from violence and recruitment by paramilitary organisations in NI?

10.0 Articles 20, 21 and 25 – Children in Care

Children in care strategy

- 10.1 In 2018/2019, within NI there were 24,289 children in need, 34,578 children in need of referrals, 2,211 children on the Child Protection Register and 3,281 children in care.⁷²
- 10.2 In 2018, the Departments of Health and Education consulted on a draft strategy for children in care.⁷³ It was expected that the resulting proposed strategy would be published by early 2020, however, this still remains awaited. This strategy was not specifically listed in those committed to within the New Decade, New Approach agreement.⁷⁴

10.3 What effective measures are being taken to publish and fully implement a comprehensive strategy and action plan for children in care in NI?

Children reported missing from care

- 10.4 While the Police Service NI and the Health and Social Care Board are taking proactive steps to address the issues,⁷⁵ in 2019/2020 the police received 2,300 missing persons reports from Residential Children's Homes, relating to 205 children.⁷⁶ Compared to 2018/2019, there is 90 more missing person reports (previously 2,210) with the number of children reported missing increasing by four (from 201 children).⁷⁷ In 2019/2020, 16 children were

⁷² Information Analysis Directorate, 'Children's Social Care Statistics for NI 2018/19' (DoH, 2019), at 3.

⁷³ Department of Health and Department of Education, 'Strategy for Looked After Children: Improving Children's Lives' (DoH and DoE, 2018).

⁷⁴ NI Office, 'New Decade, New Approach' (NIO, 2020), at 27.

⁷⁵ Email correspondence from Police Service NI to NI Human Rights Commission, 21 August 2020; Email correspondence from Police Service NI to NI Human Rights Commission, 14 October 2020.

⁷⁶ Email correspondence from Police Service NI to NI Human Rights Commission, 14 October 2020.

⁷⁷ Ibid.

reported missing 41 or more times, with the most frequent missing young person being reported 91 times.⁷⁸ This is an increase from 2018/2019 when 12 of the children that went missing were reported as such more than 50 times, with the most frequent missing young person being reported 63 times.⁷⁹ During community visits conducted by the NIHRC, local police officers expressed concerns regarding a 'revolving door' effect where a young person is returned to residential care, and subsequently abscond again. Concerns were also raised that children in care are particularly vulnerable to child sexual exploitation.

10.5 What effective steps are being taken to ensure that the pending children in care strategy and action plan includes comprehensive commitments to tackling the issue of children reported missing from care?

Adoption

- 10.6 The Committee previously recommended that the approval and enactment of the Adoption and Children Bill in NI was expedited.⁸⁰
- 10.7 The legislation governing adoption in NI is over 30 years old.⁸¹ After a consultation in 2017, the Adoption and Children (NI) Bill remains in draft form.⁸² The Bill is due to be introduced by the end of 2020, subject to Ministerial and Executive approval.⁸³

10.8 What effective measures are being taken to ensure the Adoption and Children Bill is promptly enacted and implemented in compliance with the UN CRC?

Foster care

- 10.9 Minimum Kinship Care Standards have been in place since 2012 and are subject to regular review,⁸⁴ however, the Department of

⁷⁸ Ibid.

⁷⁹ Email correspondence from Police Service NI to NI Human Rights Commission, 21 August 2020.

⁸⁰ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 53.

⁸¹ Adoption (NI) Order 1987.

⁸² Department of Health, 'Adoption and Children (NI) Bill: Consultation' (DoH, 2017).

⁸³ Email from Department of Health to NI Human Rights Commission, 21 July 2020.

⁸⁴ Department of Health, 'Minimum Care Standards, NI' (DoH, 2019).

Health stated in 2013 that it would update fostering standards in NI.⁸⁵ The Foster Placement (Children) Regulations (NI) 1996 remain untouched. These regulations do not include minimum standards for foster care or a statutory requirement for foster care to be inspected.

10.10 What effective measures are being taken to promptly introduce and implement a statutory requirement for foster care in NI to be inspected and to provide comprehensive guidance on the standards of foster care required?

11.0 Article 22 – Refugee Status

Refugee resettlement and integration

- 11.1 Between December 2015 and February 2020, 1,815 Syrian refugees have been welcomed to NI under the Syrian Vulnerable Persons Relocation Scheme.⁸⁶ Independent research indicates that the majority of children have had a positive experience in NI to date.⁸⁷
- 11.2 In April 2020, the UK Government introduced a new consolidated Global Resettlement Scheme.⁸⁸ NI had committed to continue to resettle refugees in NI under this new scheme until March 2021, however, the scheme has been suspended due to COVID-19.⁸⁹ The Executive Office is conducting an evaluation of the future of refugee resettlement in NI, the completion of which has been delayed until January 2021 due to COVID-19.
- 11.3 Under section 67(1) of the Immigration Act 2016, the UK Government is required to make arrangements to relocate unaccompanied refugee children from other countries in Europe.

⁸⁵ Regulation and Quality Improvement Authority, 'Review of Statutory Fostering Services Overview Report' (RQIA, 2013), at para 1.1.

⁸⁶ Department for Communities, 'Syrian Vulnerable Persons Relocation Scheme: Briefing Document – February 2020' (DfC, 2020).

⁸⁷ Arlene Robertson, 'A New Life for Me: Integration Experiences of Syrian Refugee Children and Their Families' (Barnardo's, 2020).

⁸⁸ Home Office, 'Press Release: New global resettlement scheme for the most vulnerable refugees announced', 17 June 2019.

⁸⁹ Jamie Grierson, 'UN urges UK to restart resettlement of refugees after family drowns in Channel', *The Guardian*, 30 October 2020.

However, no child has been accommodated under this statutory requirement in NI.⁹⁰

11.4 What effective measures are being taken to ensure a proportionate number of refugees are resettled in NI on a long-term basis, including NI taking a share of unaccompanied refugee children?

Refugee integration

11.5 In 2005 and 2015, the NI Executive committed to developing a refugee integration strategy.⁹¹ In 2017, the NI Executive commissioned research to inform a strategy.⁹² However, NI remains the only part of the UK to not have a refugee integration strategy.

11.6 What effective measures are being taken to ensure a refugee integration strategy is promptly published and implemented?

12.0 Article 23 – Children with Disabilities

Supported employment

12.1 The primary source of funding for employment projects for persons with disabilities in NI and for organisations working with young people that are most at risk at missing out on education and training opportunities has been the European Social Fund.⁹³ This funding will cease in March 2022.

12.2 Young people with disabilities are most frequently employed in the hospitality and retail sectors, which are two sectors that have been

⁹⁰ Email from the Executive Office to NI Human Rights Commission, 7 January 2020.

⁹¹ Office of the First Minister and Deputy First Minister, 'A Racial Equality Strategy for NI: 2005 – 2010' (OFMDFM, 2005), at para 4.48; Office of the First Minister and Deputy First Minister, 'A Racial Equality Strategy for NI: 2015-2025' (OFMDFM, 2015), at para 6.19.

⁹² Fiona Murphy and Ulrike Vielen, 'Asylum Seekers and Refugees' Experiences of Life in NI' (QUB, 2017).

⁹³ NI Union of Supported Employment, 'Briefing Paper: Future Funding for Disability Employment Services - May 2019' (NIUSE, 2020).

adversely affected by COVID-19.⁹⁴ The health implications of COVID-19 have also affected the employment opportunities available for young people with disabilities.

12.3 What effective measures are being taken to secure the future of funding projects that are currently funded through the European Social Fund?

12.4 What effective measures are being taken to ensure employment and training opportunities for young persons with disabilities, particularly in the context of COVID-19?

Autism strategy

12.5 The Autism Act (NI) 2011 requires the now Department of Health to publish revised strategies at regular intervals. The initial autism strategy was published in 2013 and is due to expire at the end of 2020. The strategy's three-year action plan expired in 2016. The New Decade, New Approach agreement commits to publishing a Disability Strategy and a Children and Young People's Strategy, but not an autism strategy.⁹⁵ In October 2020, the Minister of Health, Robin Swann MLA, confirmed that he had intended to publish a revised autism strategy at the beginning of 2021, but this has been delayed due to COVID-19.⁹⁶

12.6 What effective measures are being taken to ensure an updated comprehensive autism strategy and action plan is promptly published and implemented?

⁹⁴ NI Union of Supported Employment, 'Briefing Paper – June 2020' (NIUSE, 2020); Mark Magill and Marguerite McPeake, 'Labour Market Implications of COVID-19: How Have Restrictions on Work Impacted Different Types of Workers in NI?' (UU, 2020), at para 110.

⁹⁵ NI Office, 'New Decade, New Approach' (NIO, 2020), at 27.

⁹⁶ NI Assembly Hansard, 'Response to Written Question – Autism Strategy – Robin Swann MLA – AQW 6252/17-22', 5 October 2020.

13.0 Article 24 – Health

Mental health

- 13.1 The Committee previously recommended additional resourcing and investment in children and adolescent mental health services.⁹⁷
- 13.2 Poor mental health is the largest cause of disability in NI and is estimated to be 20-25 per cent higher in NI than in the rest of the UK.⁹⁸ The legacy of violence and socio-economic factors are cited as major contributors to the high levels of mental health, with deprivation being a major predictor of area level mental wellbeing. Despite the evidence of substantial levels of need, the proportion of spend on mental health in NI remains the lowest at approximately 8 per cent of the total healthcare budget.⁹⁹ In addition to adequate funding, civil society representatives report that there needs to be a focus on early intervention.¹⁰⁰
- 13.3 In 2018, there were 15 deaths by suicide in NI between 15 and 19 years old. In 2017, there were 10 deaths by suicide in the same age bracket and two deaths by suicide were under 15 years old.¹⁰¹
- 13.4 It is expected that a combination of lack of daily structure through school closures, reduced socialisation and limited access to health services due to COVID-19 will have a negative impact on the mental health and wellbeing of children in NI.¹⁰²
- 13.5 A mental health strategy for NI was to be published by December 2020, but this has been delayed due to COVID-19.¹⁰³
- 13.6 In 2018, the NI Commissioner for Children and Young People published its rights based review into mental health services

⁹⁷ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 61.

⁹⁸ Jennifer Betts and Janice Thompson, 'Mental Health in NI' (RAISE, 2017).

⁹⁹ Lesley-Ann Black and Keara McKay, 'Suicide Statistics and Strategy in NI: Update' (RAISE, 2019).

¹⁰⁰ Roundtable discussion with civil society representatives, 23 September 2020.

¹⁰¹ NI Statistics and Research Agency, 'Suicide Deaths 2018' (NISRA, 2020), at Table 2.

¹⁰² Health and Social Care Board, 'Rapid Review: The Mental Health Impact of the COVID-19 Pandemic in NI' (HSCB, 2020), at 29.

¹⁰³ NI Office, 'New Decade, New Approach' (NIO, 2020), at 27; Department of Health, 'Mental Health Action Plan' (DoH, 2020), at 8.

provided for children and young people in NI.¹⁰⁴ In February 2020, the NI Commissioner for Children and Young People published its first monitoring report analysing the NI Executive's response to the recommendations set out in the review.¹⁰⁵ Regarding progress to date, the NI Commissioner for Children and Young People has expressed particular concern in relation to funding for effectively implementing the recommendations and a continued lack of progress on effective data collection and addressing delays related to Child and Adolescent Mental Health Services.¹⁰⁶

13.7 What effective measures are being taken to ensure a mental health care budget is introduced that effectively tackles need is established including the additional challenges of COVID-19 on mental health?

13.8 What effective measures are being taken to ensure a mental health strategy for NI, that includes a focus on early intervention, is promptly published and implemented?

Mental capacity

13.9 The Committee previously recommended that the UK review current legislation on mental health to ensure that the best interests and the views of the child are taken into account in cases of mental health treatment of children below the age of 16.¹⁰⁷

13.10 The Mental Capacity (NI) Act 2016 does not apply to children under the age of 16 years old. A commitment was made to review how the legal framework in NI reflects the emerging capacity of children in a health and welfare context.¹⁰⁸ This review has been shelved.¹⁰⁹

13.11 What effective measures are being taken to promptly review and implement a comprehensive legal framework for

¹⁰⁴ NI Commissioner for Children and Young People, 'Still Waiting: A Rights Based Review of Mental Health Services and Support for Children and Young People' (NICCY, 2018).

¹⁰⁵ NI Commissioner for Children and Young People, 'Still Waiting: Monitoring Report' (NICCY, 2020).

¹⁰⁶ Ibid, at 12.

¹⁰⁷ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 61.

¹⁰⁸ Department of Health, Social Services and Public Safety and Department of Justice, 'Draft Mental Capacity Bill: Public Consultation' (DHSSPS, DoJ, 2016), at 38.

¹⁰⁹ Meeting between Department of Health and NI Human Rights Commission, 21 January 2019.

protecting the mental capacity of children under 16 years old?

Termination of pregnancy

13.12 The Committee previously recommended that termination of pregnancy is decriminalised in NI in all circumstances.¹¹⁰ This was implemented in October 2019.¹¹¹

13.13 Since 31 March 2020, terminations have been legalised in NI:

- up to 12 weeks under any circumstances,
- up to 24 weeks where there is a risk to physical or mental health, and
- with no gestational limit where there is an immediate necessity, a risk to life or grave permanent injury to the physical or mental health of a pregnant woman, or in cases of severe foetal impairment or fatal foetal abnormality.¹¹²

13.14 However, the Department of Health has not commissioned and therefore not funded the required healthcare services or provided guidance for healthcare professionals that is necessary to effectively implement these regulations.¹¹³

13.15 Between start of June and early October 2020, termination services up to ten weeks were available in all health trusts in NI, subject to available resources.¹¹⁴ Trusts provided the services on the basis of transferring resources from other sexual and reproductive health care services reduced or held in abeyance due to the pandemic. Two of the five health trusts were offering terminations up to 12 weeks for patients that live within their Trust area.¹¹⁵

¹¹⁰ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 65.

¹¹¹ Section 9(2), NI (Executive Formation etc) Act 2019.

¹¹² Abortion (NI) Regulations 2020; Abortion (NI) (No 2) Regulations 2020.

¹¹³ Meetings between NI Human Rights Commission, Health and Social Care Trusts and Royal Colleges of Healthcare Professionals, August-October 2020.

¹¹⁴ Brendan Hughes, 'Central access point' launched for abortion services in NI', *Irish News*, 16 April 2020; Meetings between NI Human Rights Commission, Health and Social Care Trusts and Royal Colleges of Healthcare Professionals, August-October 2020.

¹¹⁵ Meetings between NI Human Rights Commission, Health and Social Care Trusts and Royal Colleges of Healthcare Professionals, August-October 2020.

- 13.16 Recently, termination services introduced by the Trusts have experienced a roll back. From early October, the Northern Trust is no longer offering any termination services due to lack of funding from the Department of Health and having to reassign resources to enable non-emergency reproductive healthcare services that had been suspended due to COVID-19 to be resumed. This has created a disparity within NI. Those registered within the Northern Trust area that require a termination for a non-medical reason are not able to access termination services in other Trusts due to lack of resources and are having to either travel outside of NI or use unregulated services to access a termination.
- 13.17 The remaining four trusts continue to provide termination services, but these now only extend to individuals that are less than 10 weeks pregnant.¹¹⁶ Those between 10 and 12 weeks pregnant, unless a termination is required for a medical reason, are not able to access termination services in NI in line with the Abortion Regulations and face having to travel or use unregulated services. There is also the risk that other trusts may have to reduce or cease offering termination services due to lack of commissioning by the Department of Health, contrary to the Abortion Regulations.
- 13.18 Of available statistics, in one health and social care trust area in NI, between the 9 April and 2 June 2020, 170 consultations took place, which resulted in 138 terminations for individuals aged between 12 and 48 years old.¹¹⁷

13.19 What effective measures are being taken by the Department of Health in NI to ensure girls have full access to reproductive healthcare services and age-appropriate support, and that healthcare professionals have access to comprehensive guidance in line with the Abortion Regulations (NI) 2020?

¹¹⁶ Meetings with Health and Social Care Trusts, Royal Colleges of Healthcare Professionals and Informing Choices NI, August-October 2020.

¹¹⁷ Correspondence from the Belfast Health and Social Care Trust to the NI Human Rights Commission, 14 September 2020.

Relationships, sexuality and gender identity education

13.20 The Committee previously recommended that meaningful, age-appropriate sexual and reproductive health education is mandatory within the school curriculum.¹¹⁸

13.21 The NI curriculum sets out the minimum content for each area of learning at each key stage,¹¹⁹ thus enabling a degree of flexibility for schools. Relationships and sexuality education is a statutory component of key stages three and four,¹²⁰ however, a school can provide such education in line with its ethos,¹²¹ which can include an opposition to contraception.

13.22 The framework for schools' delivery of relationship, sexuality and gender identity education is significantly less clear than, for example, in England and elsewhere in the UK where the public sector equality duty also applies to schools. Engagement with civil society organisations also indicates that the lack of a standardised approach across schools in NI is seeing a disparity regarding the effectiveness of relationship, sexuality and gender identity education that pupils in NI are receiving.¹²²

13.23 What effective measures are being taken to ensure that age-appropriate, comprehensive and scientifically accurate relationships, sexuality and gender identity education is mandatory in all schools in NI?

14.0 Article 26 – Social Security

Cumulative impact assessment

14.1 The Committee previously recommended that the UK conducted a cumulative impact assessment of social security and tax reforms to

¹¹⁸ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 64.

¹¹⁹ Education (Curriculum Minimum Content) Order (NI) 2007.

¹²⁰ Education (NI) Order 2006.

¹²¹ NI Curriculum, 'Relationships and Sexuality Education Guidance: An Update for Post-Primary Schools' (NI Curriculum, 2019).

¹²² Meetings between NI Human Rights Commission, Department of Education and civil society organisations, August-October 2020.

assess their impact on children.¹²³ The UK Government has not conducted the recommended assessment, citing modelling difficulties.¹²⁴

- 14.2 In 2019, the NIHRC published a cumulative impact assessment for NI.¹²⁵ It found that the annual average cash losses are greater for households with children and the more children, the greater the loss. The average cash losses for households with three or more children (around £2,575) are almost six times the average cash losses for households with two children and over fifty times the average case losses for households with one child.¹²⁶
- 14.3 Lone parent households are particularly affected, losing around £2,250 a year on average, which is almost 10 per cent of their net income.¹²⁷ Additionally, households with at least one disabled child experience greater average losses than households without a disabled child amounting to £2,000 per year due to the reforms.¹²⁸

14.4 What effective measures are being taken to ensure regular comprehensive cumulative impact assessments of existing and future tax and social security reforms on children in NI are conducted and published?

Two-child limit

- 14.5 Since April 2017, new claimants have not been able to claim Child Tax Credit for third or subsequent children or qualifying young persons born on or after 6 April 2017, save in limited circumstances. This also applies to Universal Credit.
- 14.6 In 2017/2018, it was estimated that 1,300 families in NI were affected by the two-child tax credit limit, equating to £3.6 million

¹²³ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 3 June 2016, at para 12.

¹²⁴ House of Commons Hansard, 'Written Answers: Social Security Benefits: Disability – Column 299W-300W', 9 April 2014.

¹²⁵ Howard Reed and Jonathan Portes, 'The Cumulative Impact Assessment of Tax and Social Security Reforms in NI' (NIHRC, 2019).

¹²⁶ Ibid, at 62.

¹²⁷ Ibid, at 60.

¹²⁸ Ibid, at 76.

in foregone entitlement of ineligible children.¹²⁹ In 2018/2019, it was estimated that this rose to 3,900 families in NI being affected, equating to £10.9 million in foregone entitlement of ineligible children.¹³⁰

14.7 The NIHRC's cumulative impact assessment found that it is likely that the two-child limit will have a bigger impact in NI due to there being a greater proportion of households with three or more children in NI than elsewhere in the UK.¹³¹ It particularly impacts lone parent households or households with disabled children.¹³² It is estimated that households in NI with three or more children could lose over £1,200 per year on average due to the two-child limit.¹³³

14.8 In October 2020, the UK Supreme Court heard the Child Poverty Action Group's appeal concerning the lawfulness of the two-child limit, in part on human rights grounds.¹³⁴ The outcome is awaited.

14.9 What effective measures are being taken to ensure prompt repeal of the two-child limit on tax credits and Universal Credit in NI?

Mitigation package

14.10 The Fresh Start Agreement 2015 committed to implementing the social security reforms legislated for by the UK Parliament.¹³⁵ It also agreed funding for a package of measures aimed at mitigating the effects of social security reform in NI. The NI Executive funded package was originally worth up to £585 million over four years, though expenditure was significantly less than as parts of the package could not be introduced due to a dispute over tax arrangements for the Cost of Work Allowance.

¹²⁹ House of Commons Hansard, 'Response to Written Question – Two Child Tax Credit Limit – Steve Barclay MP – UIN 87710', 14 September 2020.

¹³⁰ Ibid.

¹³¹ Howard Reed and Jonathan Portes, 'The Cumulative Impact Assessment of Tax and Social Security Reforms in NI' (NIHRC, 2019), at 24.

¹³² Ibid, at 82.

¹³³ Ibid, at 85.

¹³⁴ *SC and Ors v SSWP* [2019] EWCA Civ 615.

¹³⁵ NI Executive, 'The Fresh Start Agreement and Implementation Plan' (NIE, 2015), at Section C.

14.11 In March and June 2020, the Department for Communities extended the social security reform mitigation package through agreement with the Department of Finance under the Budget Act (NI) 2020 and Budget (No 2) Act 2020. The current arrangements are in place until December 2020 and are being kept under review in the absence of amendments to the Welfare Reform (NI) Order 2015.¹³⁶

14.12 In September 2020, the Minister for Communities, Carál Ní Chuilín MLA, confirmed that she intends to introduce primary legislation to amend as a matter of urgency the Welfare Reform (NI) Order 2015 to provide for an extension of social security mitigation payments for those affected by the bedroom tax and for families affected by the benefit cap.¹³⁷

14.13 What effective measures are being taken to ensure that any future mitigations arrangement in NI for social security reforms are promptly developed and implemented on a permanent basis?

15.0 Article 27 –Adequate Standard of Living

Child poverty

15.1 In 2018/19, 107,000 (24 per cent) of children in NI were living in relative poverty before housing costs and 92,000 (21 per cent) were living in absolute poverty before housing costs.¹³⁸ This is the first increase in absolute child poverty since 2013/14.¹³⁹

15.2 The Welfare Reform and Work Act 2016 repealed the duty to meet time-bound targets on child poverty as originally set out in the Child Poverty Act 2010 (now Life Chances Act 2010). These targets have been replaced by a statutory duty to publish an annual report

¹³⁶ NI Assembly Hansard, 'Oral Questions: Welfare Mitigations Schemes Primary Legislation – Cara Hunter MLA – AQO 594/17-22', 8 September 2020; Email from Cliff Edge Coalition to NI Human Rights Commission, 29 September 2020.

¹³⁷ NI Assembly Hansard, 'Oral Questions: Welfare Mitigations Schemes Primary Legislation – Cara Hunter MLA – AQO 594/17-22', 8 September 2020.

¹³⁸ Department for Communities, 'Poverty Bulletin: NI 2018/19' (DfC, 2020) at 2.

¹³⁹ Ibid at 3.

on the extent and educational attainment of children in poverty. These changes extend to NI.

- 15.3 In March 2019, the current Child Poverty Strategy expired.¹⁴⁰ The New Decade, New Approach agreement committed to publishing a Child Poverty Strategy.¹⁴¹ In September 2020, the Minister for Communities, Carál Ní Chuilín MLA, announced that the existing child poverty strategy has been extended to May 2022. This is on the basis that the Minister considers there may be scope to take child poverty forward within the wider anti-poverty strategy.¹⁴²
- 15.4 **What effective measures are being taken to ensure that a comprehensive up-to-date strategy that tackles child poverty in NI specifically is promptly developed and implemented alongside an effective action plan?**

Housing

- 15.5 The Committee previously recommended that NI enact legislation that prohibits prolonged placement of children in temporary accommodation.¹⁴³ This legislation has not been developed.
- 15.6 Between January and June 2020, 7,911 households in NI presented as homeless, with 4,416 households (including 1,266 children) accepted as statutorily homeless.¹⁴⁴ There were 2,930 households living in temporary accommodation in NI, including 3,166 children.¹⁴⁵ Of those 1,845 households (63 per cent) had been living in temporary accommodation for less than 12 months and 94 households (three per cent) had been living in temporary accommodation for five or more years.¹⁴⁶ Compared to the same period in previous years, it is clear that COVID-19 has increased further the number of households in temporary accommodation.

¹⁴⁰ NI Executive, 'The Executive's Child Poverty Strategy' (NI Executive, 2016); Department for Communities, 'Press Release: Minister announces extension to Child Poverty Strategy', 11 September 2020.

¹⁴¹ NI Office, 'New Decade, New Approach' (NIO, 2020), at 27.

¹⁴² Department for Communities, 'Press Release: Minister announces extension to Child Poverty Strategy', 11 September 2020.

¹⁴³ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 70(e).

¹⁴⁴ NI Statistics and Research Agency, 'NI Homelessness Bulletin January-June 2020' (DfC and NIHE, 2020), at 4.

¹⁴⁵ Ibid, at 7.

¹⁴⁶ Ibid, at 10.

15.7 There is a shortage of social housing in NI. At 31 March 2020, there were 37,859 applicants on the waiting list for social housing in NI.¹⁴⁷ In 2020, it was announced that the NI Housing Executive's landlord arm would become independent, enabling it to borrow money for the purpose of building social housing.¹⁴⁸

15.8 What effective measures are being taken to introduce and implement legislation in NI to prohibit prolonged placement of children in temporary accommodation?

15.9 What effective measures are being taken to promptly increase social housing in NI to meet demand, particularly where children are involved?

Access to food

15.10 In early 2020, there were 55 foodbanks operating in NI, this was an increase from 14 in 2013.¹⁴⁹ In 2019/2020, the Trussell Trust provided 18,934 food parcels to children, which is 3.5 times the number in 2013/2014.¹⁵⁰

15.11 In 2020, direct payments were provided to families in receipt of Free School Meals during COVID-19 term-time school closures and across the summer holidays.¹⁵¹ 97,000 children benefitted from this scheme. This scheme has been extended until Easter 2022 in response to the pandemic, however there is no long-term commitment to continue Free School Meals during school holidays as standard.¹⁵²

¹⁴⁷ NI Statistics and Research Agency, 'NI Housing Statistics 2018-19' (DfC and NIHE, 2020), at 5.

¹⁴⁸ Department for Communities, 'Press Release: Time to secure the long term future of the Housing Executive – Ní Chuilín', 3 November 2020.

¹⁴⁹ Correspondence between Independent Food Aid Network and NI Human Rights Commission, 27 January 2020; Advice NI, 'Turning the Tide: The Growth of Foodbanks in NI' (Advice NI, 2013), at 6.

¹⁵⁰ The Trussell Trust issued 5,286 food parcels to children in NI in 2013/2014. See The Trussell Trust, 'End of Year Stats'. Available at: <https://www.trusselltrust.org/news-and-blog/latest-stats/end-year-stats/#total>

¹⁵¹ Department of Education, 'Press Release: Ministers take action in relation to Free School Meals payment', 26 March 2020; Department of Finance, 'Press Release: Murphy allocates funds for Health, Childcare and Free School Meals', 30 June 2020.

¹⁵² NI Assembly Hansard, 'Response to Written Questions: Free School Meals – Peter Weir MLA – AQW 7681/17-22', 8 October 2020; Robbie Meredith, 'Free school meals: Meals to be funded during holidays until 2022', *BBC News*, 20 November 2020

15.12 What effective measures are being taken to ensure Free School Meals for children in NI during school holidays as standard?

Asylum financial support

15.13 Asylum seekers and their dependents without financial means may apply for asylum support.¹⁵³ The standard weekly allowance is £39.60 per person within the household. A small additional amount is provided to pregnant women and young children.¹⁵⁴ A one-off maternity payment of up to £300 is also available.¹⁵⁵ Asylum seekers are not normally permitted to work and are not eligible to receive any social security benefits.

15.14 The UN Special Rapporteur on Extreme Poverty and Human Rights stated that “destitution appears to be a design characteristic of the asylum system [in the UK]”.¹⁵⁶ In 2019, of 70 asylum seekers in Belfast surveyed, 88 per cent could not afford child-related costs including food, clothing, transport, recreational activities and school trips.¹⁵⁷

15.15 What effective measures are being taken to ensure that enough financial support is provided to asylum seekers in NI to adequately cover child-related costs?

16.0 Articles 28 and 29 – Education

Use of restraint

16.1 The Committee previously recommended that restraint is only used against children as a last resort to prevent harm to the child or others.¹⁵⁸ Additionally, that disaggregated data on the use of

¹⁵³ Section 95, Immigration and Asylum Act 1999.

¹⁵⁴ A pregnant woman may claim an extra £3 a week, a baby under 1 years old may claim an extra £5 and a child aged 1–3 years old may claim an extra £5 a week. See Gov.UK, ‘Asylum Support’. Available at: <https://www.gov.uk/asylum-support/what-youll-get>

¹⁵⁵ Gov.UK, ‘Asylum Support’. Available at: <https://www.gov.uk/asylum-support/what-youll-get>

¹⁵⁶ A/HRC/41/39/Add.1, ‘Report of the Special Rapporteur on Extreme Poverty and Human Rights: Visit to the UK of Great Britain and NI’, 23 April 2019, at para 83.

¹⁵⁷ Housing 4 All, ‘A Prison Without Walls: Asylum, Migration and Human Rights’ (PPR, 2019) at 23.

¹⁵⁸ CRC/C/GBR/CO/5, ‘UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI’, 12 July 2016, at para 40(c).

restraint, including in educational settings, is systematically and regularly collected, published and monitored.¹⁵⁹

- 16.2 Section 4 of the Education (NI) Order 1998 allows for a school staff member to restrain any pupil at the school where such force is “reasonable in the circumstances” for the purpose of preventing the pupil from doing or continuing to a) commit any offence, b) cause personal injury to, or damage to the property of any person (including the pupil), or c) engage in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether that behaviour occurs during a teaching session or otherwise. This provision is clear that it does not allow for corporal punishment of children by teachers.¹⁶⁰
- 16.3 The accompanying non-statutory guidance has not been updated since 1999.¹⁶¹ The guidance states that any occasion when reasonable force is used must be logged in an incident book, which is to be reviewed at least annually by the Chair of the Board of Governors and Principal.¹⁶² However, such incidents are not required to be subject to an independent review.
- 16.4 Use of restraint in an educational setting has been raised as a particular concern for children with special educational needs in NI,¹⁶³ with lack of training on the use of restraint for educational professionals being raised as a contributor.¹⁶⁴
- 16.5 What effective measures are being taken to ensure comprehensive and updated statutory guidance and mandatory training is provided in NI on the use of restraint against children in an educational setting, which includes setting out steps to take to ensure use of restraint is a last**

¹⁵⁹ Ibid, at para 40(d).

¹⁶⁰ Section 4(2), Education (NI) Order 1998.

¹⁶¹ Department of Education, ‘Pastoral Care: Guidance on the Use of Reasonable Force to Restrain or Control Pupils’ (DoE, 1999).

¹⁶² Ibid, at 8.

¹⁶³ British Association of Social Workers, ‘Policy Statement: Restraint and Seclusion of Children and Young People in Schools and Educational Facilities’ (BASWNI, 2019); Robbie Meredith, ‘School seclusion “could have damaging effects”’, *BBC News*, 21 December 2019.

¹⁶⁴ British Association of Social Workers, ‘Policy Statement: Restraint and Seclusion of Children and Young People in Schools and Educational Facilities’ (BASWNI, 2019); Robbie Meredith, ‘School seclusion “could have damaging effects”’, *BBC News*, 21 December 2019.

resort, particularly for children with special educational needs?

16.6 What effective measures are being taken to ensure that there is a statutory obligation on schools in NI to systematically and regularly collect disaggregated data on the use of restraint against children in an educational setting, and that this data is published and independently monitored?

Special educational needs

16.7 In 2019/20, a total of 67,254 pupils had special educational needs compared to 78,917 in 2018/19.¹⁶⁵ In 2019/2020, there were 6,170 children enrolled in special schools in NI.

16.8 In March 2020, an internal audit into the Education Authority's Special Educational Needs assessment process identified "significant shortcomings in how the Education Authority NI managed the process".¹⁶⁶ The audit found that "85 per cent of pupils did not complete the statementing process within the 26-week statutory period. That meant that, at the time of the analysis in November 2019, over 1,000 children had exceeded the statutory time frame".¹⁶⁷ In June 2020, almost 300 children in NI with a statement of special educational needs were still without a school place for September 2020.¹⁶⁸ The Education Authority NI is working on implementing the ten recommendations made by the audit and the Department of Education is consulting on special educational needs regulations and code of practice to accompany the Special Educational Needs and Disability (NI) Act 2016.

16.9 In September 2020, the NI Audit Office issued a follow up report on special educational needs in NI from an earlier inquiry in 2017.¹⁶⁹ The earlier report found that neither the Department of Education nor the Education Authority NI could demonstrate value

¹⁶⁵ Department of Education, 'School Enrolments in NI: 2019/20 Key Statistics Infograph' (DoE, 2019).

¹⁶⁶ NI Assembly Hansard, 'Committee for Education: Special Educational Needs Assessment and Statementing Audit - Education Authority', 4 March 2020.

¹⁶⁷ Ibid.

¹⁶⁸ Robbie Meredith, 'Hundreds of special needs children have no September place', *BBC News*, 24 June 2020.

¹⁶⁹ NI Audit Office, 'Impact Review of Special Educational Needs' (NIAO, 2020).

for money in the provision of special education needs support in mainstream schools.¹⁷⁰ The follow up report found that, of ten recommendations made in 2017, none had yet been fully addressed.¹⁷¹ Further, it noted that it had been 13 years since the Department of Education had begun a review of special educational needs in NI and that review has still to be completed.¹⁷²

16.10 What effective measures are being taken to ensure children with special educational needs in NI are promptly and comprehensively assessed and provided with the necessary support?

16.11 What effective measures are being taken to ensure children with special educational needs in NI that have been adversely affected by past failings of the assessment process are effectively remedied?

COVID-19

16.11 Indications are “that there is a risk that the COVID-19 crisis will deepen known educational inequalities [in NI], or lead to the emergence of new inequalities, for children now and over their lifecycle”.¹⁷³ The move to online education in cases of school closures emphasised the digital divide¹⁷⁴ and created concerns for pupils’ mental health.¹⁷⁵

16.12 The Department of Education has provided digital devices to disadvantaged children in NI,¹⁷⁶ however access to internet, costs associated with running the required technology and support in operating these devices were particular concerns for children from lower socio-economic backgrounds and rural children.¹⁷⁷

¹⁷⁰ NI Audit Office, ‘Special Educational Needs’ (NIAO, 2017).

¹⁷¹ NI Audit Office, ‘Impact Review of Special Educational Needs’ (NIAO, 2020).

¹⁷² Ibid.

¹⁷³ Equality Commission for NI, ‘Policy Position Paper: COVID-19 and Education Equality Considerations’ (ECNI, 2020), at 1.

¹⁷⁴ Roundtable discussion with civil society organisations, 23 September 2020.

¹⁷⁵ Barnardo’s NI, ‘New Term, New Challenges, New Opportunities: Putting Children’s Mental Health at the Heart of Education’ (Barnardo’s NI, 2020).

¹⁷⁶ Department of Education, ‘Press Release: Minister outlines plans to provide digital devices to disadvantaged children’, 21 May 2020.

¹⁷⁷ Roundtable discussion with civil society organisations, 23 September 2020.

16.13 The Temporary Modification of Education Duties Notice (NI) 2020 and its subsequent iterations temporarily modify legal duties covering special educational needs, including assessment and providing statements and require that the Education Authority NI, schools and others will have a duty to use their best endeavours to make provision. This caused considerable additional disruption to the education of children with special educational needs.

16.14 Of 187 disabled families surveyed by the Family Fund in NI, only 13 (7 per cent) reported that their disabled or seriously ill child continued to attend nursery, school or college during school closures between March and June 2020. Of those surveyed, 162 families (87 per cent) were provided with paper resources, online or telephone support.¹⁷⁸ However, 25 surveyed families (13 per cent) had not received any support for their disabled or seriously ill child during that period.¹⁷⁹ School closures due to COVID-19 also affected access to physiotherapy, speech/language therapy, occupational therapy, educational psychologists, Children and Adolescent Mental Health Services and paediatricians.¹⁸⁰

16.15 What effective measures are being taken to ensure minimal disruption and remedial provision for children in NI whose education has been affected by COVID-19, particularly children with special educational needs?

16.16 What effective measures are being taken to ensure mental health and wellbeing is included in the recovery curriculum and that this is supported by adequate long-term funding?

Expulsions

16.17 Between July 2018 and June 2019, 4,549 pupils had been suspended from school in NI.¹⁸¹ In 2018/2019, 30 pupils had been expelled from NI schools, an increase of 50 per cent from

¹⁷⁸ Family Fund, 'Impact of COVID-19: NI Findings' (Family Fund, 2020), at 23.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

¹⁸¹ Children and Young People's Strategic Partnership, 'How Are Children and Young People in NI Doing? Tenth Outcome Monitoring Report' (CYPSP, 2020), at 49.

2018/2019. Of these, 11 expulsions were for persistent infringements of relatively minor school rules.¹⁸²

16.18 What effective measures are being taken to ensure school suspensions and expulsions are a last resort in NI?

Academic selection

16.19 The Committee previously recommended that the NI Executive abolish the practice of unregulated admission tests to post-primary education in NI.¹⁸³

16.20 Unregulated academic selection continues in NI, despite some delays due to COVID-19.¹⁸⁴ The Minister of Education NI, Peter Weir MLA, has stated that there is no "viable alternative to put in its place".¹⁸⁵

16.21 The effects of academic selection in NI has not been thoroughly examined by the Department of Education NI since 2000.¹⁸⁶ Independent research indicates that unregulated post-primary academic selection is damaging children's mental health.¹⁸⁷ Also that it has significant social, educational and economic consequences for pupils and "magnifies inequalities" for specific disadvantaged groups of children.¹⁸⁸

16.22 What effective measures are being taken to introduce a non-selective system of post-primary school admission and abolish the two tier system of education in NI?

¹⁸² Ibid, at 50.

¹⁸³ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 73.

¹⁸⁴ 'Transfer tests: Exams put back until January 2021', *BBC News*, 2 September 2020.

¹⁸⁵ Robbie Meredith, 'Transfer tests: Education Minister rejects test suspension call', *BBC News*, 19 May 2020.

¹⁸⁶ Leanne Henderson et al, 'Educational Underachievement in NI' (Stranmillis University College, 2020), at 19; Tony Gallagher and Alan Smith, 'The Effects of the Selective System of Secondary Education in NI' (DoE, 2000).

¹⁸⁷ Participation and the Practice of Rights, 'Could make or break a child: the state of human rights and academic selection in NI', (PPR, 2019).

¹⁸⁸ Leanne Henderson et al, 'Educational Underachievement in NI' (Stranmillis University College, 2020), at 6.

Traveller, Roma and children from migrant families

16.23 In 2019/2020, 1,088 Irish Traveller children were enrolled in NI schools, with an attendance rate of 74 per cent and 77 per cent receiving Free School Meals.¹⁸⁹ There were 705 Roma children enrolled in NI schools, with an attendance rate of 79 per cent and 46 per cent receiving Free School Meals.¹⁹⁰ Additionally, there were 17,391 children from migrant families enrolled in schools in NI, equating to 5 per cent of total school enrollments.¹⁹¹

16.24 Civil society organisations have highlighted the need for increased cultural awareness within NI schools and for history lessons taught in school to be representative of the school population.¹⁹²

16.25 What effective measures are being taken to improve the school attendance rates of Traveller and Roma children in NI?

16.26 What effective measures are being taken to ensure children from migrant families are adequately supported in schools in NI?

16.27 What effective measures are being taken to ensure cultural awareness within NI schools and that history lessons are representative of the school population?

Integrated education

16.28 The Committee previously recommended the promotion of a fully integrated education system in NI.¹⁹³

16.29 There are 62 integrated schools in NI and approximately 50 schools exploring the possibility of becoming integrated.¹⁹⁴ In

¹⁸⁹ NI Statistics and Research Agency, 'Irish Traveller and Roma Pupils in Education 2019/20' (DoE and NISRA, 2020)

¹⁹⁰ Department of Education and NISRA, 'Irish Traveller and Roma Pupils in Education 2019/20' (DoE and NISRA, 2020).

¹⁹¹ Department of Education, 'Newcomer Pupils 2001/02 to 2019/20' (DoE, 2020).

¹⁹² Roundtable with civil society organisations, 23 September 2020.

¹⁹³ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 72(e).

¹⁹⁴ NI Council for Integrated Education, 'Integrated Education On the Up: Impact Report 1 April 2019-31 March 2020' (NICIE, 2020), at 8.

September 2020, of 3,032 pupils who applied for an integrated school, 2,310 were offered a place.¹⁹⁵

16.30 What effective measures are being taken to ensure integrated education provision in NI meets demand?

Shared education

16.31 In June 2019, 61 per cent of NI's Primary, Post Primary, and Special schools were involved in shared education.¹⁹⁶

16.32 The Department of Education states that Brexit will have no impact on current funding.¹⁹⁷ However, EU Peace IV funding for Shared Education programmes is due to cease in June 2022.¹⁹⁸ Civil society organisations have expressed concerns as to how these programmes will be funded in the future.¹⁹⁹

16.33 What effective measures are being taken to ensure long-term, secure funding for shared education in NI?

17.0 Article 31 – Rest and Leisure

Travellers' accommodation

17.1 Safe children's play areas are lacking within Travellers' accommodation in NI.²⁰⁰

17.2 What effective measures are being taken to promptly ensure all Travellers' accommodation in NI has safe children's play areas?

¹⁹⁵ Ibid, at 7.

¹⁹⁶ Department of Education, 'Shared Education 2nd Report to the NI Assembly' (DoE, 2020), at para 3.19.

¹⁹⁷ Ibid, at para 3.19.

¹⁹⁸ Ibid, at para 6.3.

¹⁹⁹ Roundtable discussion with civil society organisations, 23 September 2020.

²⁰⁰ NI Human Rights Commission, 'Out of Sight Out of Mind: Travellers' Accommodation in NI' (NIHRC, 2018), at 106; NI Human Rights Commission, 'Implementation of Travellers' Accommodation Recommendations' (NIHRC, 2019), at 15.

18.0 Article 32 – Employment

Pathway programmes

18.1 In June and August 2020, the unemployment rate in NI was 3.7 per cent.²⁰¹ For 16 to 24 year olds, the unemployment rate doubled to 11.8 per cent.²⁰²

18.2 Independent research indicates that young workers in NI have been disproportionately impacted by COVID-19,²⁰³ including the significant cut back of pathway programmes such as internships, placements and work experience.²⁰⁴

18.3 What effective measures are being taken to ensure long-term and secure employment opportunities for young people that reflect their training and skills, particularly in the context of COVID-19?

19.0 Article 40 – Criminal Justice System

Age of criminal responsibility

19.1 Despite the Committee’s previous recommendations,²⁰⁵ the age of criminal responsibility remains at ten years old in NI, as in England and Wales. The Age of Criminal Responsibility (Scotland) Act 2019 raises the age of criminal responsibility in Scotland to 12 years old.

19.2 In 2011, a Department of Justice review concluded that “the minimum age should be increased to 12 forthwith and, following a period of review and preparation, perhaps to 14, which has some historical and current significance for criminal law in NI”.²⁰⁶

²⁰¹ NI Statistics and Research Agency, ‘NI Market Report – October 2020’, (NISRA, 2020), at 6.

²⁰² Ibid.

²⁰³ Mark Magill and Marguerite McPeake, ‘Labour Market Implications of COVID-19: How Have Restrictions on Work Impacted Different Types of Workers in NI?’ (Ulster University, 2020), at paras 30-31.

²⁰⁴ Ibid.

²⁰⁵ CRC/C/GBR/CO/5, ‘UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI’, 12 July 2016, at para 79.

²⁰⁶ Department of Justice, ‘A Review of the Youth Justice System in NI’ (DoJ, 2011), at 107.

19.3 The Minister of Justice, Naomi Long MLA, has been seeking the views of other NI Executive Ministers for the purposes of raising the age of criminal responsibility in NI, but concrete steps are still awaited.²⁰⁷

19.4 In September 2020, there were eight individuals under the age of 18 in custody in NI, with the youngest being 13 years old.²⁰⁸

19.5 What effective measures are being taken to introduce legislation in NI that raises the minimum age of criminal responsibility to 14 years old?

Remand of children

19.6 In 2019/2020, the total number of admissions to the Juvenile Justice Centre in NI was 298.²⁰⁹ Of these, 95 (31.9 per cent) were admitted to remand,²¹⁰ down from 35.9 per cent in 2015/2016.²¹¹

19.7 In 2019/2020, there were 416 movements within the Juvenile Justice Centre in NI, which included 190 (45.7 per cent) to remand.²¹² This included new admissions and internal change of status. The total average daily population in the Juvenile Justice Centre in NI was 17 children.²¹³ Of these, 11 (66.7 per cent) are children on remand.²¹⁴ There were total number of 6,177 custody days provided by the Juvenile Justice Centre in NI.²¹⁵ Of these 4,122 custody days (66.7 per cent) were attributed to children on remand.²¹⁶

19.8 In 2017, the Department of Justice committed to introducing a Children's Bill in 2020, which was to introduce a 'real prospects' test and the potential removal of the Juvenile Justice Centre as a Place of Safety.²¹⁷ The Children's Bill and the outlined additional

²⁰⁷ Allan Preston, 'Moves made to increase the age of criminality in NI'. *Belfast Telegraph*, 20 September 2020.

²⁰⁸ Ibid.

²⁰⁹ Analytical Services Group, 'NI Youth Justice Agency Annual Workload Statistics 2019/20' (DoJ, 2020), at 12.

²¹⁰ Ibid.

²¹¹ Ibid.

²¹² Ibid, at 18.

²¹³ Ibid.

²¹⁴ Ibid.

²¹⁵ Ibid, at 39.

²¹⁶ Ibid.

²¹⁷ Declan McGeown, 'Scoping Study Stakeholder Update' (DoJ, 2017).

measures are not due to be introduced until the new NI Assembly mandate in 2022.²¹⁸

19.9 The Justice (Miscellaneous Provisions) Bill is to be introduced to the NI Assembly in early 2021. It aims to “strengthen the right to bail for children, and introduce specific conditions which must be met before a child can be remanded into custody, with a view to ensuring that custody is used as a last resort”.²¹⁹

19.10 What effective measures are being taken to ensure that, now and while awaiting legislation, children are only held in pre-trial detention as a last resort and that suitable accommodation is provided within a reasonable time if released on bail, including a range of non-custodial accommodation arrangements for children awaiting trial who cannot return to their homes?

19.11 Cases involving children in care in NI are subject to particular delays in processing and release from the custody suite due to lack of provision of an appropriate adult from social services (for example, children’s home staff or an on-call social worker) or the lack of alternative accommodation (for example, bail fostering or secure care) until they could be accepted back to their original children’s homes.²²⁰ There have been a number of legal challenges in NI confirming that suitable accommodation must be provided within a reasonable time, which is to be determined on a case-by-case basis.²²¹ The Department of Justice intends to bring forward a Justice Bill in early 2021 to address these issues.²²² The Criminal Justice Inspection NI questions if this will be sufficient.²²³

19.12 What effective measures are being taken to ensure the proposed Justice Bill in NI is comprehensive in protecting

²¹⁸ Email correspondence between NI Human Rights Commission and Department of Justice, 20 July 2020.

²¹⁹ NI Assembly Hansard, ‘Written Question – Custody of Children – Naomi Long MLA – AQO 992/17-22’, 2 November 2020.

²²⁰ Criminal Justice Inspection NI, ‘Police Custody: The Detention of Persons in Police Custody in NI’ (CJINI, 2020), at 31-33.

²²¹ *MP’s (A Minor) Application* [2014] NIQB 52; *In the Matter of an Application by OC (A Minor) and LH (A Minor)* [2018] NIQB 34.

²²² NI Assembly Committee for Justice, ‘Evidence: Key Issues, Priorities and Legislative Programme – Minister of Justice, Naomi Long MLA’, 27 February 2020.

²²³ Criminal Justice Inspection NI, ‘Police Custody: The Detention of Persons in Police Custody in NI’ (CJINI, 2020), at 31-33.

children in care in NI from delays in being released from custody to suitable accommodation?

Regional Care and Justice Campus

19.13 In 2018, the Departments of Health and Justice published a review of regional specialist facilities for children and young people in NI that recommended the establishment of a new Integrated Regional Care and Justice Campus for NI.²²⁴ In October 2020, a public consultation was conducted on the proposed plans.²²⁵

19.14 What effective measures are in place to ensure that the proposed Integrated Regional Care and Justice Campus for NI is developed and implemented with the best interests of the child as the primary consideration and that it does not result in the criminalisation of children?

20.0 Article 34 – Sexual Exploitation

Child sexual exploitation

- 20.1 The Committee recommended to shift the burden of proof from the prosecution to the perpetrator for specific sexual offences against children between 13 and 16 years of age.²²⁶
- 20.2 In NI, the burden remains on the prosecution to prove that a purchaser did not reasonably believe a child paid for sexual services was an adult.²²⁷
- 20.3 In 2018/2019, of 3,547 sexual offences recorded in NI, 2,041 were against children.²²⁸ Additionally, there were 452 obscene publications and protected sexual material offences recorded

²²⁴ Health and Social Care Board, 'Review of Regional Facilities for Children and Young People: Review Report' (HSCB, 2019), at 100.

²²⁵ Department of Health and Department of Justice, 'Consultation on Establishment of a Regional Care and Justice Campus' (DoH and DoJ, 2020).

²²⁶ CRC/C/OPSC/GBR/CO/1, 'UN CRC Committee Concluding Observations on the Report Submitted by the UK of Great Britain and NI under Article 12, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography', 8 July 2014, at para 29.

²²⁷ Article 37, Sexual Offences (NI) Order 2008.

²²⁸ Police Service NI, 'Trends in Police Reported Crime in NI 1988/99 to 2018/19' (PSNI, 2019), at Tables 2.2 and 7.3.

against children in NI.²²⁹ The number of victims were under 16 at the time of the offence was committed more than doubled between 2007/2008 and 2018/2019. This may be influenced by 'sexting'.²³⁰

20.4 Girls represented 83 per cent of all victims under 18 in 2007/2008 and 71 per cent in 2018/2019.²³¹

20.5 Outcome rates are poor for sexual offence crimes in general in NI. Of 3,547 sexual offences recorded in NI, 491 resulted in a charge or summons and only four resulted in a direction of prosecution.²³²

20.6 In 2020, the Criminal Justice Inspection NI found in the context of child sexual exploitation that "where cases did progress to court, support for children was required".²³³ The Barnahus (children's house) model was proposed as the preferred approach.²³⁴

20.7 What effective measures are being taken to shift the burden of proof from the prosecution to the purchaser of sexual services to prove that they did not reasonably believe a child paid for sexual services was an adult?

20.8 What effective measures are being taken to improve prosecution rates for sexual offence cases involving child victims in NI?

20.9 What effective measures are being taken to improve support for children at all stages of the criminal justice system in NI, including adopting the Barnahus approach?

Child marriage

20.10 The Marriage (NI) Order 2003 permits the marriage of a child aged 16 or 17 years, with the consent of their parents or legal guardians or the courts. In 2019, 69 children were married in NI (54 girls and

²²⁹ Ibid, at Table 7.4.

²³⁰ Ibid, at 33.

²³¹ Ibid, at 33.

²³² Ibid, at Table 8.1.

²³³ Criminal Justice Inspection NI, 'Child Sexual Exploitation in NI: An Inspection of the Criminal Justice System's Response' (CJINI, 2020), at 80.

²³⁴ Ibid.

14 boys) were married in NI.²³⁵ This is 20 more children than in 2018 (35 girls and 14 boys).²³⁶

20.11 What effective measures are being taken to increase the minimum age for marriage in NI to 18 years old?

21.0 Optional Protocol – Armed Conflict

21.1 The Committee recommended that the minimum age of recruitment into the armed forces is raised to 18 years.²³⁷

21.2 The UK continues to be the only country in Europe that routinely recruits 16 and 17 year olds into the armed forces. In 2019, the British Medical Journal highlighted that such recruitment adversely affects the child's mental and physical health.²³⁸

21.3 What effective measures are being taken to raise the minimum age of recruitment to the Armed Forces in NI to 18 years old?

²³⁵ Statistics provided to NI Human Rights Commission by NI Statistics and Research Agency, 14 August 2020.

²³⁶ Statistics provided to NI Human Rights Commission by NI Statistics and Research Agency, 8 November 2019.

²³⁷ CRC/C/GBR/CO/5, 'UN Committee on the Rights of the Child Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 12 July 2016, at para 84.

²³⁸ British Medical Journal, 'Stop recruiting children, UK Armed Forces urged', 25 February 2019.

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