



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Response to Northern Ireland Prison Service
Consultation on Child Protection Policies**

1. The Northern Ireland Human Rights Commission (the Commission) is a statutory body created by the Northern Ireland Act 1998. It has a range of functions including reviewing the adequacy and effectiveness of Northern Ireland law and practice relating to the protection of human rights,¹ advising on legislative and other measures which ought to be taken to protect human rights,² advising on whether a Bill is compatible with human rights³ and promoting understanding and awareness of the importance of human rights in Northern Ireland.⁴ In all of that work the Commission bases its positions on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), other treaty obligations in the Council of Europe and United Nations systems, and the non-binding 'soft law' standards developed by the human rights bodies.
2. The Commission welcomes the initiative to consult on policies relating to child protection in prisons in Northern Ireland, and the incorporation of a human rights assessment of each policy.

General comments

3. The Commission notes that the Human Rights Assessments accompanying the draft policies are limited to a discussion of the interference with the right to respect for private and family life (Article 8 of the European Convention on Human Rights). The

¹ Northern Ireland Act 1998, s.69(1).

² *Ibid.*, s.69(3).

³ *Ibid.*, s.69(4).

⁴ *Ibid.*, s.69(6).

Commission submits that the assessments should identify all of the rights engaged by the policies, as well as those potentially interfered with. Articles 2 and 3 of the European Convention on Human Rights are especially engaged in relation to child protection and the analysis of the potential impact of the policies on the protection of those rights should be discussed.

4. The Assessments should also look at a much broader range of international instruments, especially the UN Convention on the Rights of the Child, the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), and the new European Prison Rules.
5. The appointment of a human rights advisor by the Northern Ireland Prison Service is a particularly positive step, and we would recommend that this role should be focused on the protection of rights rather than a minimalist 'litigation avoidance' approach.

Equality Impact Assessments

6. The Commission does not accept that there is no adverse impact from each of these policies on section 75 groups, especially girls.
7. The Criminal Justice Inspectorate has concluded that Ash House is not an acceptable setting for children and this clearly has implications for child protection policies and practices. The particular situation of girls, children with disabilities, gay and lesbian children, and children from ethnic minorities (including Traveller children) should be explored. It is clear also that resources are a factor detracting from the implementation of an effective child protection policy, for example in relation to transporting male and female detainees together. The implications of such resource issues should be considered within the equality impact assessments.
8. The Commission notes that a large number of organisations have been consulted on the draft policies. We trust that there will be confirmation that children and young people directly affected by the policies were consulted appropriately.

Detailed comments on policies

- (a) Child protection policy and procedures: Hydebank Wood Prison and Young Offenders Centre**

9. The international standards oppose to the imprisonment of children under the age of 18. Children under 18 who are remanded or sentenced to custody should be held in Youth Justice Agency establishments such as the Juvenile Justice Centre.
10. The UN Convention on the Rights of the Child (UN CRC) defines all persons under 18 years old as children. The reference in paragraph 1.1 of the draft policy to under-18s being children "for the purposes of this policy" should be deleted and replaced by reference to the UN CRC.
11. The policy refers generically to children in prison – male and female – only referring on a few brief occasions to girls detained in Hydebank Wood Prison. There needs to be a discrete gender-specific child protection policy for girls in Hydebank Wood.
12. Children should not be detained with adults (United Nations Standard Minimum Rules for the Administration of Juvenile Justice, Rule 26). Neither should children be transported with adults. It is unacceptable that the Northern Ireland Prison Service cannot give a commitment that international standards will be respected in this regard (see paras 1.4-1.6 of draft policy).
13. Particular issues arise from the sharing of a site between the Young Offenders Centre and the women's prison at Hydebank Wood. These issues should be specifically addressed in the policy until such time as a discrete women's prison is provided.
14. The Commission has already made comments on the Mother and Baby policy (see para 1.7 of draft policy and our submission of October 2006, available at www.nihrc.org).
15. The Commission welcomes the attempt to ensure that the child protection policy is consistent with DHSSPS inter-agency child protection guidance (para 1.9). The involvement of the advocacy service is also welcome (1.14).
16. Bullying can, as acknowledged, be a child protection issue and it is important that patterns of bullying are monitored and that any child protection issues are drawn out (para 2.3).

17. Consideration should be given to the criteria for referring allegations to Social Services by the child protection coordinator. At para 4.14 the word 'should' be replaced by 'must' to ensure that the child protection coordinator gets advice where there is any doubt about whether an issue should be referred.
18. Reference to 'inmate' is an inappropriate language to use with regard to children, especially in a child protection policy.
19. We welcome the fact that the Director General will report on the learning from the child protection cases (4.19) and that the files can be inspected by the Criminal Justice Inspectorate.
20. It is right that children with disabilities and other vulnerable children should be given additional support to express concerns they may have. Effective implementation of such commitment will require resources and staff training. The Commission also welcomes the intention to provide a child protection leaflet, advocacy services and access to Child Line.
21. The issue of children who display sexually harmful behaviour needs to be addressed in a separate policy.
22. The draft policy provides an inadequate response to the issue of 'inappropriate sexual relations' between young people (at para 8.6). It is a reality that relationships between young people may develop in custody. The Prison Service must develop a more sophisticated child rights-based approach to this.
23. More generally, significant issues relating to child protection arise from the fact that the health centre is shared in Hydebank Wood by boys and girls. The Commission has long argued that a discreet healthcare centre is needed for women and girls and we would like to reiterate this point here.
24. Lastly, there is a need for further examination of associated child protection issues, for example the strip searching of children, many of whom have been abused, and the use of the Special Supervision Unit for vulnerable children.

(b) Child protection policy and procedures for children visiting prison establishments in Northern Ireland (April 2007)

25. The Commission welcomes the policy and the fact that it is developed in cooperation with NIACRO and the Ulster Quaker Service.
26. The policy should refer to the UN Convention on the Rights of the Child at the outset regarding the definition of children as all under-18 year olds.
27. We want to take this opportunity to stress again that the Commission does not consider it appropriate that girl prisoners share visits with young male prisoners at Hydebank Wood.
28. Parents in prison have raised with the Commission the difficulties in supervising their children with behavioural problems, for example children with ADHD or those with Autistic Spectrum Disorders (ASD). Staff should be trained and alert to these issues (para 2.5 of the draft policy refers).

(c) Child protection and procedures for managing visits to, and communication with, those prisoners who present a risk to children

29. The Commission welcomes the policy and the fact that it has been developed in conjunction with Social Services. We welcome increased staff training (para 2.2) and the role of child protection committees in each establishment.
30. It is important to be aware that prisoners who have been refused contact with their children may be particularly vulnerable to self-harm and suicide. Measures should be taken to ensure that these prisoners are appropriately cared for.
31. We would welcome more attention to getting the child's views on possible contact.

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