

NICCY

northern ireland commissioner
for children and young people

in association with



Queen's University
Belfast



A boy not getting a say in a
Conversation.

CHILDREN'S RIGHTS IN NORTHERN IRELAND

"I hope you can do something but if not, it's okay. But remember, I know we're just kids but we live in this world too. And if we don't say anything about it, who will?" (Girl, aged 10)

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LIST OF ABBREVIATIONS

ACPO	Association of Chief Police Officers
CAMHS	Child and Adolescent Mental Health Services
CCEA	The Council for the Curriculum, Examinations and Assessment
CCMS	Council For Catholic Maintained Schools
CCNI	Child Care Northern Ireland now CiNI - Children in Northern Ireland
CESI	Centre for Economic and Social Inclusion
CJCO	Criminal Justice (Children) NI Order
CLC	Children's Law Centre
CO	Children (NI) Order 1995
COAC	Children Order Advisory Committee
CRC	United Nations Convention on the Rights of the Child
CRDU	Children's Rights Development Unit
CYPU	Children and Young Person's Unit
DARD	Department of Agriculture and Development
DE	Department of Education
DCAL	Department of Culture, Arts and Leisure
DEL	Department for Employment & Learning
DFES	Department for Education and Skills
DHSSPS	Department of Health, Social Service and Public Safety
DOCPEG	Designated Officers for Child Protection in Education Group
DSD	Department of Social Development
ECHR	European Convention on Human Rights
EHSSB	Eastern Health and Social Service Board
ELB	Education and Library Board
EPF	Executive Programme Fund
ETI	Education and Training Inspectorate
EWO	Educational Welfare Officers
FPA	Family Planning Association Northern Ireland
HSSB	Health and Social Service Boards
HSST	Health and Social Service Trust
ICESCR	The International Covenant on Economic, Cultural and Social Rights
ILO	International Labour Organisation
IY Include Youth	
JJC	Juvenile Justice Centre
NHSSB	Northern Health and Social Services Board
NICEM	Northern Ireland Council for Ethnic Minorities
NICIE	Northern Ireland Council for Integrated Education
NICCY	Northern Ireland Commissioner for Children and Young People
NIGALA	The Northern Ireland Guardian Ad Litem Agency
NIHE	Northern Ireland Housing Executive
NIHRC	Northern Ireland Human Rights Commission
NIO	Northern Ireland Office
NIPPA	NI Pre-School Play Group Association
NISRA	Northern Ireland Statistics and Research Agency
NSPCC	National Society for the Prevention of Cruelty to Children
OFMDFM	Office of the First Minister and Deputy First Minister
PAC	Parents Advice Centre

PACE	Police and Criminal Evidence (NI) Order 1989
PACT	Parents and Children Together
PECS	Pre Employment Consultancy Service
PSE NI	Poverty and Social Exclusion Survey for Northern Ireland
PSNI	Police Service Northern Ireland
RUC	Royal Ulster Constabulary
SC	Save the Children
SENT	Special Educational Needs Tribunal
SENAC	Special Educational Needs Advice Centre
SEND O	Special Educational Needs and Disability Order
SHSSB	Southern Health and Social Services Board
SSI	Social Services Inspectorate
UDHR	Universal Declaration on Human Rights
VOYPIC	Voice of Young People in Care
WELB	Western Education and Library Board
YCS	Youth Conferencing Service
YJA	Youth Justice Agency
YOC	Young Offenders' Centre

GLOSSARY OF TERMS

AEP	Alternative Education Provision
ASBO	Anti-Social Behaviour Order
ASD	Autistic Spectrum Disorder
CSP	Children Services Planning
EBD	Emotional and Behavioural Difficulties
EOTAS	Education Other Than At School
EMU	Education for Mutual Understanding
EQIA	Equality Impact Assessment
FE	Further Education
GUM	Genitourinary medicine clinics
GMI	Grant Maintained Integrated
IDG	Inter-Departmental Groups
JEDI	Joined in Equity, Diversity and Interdependence
KS1	Key Stage 1
KS2	Key Stage 2
KS3	Key Stage 3
KS4	Key Stage 4
LAC	Looked After Children
LGBT	Lesbian, Gay, Bi Sexual and Transgendered
MASRAM	Multi Agency Sex Offences Risk Assessment and Management
MLD	Moderate Learning Difficulties
NGO	Non-Government Organisation
PEPs	Personal Education Plans
PSI	Promoting Social Inclusion
SEN	Special Educational Needs
SLD	Severe Learning Difficulty
STIs	Sexually transmitted infections
TSN	Targeting Social Need
YWS	Youth Work Strategy

INTRODUCTION

The objective of this research, set by the Northern Ireland Commissioner for Children and Young People, is to highlight the gaps, problems and difficulties in the protection, promotion and implementation of children's rights in Northern Ireland. In identifying the areas where children's rights are underplayed or ignored, it aims to inform the Commissioner's understanding of the state of children's rights in Northern Ireland in 2004 and to assist his Office in the setting of priorities in the fulfilment of his statutory mandate to protect and promote the rights of children and young people in Northern Ireland. It is anticipated that the report will also inform the debate around the consultation on the Commissioner's priorities. While the research is an ambitious attempt to present a critical analysis of the extent to which children's rights are currently respected in the law, policy and practice of Northern Ireland, it was unfortunately outside its remit to identify the many examples where, as the research discovered, good work is taking place and models of best practice in the protection and promotion of children's rights are being used. Nevertheless, from the outset, the research team stressed its commitment to carrying out within a limited time scale the most comprehensive audit possible of the current state of children's rights in Northern Ireland

BACKGROUND TO THE RESEARCH

It is important to put this research into its current context within developments in children's rights in Northern Ireland. Two significant developments preceded the research - the establishment of the office of the Commissioner for Children and Young People and the decision to draft a strategy for children and young people.

The announcement of their intentions to bring forward proposals to establish an independent Commissioner for Children in Northern Ireland was made by the First Minister and Deputy First Minister on 29 January 2001. According to the First Minister: *"if there is one area on which there is common ground amongst all parties in the Assembly, it is surely our common desire for a better, more secure future for all our children"*¹.

Having decided that this was an area of high priority for the Assembly, and a matter of concern for many, the First Minister acknowledged that a means to achieving this objective was to follow best practice elsewhere and establish an independent Commissioner for Children for Northern Ireland. According to the Deputy First Minister, the Commissioner would act as the children's champion, making sure that the voices of children, so often marginalised and ignored, would be heard. Moreover, the Deputy First Minister went on to acknowledge that having a Commissioner alone would not be enough and that *"to be truly effective, the establishment of a Commissioner for Children needs to be part of an overall strategy to address children's rights and needs"* (ibid.). Thus, while within the strategy the Commissioner will act as an independent champion for children, *"other elements of the strategy will be needed to ensure a joined up approach to children's matters within Government and the Assembly; to give children and young people themselves a strong voice, and to ensure that legislation and policy continue to be shaped by research and best practice"* (ibid.).

[Northern Ireland Commissioner for Children and Young People](#)

Following these historic statements to the Assembly, a Children and Young People's Unit (CYPU) was established within OFMDFM to implement the commitments of the First Minister and Deputy First Minister. The consultation process for establishing an office of Commissioner for Children

and Young People began with the publication of a consultation paper in September 2001. Following a period of consultation with the children's sector, and with children and young people, the Commissioner for Children and Young People Bill was laid before Parliament on 19 December 2002, finally receiving Royal Assent on 27 February 2003. Nigel Williams was appointed as Northern Ireland's first Commissioner for Children and Young People in June 2003, following an interview process in which young people played a key role. He took up office on 1 October 2003.

In accordance with the legislation the Commissioner's principal aim is "to safeguard and promote the rights and best interests of children and young persons" defined as those under 18 or those with a disability or leaving care up to the age of 21. The Commissioner's Office is independent of Government, but the Commissioner must report to the Assembly and Parliament about his work and how the budget is spent. While detailed powers are set out in the legislation, the Commissioner emphasises three main areas of work:

- Promoting children's rights - the Commissioner will be guided by the UN Convention on the Rights of the Child (CRC).
- Complaints and legal action - the Commissioner can deal with individual complaints from children and young people or their parents/guardians about any government service that impacts on children for whom he has responsibility. Where appropriate, the Commissioner can initiate legal proceedings on behalf of a child or young person if a general principle is at stake.
- Research and inquiries - the Commissioner has the power to undertake general inquiries where he believes children's rights are being violated. This may be an informal inquiry or more formal with the powers of the High Court to summons witnesses, obtain documents and enter premises. He can also respond to requests from the Assembly and Parliament to look at issues and is required to review the ways that those providing services for children listen to complaints and take account of children's views.

Research on Children's Rights

The Commissioner has made a commitment to be guided in his work and its priorities by thorough research. To this end, on 1 October 2003, the Commissioner announced his plans for a major study of the state of children's rights and welfare in Northern Ireland in order to find out:

- whether there are particular issues or fields of activity where children's rights are being ignored or underplayed;
- whether there are parts of Northern Ireland where children are especially undervalued or underserved;
- how Northern Ireland compares on issues with both the rest of the UK and elsewhere in Europe.

This report is the product of that research.

Strategy for Children and Young People

The second commitment made by the First Minister and Deputy First Minister in January 2001 was to develop a comprehensive strategy on children and young people in Northern Ireland with a view to securing greater implementation of the CRC and putting in place mechanisms to ensure a more integrated approach to children's rights issues. However, progress on the strategy, which

is being developed by a high level inter-departmental steering group, has been relatively slow to date. A preliminary stage - the Future Search Event - took place in Belfast in November 2002 and a Working Paper on the Emerging Strategy was published for consultation in October 2003. The process of consulting on the draft strategy has not yet been fully completed.

An NGO forum was convened for the duration of the consultation exercises on the children's commissioner and the children's strategy to represent the views of children's organisations throughout Northern Ireland, and to act as a conduit of information both to and from the wider children's sector in Northern Ireland. It also served to provide advice to OFMDFM on the role and remit of a Children's Commissioner and the children's strategy and to advise on appropriate mechanisms for involving children and young people. The Young People's Advisory Forum was also established to help in the consultation and appointment process for the Commissioner for Children and Young People and to develop proposals for the strategy. The group, consisting of 25 young people aged between 12 and 18, was set up in October 2002, with membership expiring in June 2004. Currently, the Forum is being reconstituted for the next phase of the strategy's development.

Other Developments

While the establishment of the Office of Commissioner for Children and Young People and the drafting of the children's strategy are the two principal developments to take place in Northern Ireland in the area of children's rights, other work has been ongoing which has an impact on children's rights. In particular, developments flowing from the Belfast Agreement - the adoption of the statutory equality duty under S. 75 of the Northern Ireland Act 1988 and the drafting of the Bill of Rights by the NI Human Rights Commission which itself shares a remit with the Children's Commissioner - have potential to enhance the level of protection of children's rights in Northern Ireland. The equality duty, administered by the Equality Commission, has the capacity to promote the duty to consult with children and young people. In particular, it requires the public sector to carry out equality impact assessments of its policies in order to determine who among the nine categories (including 'age') is adversely affected and must therefore be consulted as part of this process. Moreover, a Bill of Rights which gives comprehensive, detailed and enforceable protection to children's rights could lead directly to higher standards of treatment for children who have suffered disproportionately during Northern Ireland's violent past.

METHODOLOGY

For the research to be as inclusive as possible, we collected information from community organisations, and sought the views of representatives (those who spoke on behalf of children's organisations) and front line workers from a range of organisations in the NGO and statutory sector. We also invited children and young people from across Northern Ireland to participate in the research. The overarching aim was to gather information relating to children's lives and particular areas in which their rights might be underplayed with regards to the home environment and alternative care, the community in which they live, health, welfare and material deprivation, education, play and leisure and youth justice and policing. More general issues regarding children having a say in decisions that affect their lives were explored in all of these categories and often separately when discussing issues around implementing a children's rights approach. The overall aim was to collect comparable information across various groups using a variety of appropriate techniques of data collection.

THE SAMPLE

Policy Makers, Professionals and Volunteers

The views of over 350 policy makers, professionals, practitioners and volunteers representing a range of child, youth and related organisations and agencies throughout Northern Ireland were generated through focus groups and one-to-one interviews. While we invited a wide range of people to be involved in the research through sending letters and e-mails of invitation to partake in focus group interviews, individual interviews or written submissions, not everyone responded. A full list of agencies and organisations whose views are represented in the report is listed in Appendix 2.

In order to maintain anonymity, most comments used in the research have been referenced as, for example, “an NGO worker said...” or “an NGO representative remarked...” or “an Educational Welfare Officer commented ...” etc. In many cases this was because most of the data was obtained through focus group interviews where it was not always possible to attribute quotations to individual persons. The level of detail used to describe professionals, however, varies throughout the report in accordance with what was necessary to protect anonymity. For example ‘legal professional’ can refer to a barrister, solicitor or a judge. In some instances where there is only one organisation working in a particular area, the organisation is identified by name. In such cases, permission was obtained to cite this source.

School Children

Research and consultation with children often focuses on either those who are perceived as most vulnerable or those who are in well-established youth organisations and are used to offering and articulating their views. It was important, therefore, to ensure that the views of children in a variety of schools across Northern Ireland were represented. In total, 1064 school children from 27 schools drawn from the five Education and Library Boards (ELBs) contributed to this research through drawing pictures, writing stories, designing posters or undertaking tasks which were appropriate to their level of understanding. This included children in mainstream schools, special schools and Irish medium schools. A breakdown of the schools sample in terms of techniques of data collection, gender, age, school type, religion and location is provided in Table 1, Appendix 1b.

Children Accessed outside Schools

On the basis that not all children are in mainstream education and given that those within mainstream education may, for various reasons, be unwilling to disclose sensitive information about their lives, children and young people were also accessed through a variety of other means. We conducted focus group interviews with 107 children and young people from various youth and community groups across Northern Ireland. A breakdown of the groups accessed is provided in Appendix 2.

ETHICS

Policy Makers, Professionals and Volunteers

All research participants were informed of the aims of the research, both verbally and in terms of an information leaflet, and advised that any quotes or points they raised in the course of our discussions would be anonymous in the report and any other publications/presentations of the research. Full consent was gained to take notes and/or tape-record interviews.

School Children

In accordance with child protection and research guidance, all those involved in data collection with children and young people under went a PECS check. Similarly, in accordance with usual school and research practice, consent to take part in the research was sought and gained from parents/guardians (see Appendix 1a). Irrespective of parental consent, all children were advised that they were under no obligation to take part in the research and that they were free to change their mind regarding participation at any point during the process of data collection. Children were informed that what they told us through pictures, posters, stories and discussion groups etc. would inform the Commissioner's priorities about the areas and issues of children's lives that he should work on. They were told that some quotes from their stories and some drawings and posters would be used in the final report to the Commissioner and in other ways, and that the Commissioner might also choose to display some of this information in his offices. It was made very clear that all names and other possible identifying features would be removed from the material used in this way. To emphasise this point we asked children to choose a pseudonym for themselves (gender appropriate) and to write this and their age on the back of their picture, poster or story².

Time was taken at the beginning of each exercise to explain in appropriate language and through the use of examples that any information given would be dealt with in a confidential manner. Additionally, the circumstances under which we might have to share some information with someone else were clearly explained (i.e. concerns about safety of children - child protection issues). For older children, an information leaflet in the form of a comic strip produced by Barnardo's explaining anonymity and confidentiality was given to all children to read before any task began.

Whilst explaining the aims of the research, time was taken to explain the issues of consent, confidentiality and anonymity. We checked with children that they fully understood these procedures before beginning data collection, and they were encouraged to raise questions at any point throughout the process of data collection. This ensured that consent was informed and ongoing.

Children Accessed outside Schools

All children and young people accessed outside the formal school setting gave consent to take part in the research themselves. Having said this, due to the young age of some of the children in the Portuguese and Travelling communities, parental consent forms were sent to the organisations through which we accessed these children. Consent from these children was also sought following the same process as that with children in the school setting. Children and young people who took part in focus group discussions gave their consent for these to be tape recorded and the research aims, consent, confidentiality and anonymity procedures were explained in the same manner as outlined above.

In keeping with a children's rights approach, all children who took part in the research were given a leaflet³ which outlined their key rights under the CRC and contained the web address of the Northern Ireland Commissioner for Children and Young People. A number of teachers also expressed an interest in the research and agreed that they would explore the issue of children's rights further in class time and assist the children in accessing the website.

2 Not all children complied with this and wrote real names or no name at all. This was particularly true of the poster task when the group was made up of both boys and girls. This has resulted in the use of a code called 'mixed gender group'.
3 This flyer was downloaded from the NICCY website.

TECHNIQUES OF DATA COLLECTION

Policy Makers, Professionals and Volunteers

The majority of interviews and focus groups conducted with policy makers, professionals, practitioners and volunteers used a general interview schedule (see Appendix 3). This particular schedule asked respondents to highlight examples of issues where children's rights were underplayed and ignored in relation to the six main themes of the research. Where specific information was sought on one particular theme, the interview schedule was tailored to probe the expertise of the respondent. All who took part were also asked for copies of relevant reports and data and for further contacts. Where possible and where consent was given, interviews were tape recorded and transcribed, otherwise detailed notes were taken. Focus group and individual interviews lasted between one and two hours.

Consulting with Children and Young People

As consultation with children and young people was a key aspect of the research, appropriate methods which allowed children to express their views in keeping with their age and ability were designed, piloted and employed.

Pilot Exercise with School Children

The aim was to make the process of contributing to the research interesting, engaging and fun for all children involved. In order that this was achieved and that all children understood what was being asked of them, methods were piloted in two schools located in a working class and middle class area respectively. Two hundred and forty three children aged between five and 11 years participated in the pilot study.

This exercise revealed that children were able to express their views through our chosen methods but that some class discussion was necessary before beginning the task. This discussion was centred around the themes of the research which included things children considered unfair about school, about living in a family, about their area/community and about the play and leisure facilities in their neighbourhood. Children were also asked about decisions they would like to have a greater say in and about the words and images that came to mind when they heard the words 'crime' and 'police'. The ideas generated from this discussion were written on the blackboard/whiteboard as examples of the types of issues that children could raise in their submissions to the research. This exercise proved extremely useful in providing children with a clear idea of examples which they could raise in their submission to the research. However, it became apparent that these points should be wiped from the blackboard/whiteboard before the task began as there was the risk that children would simply copy what was in front of them, rather than choosing what issue/s were most important to them.

This process also revealed that the best method was to let children choose the way in which they wanted to convey their views. While we were aware that not all children would be comfortable writing stories and may prefer to draw pictures, we found that the opposite was also true, that some children preferred to write rather than to draw. The exercise also ironed out small issues regarding the use of child friendly language and examples, and as a result the final methods were refined in accordance with the lessons learned from this exercise. A number of techniques were used to collect the data and are summarised below.

Individual Drawings

Individual drawings were used primarily with younger children (i.e. those aged between five and seven years who were in Key Stage 1), although children from other age groups opted for this method. In total, 154 children expressed their views through pictures. After a class discussion on what children considered to be unfair in regards to the research themes (i.e. schools, home life, their community, play/leisure and/or views of crime and policing), pupils were asked to draw a picture highlighting the one issue they would like the Commissioner to address. To assist with the interpretation of children's drawing, all pupils were asked to write in their own words, what their drawing depicted. Where children had difficulty doing this, one of the researchers asked them to describe their picture and their comments were written verbatim.

Stories

Stories were used across all age groups but were offered primarily as a method to those at Key Stage 2 (i.e. children aged between 8 and 11 years) and above. Pupils were advised that spelling and grammar were not an issue and they were encouraged to write their own views in their own words. It was made very clear that this was not a test and that there was no right or wrong answer, and children were free to write about as many issues as they wanted. Story-writing was particularly useful in that it allowed children the option to write about personal issues that they perhaps could not express in pictures or would not feel comfortable sharing in a group setting. Additionally, this medium is particularly familiar to primary school aged children and has been found to be an appropriate and useful method of data collection (Leonard, 2004). A total of 388 stories were collected with all extracts from stories being presented in children's own words and language (verbatim).

Group Posters

Poster were more likely to be drawn by children in Key Stage 3 (i.e. those aged between 12 and 14 years) and Key Stage 4 (i.e. those aged between 15 and 16 years). The poster task was a little different to the other techniques of data collection in that it was undertaken in groups (of at least 4 students) and the poster was on a particular topic (i.e. either school, home, crime/policing, community, play/leisure). Tasks were written on colour-coded cards and a representative from each group randomly chose a colour. In this respect, then, children were not wholly free to discuss whatever they wanted but were limited to a certain category. This technique was adopted to ensure that information was gathered across all of the research themes. Similar task cards, using age appropriate forms of wording were used for primary and post-primary school children while gaining information on the same issues (as displayed in Appendix 1).

Posters were the chosen method of the majority of the children, particularly older children in primary schools and children in post-primary schools. It was suggested that they discuss what was to go into their poster as a group in order that the views of everyone were represented. It was also requested that any pictures drawn be supported with written text.

Although teachers were often present during data collection, as this was the policy of many schools, in the main they left the researchers to undertake data collection freely. On occasions, however, children preferred to ask their teachers questions, spelling or to write on their picture for them. With regards to children in Irish Medium schools, all of the techniques were translated into Irish and data collection was undertaken by a fluent Irish speaker. All collected data was translated back into English for the purpose of analysis but is presented in both English and Irish

in the report. The same data collection technique was used with Portuguese children and their views are presented in both Portuguese and English in the report.

Children with Moderate Learning Disabilities (MLD)

Teachers in Special Schools provided an invaluable source of guidance in terms of designing methods which allowed children to express their views freely. Much time was taken before the commencement of data collection to discuss methods and the wording of tasks with teachers and it was suggested by one school that we meet, interact and engage with the children before data collection commenced. This helped to introduce us to the children, establish some level of rapport and prepared them for our later visits to work with them on the research.

It was decided that children aged between 7 and 13 years would draw pictures (a favoured technique of data collection among those with Special Educational Needs) and children between the ages of 14 and 16 years would design posters. On the advice of teachers, and in light of research evidence suggesting that children with MLD often have difficulties “retaining and applying previous learning” (Costley, 2000: 164), it was also decided that anything written on the board during the discussion stage would be left there in order to help with spelling and to remind the group of the sorts of issues they might want to include.

The wording, font and layout of the poster tasks were amended while still gathering the same information (see Appendix 1). To encourage children to write on posters and pictures themselves and in their own words, blank squares of paper were given out and if a child wanted a word/phrase spelt a teacher or researcher would write it for them and they would then copy this on to their picture/poster.

Children with Severe Learning Difficulties (SLD)

As some children with Severe Learning Difficulties cannot always communicate through speech and may also have mobility problems, methods which both engaged these children and allowed them to express their views were adopted. As Butler et al. (2003: 25) state, “the child’s right [to be heard] is not dependent on his or her ability to express views, but to form them” (original emphasis), and it is the researcher’s duty to develop methods which enable all children to express their views. The research team visited the school in advance of the exercise to design a collection tool. This meant that there was ample opportunity to meet most of the children who would be involved in the task on a number of occasions. Again, this aided in establishing rapport and a level of trust and understanding with these children, but it also allowed us to gauge, to some extent, the child’s ‘communication capabilities’ (Detheridge, 2000), which was imperative to the designing of appropriate techniques of data collection.

Again the support and advice of teachers was invaluable in helping devise such methods. For the children aged between 8 and 14 years a game was devised. First, a series of pictures representing key issues under each of the themes was created using a specially designed computer package within the schools, with which all of these children were familiar. The key issues were based on a preliminary analysis of the schools data. The children then sorted the pictures according to what they thought were fair and unfair and those that they thought unfair were posted into Dusty Bin (a brightly coloured plastic bin with a smiley face and stickers). A free option was also included so that they could add anything else they wished. The task took place in small groups with a teacher and at least two researchers present as children often needed one-to-one guidance. Prior to commencing the sorting of the pictures, the researchers talked the children through what they understood by the words ‘fair’ and ‘unfair’ and ensured that they

understood the task in hand (details of the method may be found in Appendix 1c).

The teachers advised that the older children with Severe Learning Disabilities were keen to discuss the issues in a group setting and so we carried out a number of discussion groups with those aged between 17 and 19 years. Again, previous research suggests that groups discussions and interviews are an appropriate method to collect information from those with learning difficulties as they often find it easy to relax in the company of those they know and 'have the support of friends who would encourage each other to take part and to discuss issues' (Costley, 2000: 166). We found this to be true of our own experiences in that some young people would help others articulate their views and encourage them to open up. All of the young people involved in the discussion groups were capable of expressing their views verbally but rather than holding a focus group we decided to use a more interactive approach using flip charts and coloured pens to write their views as they told them to us. For practical and ethical reasons, it was decided not to ask for the consent to tape-record these discussions. We had not met these young people prior to the day of data collection and felt that, as strangers, to arrive with tape-recorders may be off-putting and intrusive.

Children who participated in the research outside school

Submissions from children accessed outside the school setting were collected using a variety of techniques, including hiring art facilitators who worked with young children helping them to express their views through drawings and photographs and conducting focus group interviews.

Primary research was also conducted with more vulnerable groups of children and young people depending on the extent to which the group was under-researched and on the basis of whether access could be obtained. In some cases, however, a decision was taken not to interview certain groups of children due to time restrictions, difficulties in gaining access, the need to establish rapport, the sensitive nature of the research and/or because recent good quality research had been published on a particular group and some had been 'over researched' or were suffering from 'research fatigue' during our period of data collection. For these reasons, other vulnerable groups were not approached on the basis that it may not be in the best interests of the child and doing so could possibly jeopardise further in-depth research with this particular group of children/young people. The primary techniques of data collection used with more vulnerable groups were tape-recorded focus group interviews.

With regards to focus group discussions, these ranged in size from two to 12 participants, usually with two researchers present. Although normal practice is to keep numbers to a maximum of eight when working with teenagers, on a number of occasions more young people than anticipated turned up and we felt it inappropriate to turn young people away. Prior arrangements (e.g. room bookings, tape-recorders etc.) also meant that it was often not possible to divide the group and carry out two separate focus group discussions. Focus group interviews lasted between one and two and a half hours. A general interview guide was adopted (see Appendix 3) which covered at least all of the issues which were covered in the schools research. Questions were relatively unstructured and open-ended in order to allow children and young people to talk at length about those issues which were of most importance to them. There was also room for participants to raise any other issues they wanted and to discuss these in detail.

In keeping with a children's rights approach, we invited a PECS approved peer researcher to assist with the collection of data in several focus group interviews on Alderson's advice that empowering a young person to take the lead in research can often yield high quality data (cited in Kirby, 1999). This is because peer researchers may be able to communicate more effectively with participants especially if they have some understanding and/or insight into the issues which are being researched (McCartan, 2004). Peer researchers also have the benefit of being able to critique research questions/findings from a 'youth perspective' which is often distinctive to that of an adult. For example, the peer researcher was encouraged to raise issues/questions that she thought appropriate as a means of further prompting participant responses. Although the time constraints in this project meant it was possible to use only one previously trained peer researcher, their involvement in this research was aimed at empowering young people to exercise their right to participation as a means of sharing in the development of knowledge for social action (Checkoway and Rishard-Schuster, 2003).

ANALYSING AND PRESENTING THE DATA

Although all data was collected using a variety of qualitative techniques, there was a level of structure to this that enabled analysis through our main research themes (i.e. implementation; family life and alternative care; education; health, welfare and material deprivation; play, leisure and the arts and youth justice and policing). Content analysis allowed these key issues and others which arose through the data to be identified. These key issues were coded thematically to ensure that all of the issues raised (whether in the form of a story, picture, poster, discussion group, Dusty Bin task, interview or focus group) were categorised into one of the main project themes.

With regards to the schools data, this allowed for the frequency of the key issues to be explored by theme. Due to the variety of techniques of data collection employed in schools it is not possible to highlight the priority issues for children and young people across all themes (e.g. to say that more children raised unfairness in the family more than in school), but instead we can identify the priorities issues within themes (e.g. that the issue of most concern regarding school was 'having no say in decisions'). This is the case because some methods of data collection allowed children to raise issues across all themes (e.g. pictures, stories and discussion groups), while others limited or directed children to highlight key issues within a particular theme (e.g. they may have been asked to design a poster only on things they thought unfair about school). It should also be noted that figures and percentages relating to the schools data within the report are relative rather than absolute. That is, they refer to the total number of responses relating to a certain issue, rather than the total number of children raising that issue. Again, this is because some children were free to raise multiple issues. This, however, does not detract from the overall aim of highlighting the issues of primary importance to children within each theme area, and as previously demonstrated, a broad range of methods which allowed multiple or single responses was necessary for working with such a wide variety of children and young people.

When reading the report it should be noted that all primary NICCY data is presented in Comic Sans font. Any direct quotations and/or paraphrasing from secondary sources such as, existing research reports, academic literature, legal and policy documentation and key statistics remains in font Times New Roman and full references are provided within the text.

THE REPORT

The research team's primary task was to identify areas where children's rights are being ignored or underplayed. A huge body of evidence across all aspects of children's lives was collated. In order to ensure that this was addressed coherently throughout the report and made accessible to the reader, the material in each chapter is presented according to a common format. Each chapter begins with a short introduction which outlines the relevant international standards and provides an overview of key developments in the area. This is followed by an analysis of a range of specific topics. In each case, the aim is to set out: (a) a summary of the international standards; (b) the context, including the key developments in law, policy and practice; (c) key issues which emerged in the research; (d) an overview of the area. Each chapter concludes by identifying a necessarily limited number of priorities, the basis for which is explained below. Ciara Davey, Clare Dwyer and Siobhan McAlister contributed to the writing of each of the six chapters. However, primary responsibility for individual chapters was vested in specific members of the research team (as set out below). Writing styles in the report may vary therefore.

The findings have been presented in six chapters as follows:

- 1 *General Measures of Implementation*: this focuses on the structures and systems necessary to ensure the promotion and protection of the rights of every child in Northern Ireland and looks also at the importance of listening to and engaging with children as part of this process (Ursula Kilkelly);
- 2 *Family Life and Alternative Care*: this analyses the extent to which children's rights are ignored or underplayed in the family as well as in the alternative system of care provided by the state (Rosemary Kilpatrick);
- 3 *Health, Wealth and Material Deprivation*: this looks at the role of socio-economic factors in the protection of children's rights and examines poverty, health care, housing and environmental issues (Linda Moore);
- 4 *Education*: this analyses the extent to which the rights of children in, to and through education are protected and promoted (Laura Lundy);
- 5 *Leisure, Play, Recreation, Culture and the Arts*: this analyses provision for children and young people in these areas (Laura Lundy);
- 6 *Youth Justice and Policing*: this analyses the areas within the criminal justice and policing systems in which the rights of children and young people are undermined (Phil Scraton).

It was a challenge to summarise yet fully represent the enormous wealth of material collated via both primary and secondary research methods. Thus, while the objective of the research project was to identify where violations are most serious, or where promotion is needed most, the scope of the project has resulted in a far greater list of problems and issues than it is reasonable to expect NICCY to tackle in a single strategy. It is expected, however, that the research will act as a resource far beyond its original task, i.e. to inform the setting of priorities by the Commissioner for Children and Young People. Details are presented below regarding how these issues were analysed so as to provide a more targeted list of key priorities to the Commissioner. The following section identifies the cross-cutting themes of the research and the key issues and problems which are common to most, if not all, individual sections of the report.

SIGNIFICANT CROSS CUTTING THEMES

The Legacy of the Violent Conflict

The long history of conflict and political violence has shaped, if not defined, Northern Ireland and its people, who have suffered its negative effects and consequences in many ways. While the impact of the conflict on Northern Ireland's children and young people has not yet been fully identified and acknowledged, it is nonetheless widely recognised that in addition to young people killed or injured in the conflict, more than a generation of young people have been exposed, both directly and indirectly, to pervasive sectarian prejudice, violence, conflict and hostility (Muldoon et al., 2000). Despite the fact that "a substantial proportion of young people in Northern Ireland have firsthand experience of the conflict" the extent of its impact on their psychological wellbeing is still not clear (ibid.: 8). The optimistic and widely held assumption that young people have shown impressive psychological resilience over the past 30 years does not preclude problems emerging in wider society, in families and in young people's lives. This has recently been brought into very sharp focus by the high number of suicides among young men in North Belfast. What is clear, however, is that the understanding of the long-term effects of political violence on young people is underdeveloped and more research, particularly longitudinal, is needed to fully understand the needs of young people as Northern Ireland slowly emerges from conflict.

The importance of securing a positive and safe future for children as the only way to redress the harm caused by the violent conflict is recognised in the Belfast Agreement. The Agreement recognises that young people from areas most affected by the 'Troubles' face particular difficulties (1998: 18), and the report of the NI Victims Commission also calls for a focus on children and young people as a vital part of "looking forward to a brighter future as well as backward to a divisive past". (1998: 42) Olara A. Otunnu, the Special Representative of the United Nations Secretary-General for Children and Armed Conflict who has visited Northern Ireland several times has expressed similar sentiments. According to Otunnu, following his visit here in 2001, "Northern Ireland will have a far better chance for a durable peace if young people are a priority in that process" and he urged political leaders and policy makers to "take advantage of the present phase of the peace process to address the pressing basic issues affecting children" (UN, 2001: 1). On his earlier visit, he met with political leaders to address the basic concerns of children in Northern Ireland, particularly social and educational integration, youth unemployment, substance abuse and poverty, improved access to health facilities and housing, increased access to counselling, and improved administration of child protection and juvenile justice. He also recommended the inclusion of children's rights in the Bill of Rights and expressed strong support for the proposed Office of Commissioner for Children pointing out that "the lessons learned from other post-conflict situations demonstrate that in the absence of such a body it is easy to overlook children's rights, but children and the wider society eventually pay a high price for such neglect" (UN, 2000: 1). The Special Representative stated:

"The government need to provide more support for families and parents affected by violence, living in segregated environments and hampered in their own ability to build bridges with neighbouring communities. Educators and other members of civil society working to encourage cross community links need to be given adequate and sustained support" (UN, 2000: 14).

Similar to the conclusions of other more specialised research projects, evidence collated during this audit confirms the impact of 30 years of violent conflict and sectarianism on children and young people. Like other reports, this research did not immediately identify the conflict as a problem or issue for all children and young people (in the schools research) but it is clearly

pronounced and a priority for those living in high conflict or interface areas. Young people in these areas raised the issues of rioting, punishment attacks by paramilitaries, negative attitudes to the police, joy riding, the availability of alcohol and drugs, and the lack of amenities and safe social spaces (see also Leonard, 2004, forthcoming). While young people interviewed across Northern Ireland shared some of these concerns - principally the lack of play and leisure facilities - the main issues that concerned children and young people consulted were not directly related to the conflict. They included not being able to influence decisions in school and in the family, pressures of school, and bullying. Yet, an important factor is the extent to which attitudes to the conflict and the problems it causes have become normalised and an accepted part of life in Northern Ireland (Smyth et al., 2004). It is reasonable to conclude that normalisation results in the invisibility of these issues in the priorities of children and young people. Additionally, this research did not specifically set out to generate information on views, attitudes and experiences of the conflict, particularly among children and young people. This also, in part, accounts for the relatively small numbers of children raising these issues (i.e. in comparison to other research where this was the primary focus of the investigation). Essentially, it was left to children and young people to raise, and they emerged most clearly in response to the themes of 'area and community' and 'crime and policing'.

Community workers in the most economically disadvantaged communities in Northern Ireland emphasised the significance of the 'emotional effects of the conflict'. They stressed the 'dire need' for appropriate medical intervention to support children and a reconsideration of how children in conflict with the law are defined and criminalised. They also identified a lack of recognition of the 'generational hand-down of trauma'. One worker commented: "We're facing issues relating to the children of the children; transgenerational trauma which affects education attainment, mental health and social participation ... children actually learning the symptoms of trauma". She stated that the cases dealt with by her organisation showed that such experiences were "not taken into the equation in terms of schooling or criminal justice issues".

It is clear, therefore, that the impact on young people of growing up in a segregated society, where the education system is also heavily divided along religious lines, is stark. Far from being "havens of peace" in an otherwise "conflict affected society" (ibid.: 103) the heavily segregated educational system where 95% of children attend either a Catholic or a predominantly Protestant School is considered by many to exacerbate the legacy of sectarianism and division. Schools have to deal with the impact on their pupils of the wider divisions in society while at the same time are expected to improve community relations through the education process. On occasion, the conflict has spilled over into schools. Holy Cross, where terrified children were forced to endure the threats and intimidation of violent protesters while on their way to school for several months in 2001, stands out as the most poignant example. While the complaints of a mother of one of these children that the policing strategy resulted in her child suffering inhuman and degrading treatment contrary to Article 3 ECHR were not upheld in the High Court in 2004 (although the judge would not conclude that the treatment did not amount to inhuman and degrading treatment), it is nonetheless clear that the event, constituted an egregious violation of the rights of these children.

Poverty

The relative impoverishment of Northern Ireland compared with its UK and European counterparts is well documented. Children in this jurisdiction have a far greater chance of living in poverty than their peers in England, Wales and Scotland and those living in interface areas, in West Belfast and in parts of Derry/Londonderry suffer disproportionately compared with children and

young people living elsewhere in Northern Ireland. Pockets of extreme deprivation exist across Northern Ireland, where long term unemployment as a percentage of total unemployment is much worse than any region of the UK (See Chapter 3). Those living in deprivation and at risk of extreme poverty in Northern Ireland include the children of lone parents, families of large children, children with disabilities, the unemployed and members of the Traveller community (Adelman et al., 2003; Hillyard et al., 2003). As well as being deprived of basic needs, families living in poverty run a higher risk of premature death and suffer more from a wider range of health problems than other socio-economic groups. The targeted attempts by the UK Government to tackle poverty via back-to-work schemes and provision of child care places, have not been extended to Northern Ireland.

The association between educational underachievement and socio-economic class means that secondary schools, attended by those who 'fail' the 'eleven plus' examination, tend to be populated by young people from more socially disadvantaged backgrounds, whereas pupils attending grammar schools tend to be from more affluent families (Gallagher and Smith: 2000). Concern has been expressed at the poor levels of attainment in secondary schools, particularly boys in single-gender schools (NI Affairs Committee, 1997) and a study of school exclusion (Kilpatrick et al., 1999) highlighted that pupils who received multiple suspensions or were expelled were more likely to be boys attending secondary schools in receipt of free school meals and known to a range of support agencies. Given this profile, it is also likely that these are the young people who will also have experienced the political conflict more directly (ibid.: 15).

The Impact of the Experience in the Care and Justice System

The connections between poor socio-economic background, low educational attainment and involvement with social services are well established in Northern Ireland. Studies have found that almost 50% of care leavers had no qualifications six months after leaving care (Pinkerton & McCrea, 1996) comparing unfavourably with the equivalent school population. Research also suggests that looked after children and young people are overrepresented in figures on suspension and expulsion in Northern Ireland (Kilpatrick et al., 1999) and it is clear from Youth Justice Board research (2003), supported by the direct experience of NGOs who work with marginalised young people in Northern Ireland, that those who are out of school are more likely to engage in offending behaviour. The cross-over of young people between the alternative care and justice systems is also a problem and the inappropriate and overuse of detention for looked after children has been criticised (SSI, 2003; See Chapter 6).

In Northern Ireland, young people at risk of social exclusion include children who leave school early, have a disability, come from poor social-economic backgrounds or have spent time in residential care or in a Juvenile Justice Centre. Failure to break the cycle or the chain of events that leads these young people to become so marginalised and to provide them with the necessary support to promote their development of positive choices and opportunities, leaves families and communities to carry the significant burden of deprivation onto the next generation. Failure to respect the rights of all children including those at serious risk of social exclusion - children and young people from socially disadvantaged areas, those with a learning disability or with special needs, those who have been truanting, or excluded from school, those from a care background or with a negative parenting experience, young people who have come into conflict with the law, are misusing drugs or alcohol or undertaking unsafe sexual behaviour - comes at a much higher cost. In particular, the failure to respect their rights and meet their needs in a non-discriminatory way causes disillusionment and disaffection among young people that is extremely difficult to redress. Listening to their voices and respecting their views is an essential part of remedying the

significant disadvantage they face, but in addition, their rights in the areas of education, health, alternative care and youth justice (as highlighted throughout this research) must be prioritised.

Clearly, it is not practical to propose that the Children's Commissioner's Office address the multitude of problems faced by children at risk of social exclusion or children at risk of or already living in extreme poverty. However, it is open to the Commissioner to engage with young people at risk of social exclusion, and to reach out to those who are already marginalised both through their NGO representatives and directly. The Children's Commissioner is also in a strong position to tackle the egregious violations faced by these children in a strategic way through awareness raising, lobbying for change including the full implementation and incorporation of the CRC and advising Government on the implications for children's rights of law and policy in the area. He might also raise with Government the impact of failing to fully resource and support positive initiatives, particularly among NGOs that operate without core funding, and the lack of a strategic and co-ordinated approach to providing services in these areas.

Children in the Traveller Community

While issues of concern facing ethnic minority children are identified throughout the report, the egregious breaches of the rights of children in the Traveller community make a particularly compelling case for priority treatment. They were identified as issues of concern by the Committee on the Rights of the Child which, in its response to the UK's first report under the Convention, expressed grave concern about the failure to protect the rights of these children (UN, 1995: 21). In 2002, the Committee again expressed concern about the unequal enjoyment of a range of rights of Traveller children and recommended a comprehensive strategy to be developed with specific and well targeted actions aimed at eliminating all forms of discrimination including racism (UN, 2002: 23). As highlighted throughout this research, the impact of racism, exclusion and discrimination against Traveller children cuts across all areas of their lives and there are concerns that their rights are being regularly violated in the areas of education, poverty, health care, housing and family support. One interviewee commented on the small number of Traveller children within NI (the latest census records that Travellers account for 0.1% of the population of whom half are children) and observed that: "addressing their needs isn't beyond the capacity of government, if the political commitment and goodwill exists". The 1999 Promoting Social Inclusion (PSI) Working Group Report on Travellers was greeted positively within the sector. However, very few of its recommendations have been realised. Instead, responsibility for taking the issues forward has been delegated to the Traveller thematic sub-group within the OFMDFM Race Strategy. One NGO representative commented:

"When Irish Travellers were chosen as a priority group under the PSI Initiative, there was a lot of optimism... Five years on, the social and economic conditions faced by most Travellers have at best stood still, and for many have actually got worse - and the optimism about government's intentions have evaporated."

Clearly, working with other bodies strategically to guarantee the right of Traveller children to enjoy all of their CRC rights without discrimination must be a matter of priority for the Commissioner's office.

Children with Disabilities

Northern Ireland has a higher incidence of disability than other regions in the United Kingdom. The most recent statistics (1995) estimate that there were approximately 14,600 children and young people with disabilities in Northern Ireland (PPRU, 1996). Moreover, a significant

proportion of children have severe disabilities: it is estimated that 10 in 10,000 children in Northern Ireland have a severe disability compared to 8 in every 10,000 in England (Office of National Statistics, 2004). The significant difficulties experienced by these children were a recurring theme throughout research interviews conducted with social workers, teachers, advice-workers and health care professionals. The capacity of children with disabilities to enjoy their rights under the CRC and other international treaties is limited in many major respects. These are highlighted throughout the report. However, the major areas of concern can be summarised as follows: the lack of respite care provision (Monteith et al., 2000; Kelly, 2002; McConkey et al., 2003); limited opportunities for play, leisure and social interaction (McConkey and Smyth, 2000; Monteith et al., 2002); the need for appropriate and inclusive education (Educable, 2000; Dyson, 1999); and inadequate support for children and their families when they are diagnosed (Mencap, 1997; McKeever, 2000). More generally, there is an absence of current data on the prevalence and circumstances of children with disabilities, a lack of co-ordination of services, and a need for a more concerted effort to involve children in the decisions which are made about their lives. It is clear that protecting and promoting the rights of children with all forms of disability must be a priority for the Children's Commissioner. In this regard, it is important to note the relatively weak provision made in the CRC for the rights of children with disabilities (UN, 2002). Until the long awaited UN Convention on the Rights of People with Disabilities emerges, therefore, it is important to look beyond the CRC to standards established by the UN Standard Rules on the Equalization of Opportunities for the Disabled.

Civil Rights and Freedoms

The CRC is clear that children and young people have the right to protection of their civil and political rights, such as the right to privacy (Art. 8) and freedom of expression (Arts. 12, 13), religion (Art. 14) and association (Art. 15), as well as rights of a social, cultural and economic nature, such as the right to health care (Art. 24) and adequate standard of living (Art. 27). Current challenges to the civil rights and freedoms of young people deserve attention as a cross-cutting theme in the research, as one which children and young people themselves have expressed much concern. In addition to participation, which is dealt with below as well as throughout the research, concern has been expressed about the extent to which the civil rights and freedoms of young people are increasingly ignored or underplayed. Some of the issues raised in the research were as follows:

- there is a lack of safe social space, where children can spend time together, play and have fun; provision for sports facilities in Northern Ireland is inadequate and there is a lack of things to do for young people, who have been critical of the quality and level of youth service provision (Chapters 3 and 5);
- the high visibility of young people on the streets where they may 'hang out' is often perceived as 'anti-social behaviour' (Chapters 5 and 6);
- the introduction of Anti Social Behaviour Orders to Northern Ireland threatens to criminalise such behaviour by young people and place them at risk of paramilitary attack (Chapters 1 and 6);
- children and young people feel that their privacy is not respected in school, at home, or in custody and secure care (See Chapters 2, 4 and 6);
- young people cannot object to undertaking religious education in schools, and the curriculum currently focuses exclusively on Christian religions (Chapter 4).

Overall, there appears to be a lack of understanding of the importance of the rights of children and young people to personal space, to associate with others and to express themselves through

play and leisure. There is a need for NICCY to focus attention on these concerns and to broaden understanding of them from a rights perspective.

Resources

At various points throughout the research, the inadequacy of resources or funding is raised as a significant barrier or problem in the full and effective implementation of the CRC. Failure to provide sufficient funding has hampered the sustainability of important projects and the mainstreaming of positive initiatives. In practical terms, this means that certain categories of children, as well as individuals in other groups do not enjoy effective protection of their rights. This is a particular problem in relation to issues viewed as resource intensive, such as providing integrated services for children with disabilities. However, there are other areas where the scale of the problem is large but the number of children affected is small. In such areas, which include the rights of Traveller children and unaccompanied minors or refugee children, the allocation of modest resources could dramatically improve these children's enjoyment of their rights. Moreover, in other areas, such as the provision of children's rights training to those working with and for children, the knock-on effect would result in substantial awareness raising of children's rights in the statutory sector ensuring a multiplier effect among society as a whole, and added value that would ensure the benefits of the funding provided extended well beyond its specific purpose. The same is true of incorporating children's rights into the existing citizenship curriculum in schools.

Failure to provide adequate resources to NGOs which provide essential services to children and young people, and their families and communities ultimately represents a failure to protect and promote the rights of children. As many NGOs highlighted in this research, the provision of project funding instead of core funding means time is wasted filling out application forms and making existing projects fit the funding, rather than the other way around. Loss of funding often means that a positive initiative or vital support service must be withdrawn.

Putting in place effective systems to co-ordinate and monitor the provision of services and the implementation of the CRC is not a relatively expensive exercise, and would undoubtedly lead to long-term economic efficiency. Effectively addressing implementation issues is the key to protecting and promoting the rights of not just this generation of children, but also the next. In legal terms, an important part of the duty to implement social and cultural rights under the Convention (Art. 4) is to do so "to the maximum extent of available resources". This does not mean that a resources deficit is a defence to the failure to implement children's rights standards, but rather ensures that wealthy nations, like the UK, spend more because they can afford to do so. The link between the economic well-being of the country and the extent of the duty to protect and promote the rights of its children is clear. Moreover, Article 4 also requires progressive realisation of rights, meaning that progress must be made continuously towards further implementation of the CRC, always ensuring higher standards of children's rights protection. It also means that existing resources must not be employed in a discriminatory manner.

While there are areas where more funding is required to provide adequate levels of rights protection, the solution to the problem is not necessarily to provide more resources. More frequently, it is about exercising political power and choices, and making policy and legal decisions in a manner informed by the duty to protect and promote the rights of all children. This duty flows from the CRC, a binding and international treaty to which the UK is committed, but it is also a moral imperative as children represent the society of tomorrow.

Training and Awareness of Rights

It is clear that there is a serious information gap in relation to the rights of children and young people among children and young people themselves, their parents and families and the many statutory, non-governmental and professional bodies and people who work with and for them, both directly and indirectly. At one level, the lack of awareness and understanding of children's rights reflects the absence to date of a full public debate in Northern Ireland about these issues. However, it is also a symptom of the Government's persistent failure to conduct a public awareness campaign and to introduce mandatory children's rights training for statutory agencies with responsibility for implementing children's rights as well as those involved in the provision of services to children and young people and their families. Professionals working in fields of law, social work, health care, education, policing and detention should be required to significantly revise their educational and training curricula to incorporate the CRC and discussion of the many challenges implementing a children's rights approach rights brings to their daily work and lives. There is also a paucity of information about the entitlements of children and young people in a variety of areas. Children do not have access to adequate information in child-friendly forms and this is a serious problem for children in the criminal justice system, looked after children, lesbian, gay, bisexual and transgendered young people, and children with disabilities. Complaints procedures and remedies for violations of children's rights are not adequately accessible to children and young people and there is a clear need for more independent advocacy services for looked after children, children in the criminal justice system, children in private family law proceedings and unaccompanied minors. While it should take stock on where the expertise and experience lies, particularly among the NGO sector in Northern Ireland, NICCY's statutory duty to protect and promote the rights of children and young people means that it has a substantial role to play in disseminating information on their rights to children and young people and providing training and education and support to those who work with and for children and young people.

Listening to Children and Making their Voices Count

Children's lack of information and understanding about their rights, and the language required to articulate them, means that, when consulted about potential violations in their lives, they do not always actively respond. Children do, however, have a strong understanding of injustice. This sense of injustice is arguably most strongly felt with respect to the failure on the part of adults to treat them with respect, particularly to listen to their views and to give them due weight. This principle, enshrined in Article 12 of the CRC, is fundamental to the realisation of all children's rights and it is appropriate, therefore, that not being heard, not being allowed to participate in decisions made about them and not being consulted about changes to their lives, big and small, is the single most important issue to children in Northern Ireland. The conclusion that Northern Ireland does not listen to its children or, worse, that it affords them only minimalist, tokenistic opportunities to participate and engage with adults is a theme which cuts across all themes within the research. Examples of the violation of Article 12 are highlighted throughout the chapters on implementation, family and alternative care, health, wealth and deprivation, education, play and leisure and youth justice and policing. There is no other single issue that is so commonly and widely identified by children and young people and the adults who work with and for them. Put simply, when children and young people were asked in the schools research what was most unfair about their lives, by far the most pressing issue to emerge was having limited influence on the decisions that affected them.

An obvious difficulty is the existence of a cultural problem, which requires a fundamental attitudinal shift among adults who hold the balance of power in the relationship dynamic with young people. As one NGO representative put it: "this is not just about raising awareness of

rights” but also “about creating cultures of understanding”. Both are necessary before meaningful progress will be made in the implementation of Article 12. To quote an AEP worker:

“Some of the young people I’ve met are really disheartened by life, you know. Really broken. They feel that they live in a community that doesn’t listen to them, in a family that don’t listen to them, in a system that didn’t listen to them and now they come to us [AEP] and they think, what would you listen to us for? I think that is a big issue, self esteem and just being valued as a citizen or a member of your community”.

Listening to all children and young people, valuing their opinions and ensuring that they inform decisions about their rights and well-being, as well as the development of law and policy in all areas must be a priority for the Commissioner’s Office.

This research was also committed to listening to the voices of children and young people in Northern Ireland and to this end, it asked over 1,000 children and young people about the types of decisions they would like to have a greater say in and to raise issues they considered unfair with regard to school, living in a family, their local area/community and the play and leisure facilities in the vicinity where they lived. Children and young people were also asked to comment on the images which came to mind when they heard the words ‘crime’ and ‘police’.

While their views are highlighted throughout the report which is fully informed by their concerns, this section details the main priorities and concerns raised by these children and young people in each of the above research themes:

- In relation to the family, the most pressing issues raised by children and young people included being treated differently to siblings, having no say in family decisions in a range of matters such as moving house and the time at which they had to go to bed. Issues relating to parents (in regards to being over-protective, issues around privacy and lack of say in decisions around divorce/separation) were also raised.
- In relation to the theme of area/community, the most pressing issue concerned the poor state of the area in which children and young people lived. Here criticism was most strongly directed towards issues such as litter, graffiti, vandalism, poor street lighting and dog dirt. Concerns about crime/safety were also raised by many young children and young people with those living in rural communities voicing the strongest criticism of the general lack of amenities available in their area.
- The main priority raised by children and young people in relation to school concerned having no say in decisions such as the sport and recreational clubs offered by their school, issues around uniform, teachers, school dinners, lack of resources/facilities, school rules, subject choice and the poor state of the school building. Criticism of the academic pressures exerted on children and young people also emerged as a priority concern, as did the issue of bullying.
- Widespread criticisms of the lack of age appropriate facilities in relation to play space, youth clubs, sport and arts also emerged as a key concern of children and young people of all different ages from all different areas in Northern Ireland. In their submissions to this research, concerns were raised about being able to safely access existing play and leisure space on account of the dilapidated state of the current facilities and fears of the “bad boys” (older youths) who often occupied play spaces.

- Asked what came to mind in response to the words 'police' and 'crime', they raised issues of safety, drugs, drinking, joyriding and noise. They expressed concerns regarding police effectiveness in their communities. Younger children were less critical and their views appeared to be more influenced by media representations of the police.

The above concerns were widely shared by children from the Portuguese and Traveller community as well as children from Special and Irish Medium schools. In addition, specific concerns raised by these particular groups of children included:

- A request from children living in the Portuguese and Traveller communities for greater understanding and appreciation of their culture.
- A request from children attending special educational needs schools to address the issue of the "custard" and "banana" buses which transported them to and from school. A sizeable majority also raised the issue of bullying as a priority concern.
- A request from children attending Irish Medium schools to improve the lack of teaching resources/sporting facilities in their schools and to provide a suitable local post-primary Irish medium school which would assist their transition from primary to post-primary education.

PRIORITIES

In addition to identifying the areas where children's rights are underplayed or ignored in Northern Ireland, the research also highlights the issues which should become priorities for the Commissioner for Children and Young People. Each chapter thus concludes with the issues considered to be currently most pressing from a children's rights perspective and these represent recommendations to the Children's Commissioner for the priorities for his Office. Judgments have been made on the basis of the information we gathered comprising the views of children and young people, the concerns of those working with and for children, analysis of legal and policy documents, statistics, and existing research. Also taken into account were the following factors in determining which issues should be priorities:

- Those of most concern for children and young people;
- Situations representing egregious breaches of children's rights, in particular areas where children are being exposed to physical or mental harm;
- Situations which raise a question of incompatibility with one or more of the fundamental guiding principles of the Convention (non-discrimination, best interests of the child, life, survival and development and participation);
- Where the breach has the capacity to undermine the child's enjoyment of other rights;
- Concerns raised by the Committee on the Rights of the Child in its Concluding Observations on the United Kingdom in 2002, which have not yet been remedied.

KEY PRIORITIES

The following priorities were identified from this analysis of the children's rights issues of most serious concern in Northern Ireland in 2004. While the Office of the Commissioner, for various reasons, will not be in a position to resolve all of these issues, there is clearly much that the Office can do to raise these concerns with those that have statutory responsibility and to raise awareness

and understanding of these issues from a children's rights perspective. The priorities may also inform the development of short, medium and long-term strategies in the three principal areas of NICCY's work: promotion of children's rights, complaints and legal action, and research. While the Commissioner is strongly encouraged to make full and effective use of all his powers, how these priority areas are pursued by the Commissioner is a matter for him and his Office.

General Measures of Implementation

- Given that children's rights and particularly the Convention's guiding principles are inadequately protected in NI law, it is recommended that a key priority for the Commissioner's Office should be to lobby intensively for incorporation of the CRC into domestic law, as well as for the inclusion of a strongly worded and detailed clause protecting the rights of children and young people in the Bill of Rights for Northern Ireland. NICCY should also promote the return of the children's strategy to its original objective of the mechanism through which the CRC is to be implemented in Northern Ireland.
- In addition to using all of its powers to monitor the compatibility of law and policy with the Convention, NICCY should also promote the development of children's rights indicators or impact analysis for law, policy and budgetary decisions. It should lobby for a high level, cross-departmental statutory/Assembly committee and/or Minister for Children with the power and resources to effectively co-ordinate implementation of the Convention and children's rights more generally.
- Raising awareness of the Convention and children's rights among children and young people, and adults, including those working with and for children, all of whom require on-going training on children's rights, should be a priority of the Commissioner's office.
- NICCY should work to establish itself as the central point for information on children's rights in Northern Ireland and should work strategically to ensure that all children and young people have effective access to information about their rights in child sensitive forms.
- The Commissioner needs to address the serious lack of child-sensitive complaints procedures and independent advocacy services for children and young people, possibly consulting with NGOs on what precisely can be done to fill these gaps and how existing mechanisms can be appropriately adapted.
- The practice of producing and maintaining up-to-date and disaggregated data across government departments needs to be mainstreamed. Priority should be given to producing an annual, comprehensive publication on the state of children's rights in Northern Ireland.
- NICCY should take a leading role in promoting the right of all children to be heard and have their views taken into account in individual decisions as well as law, policy and in the political system generally. It should establish firm links with representative NGOs as well as with children and young people directly involving them in a meaningful way in the work of the Office. The Commissioner should also work with the Equality Commission on ways to maximise the potential of S. 75 in respect of the age criterion and seek to collate and disseminate best practice on how to consult with children and young people. It should promote the right of children to be heard via the use of schools councils, and youth councils in local authorities, city councils and in the NI Assembly.

Family Life and Alternative Care

- An overarching family policy with a focus on positive parenting and preventative strategies, particularly in the early years, needs to be developed and implemented in collaboration with the voluntary and community sector.
- A programme of multi-disciplinary training at all levels, combined with a co-ordinated approach to interagency working at practice level should be put in place.
- The issue of recruitment and retention of social work staff in all areas of family and child care and the lack of specialist staff, particularly in the area of therapeutic work and child and adolescent mental health needs to be addressed.
- There needs to be a continuing, high profile drive for the removal of physical punishment in the family.
- Within the area of child protection the overall procedural and legislative framework is under-developed. There is a need to invest in structural improvements and to strengthen the functions of Area Child Protection Committees. Such improvements should include a regional assessment framework and clearer criteria for establishing thresholds to determine significant harm.
- Continued efforts need to be made to address issues specifically associated with the progress of Children Order cases through the court system. These include, addressing the problem with continued delays, the lack of separate representation in private law proceedings for children and young people and greater use of family mediation and/or alternative dispute resolution projects.
- The scarcity of foster placements results in lack of choice for children when being placed. This scarcity must be remedied if the child's wishes and/or needs are to be met.
- The proposals for the development and restructuring of residential care are welcome but issues regarding current provision in this area remain to be addressed in the interim period.
- In secure accommodation urgent steps should be taken to bring the operation of the Independent Review mechanism into line with international standards specifically Article 5 ECHR.

Health, Welfare and Material Deprivation

- Statutory agencies must be encouraged to respond to the evidence based link between poverty and poor health in children, young people and their families.
- The rates of benefit and minimum wage for 16 & 17 year olds must be raised and accessible information must be provided on the range of benefits and entitlements available to them.
- Multi-agency approaches must be developed to guarantee appropriate services to meet the physical and mental health needs of children and young people.
- Child and adolescent centred health care services in which children and young people have the opportunity to fully participate in decisions about their health care must be developed.
- Urgent provision of fully resourced and appropriately staffed mental health services for children in care, secure accommodation and custody throughout Northern Ireland must be put in place.
- The serious lack of adequate accommodation and support for 16 and 17 year olds leaving care or who are otherwise homeless must be addressed.
- Regionally based, accessible and comprehensive sexual health services for young people including age appropriate awareness raising should be promoted.

- Inequalities and discrimination in health care policies and practices for children from ethnic minorities, children with disabilities and GLBT young people should be challenged.
- Community safety strategies and initiatives to accommodate and recognise the physical and mental health needs of children and young people should be developed.

Education

- Children with special educational needs should have learning their educational needs assessed promptly and appropriate educational provision made for them.
- All staff should be adequately trained in identifying and managing bullying behaviour; incidents should be properly monitored and recorded; and appropriate support should be put in place for all children involved.
- Children educated outside mainstream schools must have access to high quality, full-time education.
- Children's views must be given due weight in all decisions affecting them, through (a) the enactment of a statutory obligation on schools and other professionals working in education to take pupils' views into account and (b) training and support for all staff in relation to the implementation of Article 12 of the CRC.
- There must be a strategy to secure equal access to effective education for Traveller children.
- There should be a concerted strategy to address issues relating to the impact of the conflict and religious segregation in schools.

Leisure, Play, Recreation, Culture and the Arts

- The right to play must be given a higher profile through the implementation of a Northern Ireland Strategy on Play.
- The various types of provision across Northern Ireland should be mapped in order to identify particular locations where children's access to various forms of play, leisure, recreation and the arts is limited.
- There must be a greater emphasis on providing inclusive social opportunities for marginalised children and young people, particularly those who have disabilities and those living in rural communities.
- There is a need to create safe space for children and young people in the areas where they live and in play, youth and leisure facilities.
- Children and young people should be involved in planning decisions about play, leisure, recreation and the arts.
- There is a need for a more concerted effort to tackle the problems of community segregation in play, youth, sport, recreational and arts activity and to harness the potential of each of the various sectors in promoting tolerance.

Policing and Youth Justice

- The use of plastic baton rounds as a means of riot control should be abolished.
- A co-ordinated strategy for the reduction of child deaths through violence should be introduced, recording all crimes committed against children and monitoring, investigating and prosecuting cases of violence against children.
- The minimum age of criminal responsibility should be raised and age-appropriate welfare and justice interventions established.
- The detention of children in custodial and care institutions should be used as a measure of last resort and children are at all times should be held separately from adults.
- The use of restraint in custodial and care settings should be reviewed and solitary confinement should be abolished.
- Policing strategies should be initiated that gain the confidence of children and young people through effective consultation and challenging differential and discriminatory treatment.
- Given their incompatibility with the principles and provisions of the CRC, anti-social behaviour orders should be withdrawn.
- Appropriate training that meets the needs of children as vulnerable witnesses should be provided for the police, lawyers and judges.
- An appropriately resourced and integrated framework of mental healthcare and therapeutic provision should be established, directed towards the physical and psychological recovery of children who are survivors of violence, abuse, trauma and self-harm.
- Self-harm and suicides of children and young people should be researched and an informed, multi-agency strategy developed identifying and responding to children 'at risk'.
- Restorative justice initiatives should be monitored to ensure that in policy and practice they offer an effective alternative to punitive measures.
- Workable protocols through which state agencies and community-based restorative justice programmes can work co-operatively should be advanced.
- There should be an end to all community punishments and exiling of children and young people administered by paramilitaries and vigilante groups.
- Building on existing initiatives, fully-resourced programmes for the children and families of prisoners and ex-prisoners should be consolidated and expanded.
- Community-based initiatives for combating drugs and alcohol abuse should be implemented alongside effective policing strategies targeting the supply of drugs into Northern Ireland.

CHAPTER:

one

**GENERAL MEASURES OF
IMPLEMENTATION**

INTRODUCTION

Article 4 of the Convention on the Rights of the Child (CRC) requires States Parties to take “all appropriate legislative, administrative and other measures for implementation”. The Committee on the Rights of the Child (the Committee) has provided extensive advice in both its General Comment on Implementation (UNCRC, GC No 5, 2003) and its Concluding Observations as to the structures and systems that must be put in place to ensure that the Convention’s principles and provisions are effectively and fully implemented. The adoption of measures to implement the CRC and children’s rights more generally is fundamental to securing the protection and promotion of rights to each individual child and young person.

This chapter aims to evaluate the extent to which all necessary implementation measures have been adopted to ensure the realisation of the rights of all children and young people in NI (NI). It addresses legal, structural and systemic issues and also highlights obstacles to the realisation of children’s rights including access to advocacy, information and advice, and training for those working with and for children. The right of children to be heard and have due weight given to their views, and the corresponding duty to consult children and young people on all matters affecting them are considered by the Committee on the Rights of the Child as a fundamental principle of the Convention, implementation of which reflects and requires the change in attitude and approach necessary to achieve the full realisation of children’s rights in all areas.

LEGAL STATUS OF THE CONVENTION

Incorporation of the CRC

The provisions of the Convention must be given legal effect within the domestic legal systems enabling the Convention to be directly invoked before the courts and applied by national authorities (UNCRC GC No 5: 7).

Although the UK has ratified the CRC, it is not part of domestic law. It is thus not directly enforceable and does not bind the courts or public authorities. While the European Convention on Human Rights (ECHR) has been incorporated via the Human Rights Act 1998 (HRA), the ECHR has few rights specific to children and young people.

The Westminster Joint Committee on Human Rights has expressed the view that children will be better protected by incorporation into UK law of at least some of the rights, principles and provisions of the Convention (SC & CLC, 2003) In 2002, the Committee recommended that the UK incorporate into domestic law the rights, principles and provisions of the Convention in order to ensure that all legislation complies with the Convention and that the provisions and principles of the Convention are widely applied in legal and administrative proceedings (UNCRC, 2002, para 9).

The fact that the CRC has not been incorporated does not mean it cannot be used as a persuasive guide to interpreting domestic law and policy. This approach has been adopted in other jurisdictions such as Canada, the US and before the European and Inter-American Courts of Human Rights (Kilkelly, 2001 and 2002) . It is to be strongly encouraged as an approach to judicial interpretation in NI and in this regard, NICCY’s legal powers mean that it has considerable potential to take a leading role in persuading the NI courts to use the CRC as an interpretive tool.

Moreover, much can be done, short of incorporation, to ensure that the Convention is implemented in practice. From an operational perspective, it was originally envisaged that the children's strategy would provide the mechanism for the implementation of the CRC and indeed the Working Paper on the strategy stated that it would be NI's 'implementation plan for the Convention'. However, in the latest draft of the strategy, this commitment has been diluted to provide that the strategy will simply 'help NI to move closer in line with the principles and aspirations laid down in the Convention'. This threatens to seriously undermine the potential of the strategy to provide a vehicle for the much needed implementation of the CRC in practice.

Enshrining CRC Standards in Statute

In addition to consolidated children's rights statutes, which highlight and emphasise the Convention's principles, all relevant 'sectoral' laws must reflect consistently the principles and standards of the Convention (UNCRC, GC No 5: 8).

There is no consolidated children's rights statute incorporating the general principles of the child's right to life, survival and development, right to non-discrimination, right to be heard and the best interests principle. Nor is there any comprehensive code of children's rights in NI or any constitutional document to ensure that the CRC's principles and provisions will prevail where there is conflict within domestic law and to inform the development of law and policy in all areas.

The Bill of Rights presents an important opportunity to establish children's rights at a constitutional level in NI and to consolidate children's rights standards in one binding and enforceable document. However, while the process of drafting the Bill of Rights is not yet complete, the NI Human Rights Commission's (NIHRC) latest proposals reflect a standard of children's rights protection which falls far short of the Convention's minimum standards and does not fully reflect its guiding principles (NIHRC, 2004).

While the latest draft proposes to place a duty on public authorities to act in a manner consistent with the Convention (ibid.: 62), this does not fully incorporate children's rights into domestic law, a process which makes them legally enforceable in the domestic courts. Moreover, limiting the duty on public authorities to act in conformity with CRC provisions ignores the fact that the Convention sets only minimum standards. The current draft of the Bill of Rights thus does not require public authorities to implement the highest children's rights standards attainable under the wide range of international legal instruments ratified by the UK. Moreover, the current proposals for express rights to be included in the Bill do not meet the CRC's minimum standards. In particular, they fail to recognise fundamental rights including the child's right to special protection and the child's right to be heard and have his/her views given due weight in all decisions concerning him/her. Other important rights - regarding the rights of children in the justice system, to health and health care, to play and leisure, to protection from abuse and exploitation - are also absent from the latest proposals and unless this trend is reversed (the Commission's original proposals offered children's rights substantially more protection), the Bill of Rights will not improve significantly the current, inadequate legal protection of children's rights in NI. Nor will it remedy the failure to incorporate the CRC into domestic law or provide children with effective domestic remedies where their rights have been violated.

Reflection of General Principles

Domestic law must reflect the general principles of the Convention (Arts 2, 3, 12; UNCRC GC No 5: 8)

Best Interests Principle

Children's rights, particularly the CRC's guiding principles, are not adequately protected by domestic law in NI. Some examples are as follows:

- While the best interests principle is contained in article 3 of the Children (NI) Order 1995 in relation to the determination by the court of any question with respect to the upbringing of a child or the administration of a child's property, it is notably absent from other parts of the Children Order such as Part IV which relates to services for children in need.
- The best interests principle is not enshrined in the legislation governing youth justice, mental health or education in NI. For example, the Justice (NI) Act 2002 did not expressly incorporate the best interests principle despite recommendations from the Criminal Justice Review and others to that effect (CLC & IY, 2001; CLC & SC, 2003)
- article 17 of the Education & Libraries (NI) Order 2003 places a duty on Boards of Governors of all grant aided schools is to 'safeguard and promote the welfare of pupils'. While this new duty of care is welcome, it does not explicitly incorporate the best interests of the child as a paramount consideration.
- The Mental Health (NI) Order 1986 does not provide a legislative basis for the paramount consideration of the best interests of the child in terms of treatment, detention or the use of restraint and seclusion. In this regard, it is welcome that sub-groups of the Mental Health Review currently reviewing the legislation are considering principles for children with mental health needs.

The Committee expressed concern in 2002 that the best interests principle is not consistently reflected in legislation and policies affecting children and recommended in line with previous recommendations that the UK adopt the best interests of the child as a paramount consideration in all legislation and policy affecting children.

Right to be Heard

While there are some very good examples of the effective implementation of Article 12, for example, the system whereby a guardian ad litem and a solicitor are appointed to represent children in specified public law proceedings under the Children (NI) Order 1995, there is no coherent, legislative basis for the provision of advocacy services for children generally. The following problems were highlighted:

- Many interviewees raised as a matter of serious concern the absence of a legislative basis or mechanism providing separate representation for children in private family law cases (article 8 applications for residence, contact, prohibited steps, specific issue orders, parental responsibility applications) in the family proceedings courts and divorce proceedings. Moreover, in the High Court and Family Care Centre the courts have the power to appoint a guardian ad litem for any child in private family law proceedings, but this is not possible in the family proceedings courts. (Family Proceedings Rules, 1996). (NGO Representatives; Legal Professionals).
- A case is currently being made for the amendment of the Children (NI) Order 1995 to include a similar provision to article 119 of the Adoption & Children Act 2002 of England and Wales, which places advocacy services for looked after children and young people and those leaving care on a legislative footing (CLC, 2004) and to introduce reviewing officers.

- In divorce proceedings, the requirement for a social services report in all cases was removed by the Article 44, Schedule 9 of the Children (NI) Order 1995 and the court is now required to determine whether it should exercise any powers under the Order on the basis of a form (a Statement of Arrangements for Children) lodged by the parties. The child's views are not routinely sought as part of this process (Legal Professional).
- In relation to children affected by domestic violence, article 36 of the Family Homes and Domestic Violence (NI) Order 1998 allows for the provision of separate representation of children in circumstances to be specified by the Lord Chancellor in Regulations, but this article of the legislation has not been commenced (Legal Professional).
- The provision of representation and advocacy services for children who have been suspended/excluded from school or who have Special Educational Needs (SEN) has no legislative basis and education tribunal cases are not generally funded by legal aid (CLC, 2004a). There is no independent appeal against a suspension and the only option open to children who wish to challenge a suspension is a complaint to the Department or an action for judicial review in the High Court.
- The Mental Health (NI) Order 1986 currently provides no legislative basis for advocacy services for children and young people (CLC, 2003).
- Children with Special Educational Needs do not have any legal rights to have their views taken into account in the decisions which affect them (see Chapter 5).
- For children with disabilities, the views of parents and children often differ and parents are not always the child's best advocate (Mc Conkey and Smyth, 2000; Monteith and Sneddon, 1999).

In 2002, the Committee expressed concern that the obligations of Article 12 had not been consistently incorporated in legislation, for example in private law procedures concerning divorce, and in education. It recommended that the UK take further steps to consistently reflect the obligations of both paragraphs of Article 12 in legislation, and that legislation governing court and administrative proceedings ensure that a child capable of forming his/her views has the right to express those views and have them given due weight (para 30).

While several reviews are underway - the issue of separate representation is currently being considered by a subgroup of the Children Order Advisory Committee and the Mental Health Review is also considering the issue of advocacy - the recommendations made by the Committee have not yet been implemented.

Non-Discrimination

The principle of non-discrimination is not contained in any of the relevant statutes relating to issues affecting children.

Section 75 of the NI Act 1998 introduced a requirement that public authorities carry out their functions with 'due regard to the need to promote equality of opportunity' inter alia between persons of different age. The enforcement mechanism for S.75 requires that the policies of these organisations - including government departments, district councils, the police, the courts, Health and Social Services Trusts, Education and Library Boards, the Sports Council and the Housing Executive although not individual schools or hospitals - pursue these objectives and they must produce an equality scheme to this effect. This involves a process of screening such policies for their impact on the relevant group requiring consultation with the particular group deemed to be affected.

The question of who must be consulted has been contentious with much concern being expressed by NGOs about the failure to apply this duty as a requirement to consult with children and young people directly. In particular, the Equality Commission has been criticised for failing to provide direction and technical support to public bodies regarding the implementation of the duty to consult with children and young people directly to comply with their S.75 duty, and for failing, more generally, to take seriously its duty to combat discrimination on the grounds of age.

Although some Government departments have consulted directly with children and young people in a meaningful way (for example, Office of Law Reform in relation to physical punishment, and the Children and Young Peoples Unit (CYPUP) in relation to the Children's Strategy and the Children's Commissioner), others have not. This is despite the view, widely held among the children's sector, that all legislation/policy initiatives which have a direct effect on the lives of children and young people should involve a process of consultation with children and young people themselves and that this process must be funded by Government. This is the only way in which actions, which may potentially discriminate against children, can be identified at an early stage. The implementation of S.75 is considered in more detail below.

Key Issues

- The CRC has not been incorporated into domestic law;
- The general principles of best interests, right to be heard and non-discrimination are inadequately protected in the law of NI;
- There is no consolidated children's rights statute;
- Provision for children's rights in the current proposals for the Bill of Rights does not meet international standards;
- The S.75 equality duty has been inadequately enforced in respect of the 'age' criterion.

ENSURING LEGISLATION AND POLICY IS CONVENTION COMPLIANT

A comprehensive and continuous review of all domestic legislation and administrative guidance is necessary to ensure full compliance with the Convention.

Mechanisms built into the machinery of relevant government departments must be accompanied by mechanisms for independent reviews by NGOs, parliamentary committees and academics (UNCRC GC No 5: 7).

Lack of Formal Government Review Structures

There is no statutory Assembly committee or department with responsibility to ensure the compatibility of NI's law and policy with the CRC. There is thus no formal government process or mechanism at NI or UK level to ensure that draft or existing legislation and policy is compliant with the Convention. In addition, Government has not undertaken any reviews of law and policy to audit them from a children's rights perspective. Many NGOs in the children's sector gave the example of the recent process passing legislation to introduce Anti Social Behaviour Orders (ASBOs) into NI as evidence of the government's lack of commitment to such an approach.

In 2002, the Committee expressed concern that there is no formal process to ensure that new legislation formally complies with the Convention. It noted that while the Scottish Executive and

the Welsh Assembly had undertaken some reform in this area, no such measures had been taken in the NI Assembly. This position has not changed.

Independent review mechanisms

Although the UK Joint Parliamentary Committee on Human Rights undertook an audit of the CRC in the UK in 2003, the Government has no duty to act on any of its recommendations (Joint Committee on Human Rights, 2003); nor has it done so.

NI has two independent bodies - the NIHRC and the NI Commissioner for Children and Young People (NICCY) - with specific powers to keep the compatibility of law, policy and practice with international children's rights standards under review. Section 69 of the NI Act 1998 provides that the NIHRC has a duty to keep under review the adequacy and effectiveness in NI of law and practice relating to the protection of human rights. The Children's Commissioner has a more specific duty under s 7 of the Commissioner for Children and Young People (NI) Order 2003 to keep under review the adequacy and effectiveness of law and practice relating to the rights and welfare of children and young persons. These duties notwithstanding, neither the Government nor the NI Assembly is under any duty to proactively seek the advice of these bodies, to respond to it when it is received by them, or to implement their recommendations.

While the NIHRC has carried out some work relating to children's rights, it has recorded serious restrictions on the work it is able to do, the roots of which are both financial and legal (although, beyond this, it has also been criticised by some NGOs for failing to actively pursue a children's rights agenda). In particular, its limited resources and lack of power to compel people to give evidence hampered its investigation into the protection of children's rights in juvenile justice centres (NIHRC, 2001; NIHRC, 2002) and continues to frustrate the Commission's work in this area.

Despite identifying the inadequacy of its powers in its report to the Secretary of State (NIHRC, 2001a), no measures have been taken to enhance its powers. Nonetheless, the Commission has expressed its commitment to continuing to exercise its powers with respect to the monitoring and enforcement of the rights of children and young people particularly via involvement in the Committee's reporting process. This is vital given its residual powers and responsibility in the area of protecting children's rights.

NGOs expressed concern that NIHRC and NICCY co-ordinate their activities in respect of their work to monitor law and policy as well as in other areas. The NIHRC has already some experience of commenting on draft legislation and policy from a children's rights perspective and it is important that this work is maintained and that both bodies fulfil their legislative duties in a way which does not overlap. A Memorandum of Understanding is being drawn up between NICCY and NIHRC and this needs to be completed urgently and implemented effectively through regular communication.

One example of how the two offices might co-work effectively is to be found in the New Zealand annual stock take of human rights. This annual report is written by the NZ Human Rights Commission but the children's rights chapter is written by the Children's Commissioner, involving children and young people, their families and those who work with them both in relation to issues in this chapter and in the overall report.

Key Issues

- There is no formal government process for ensuring that legislation and policy is compliant with children's rights standards.
- While both NIHRC and NICCY are independent bodies with a duty in this area, there is no corresponding onus on the Government or the Assembly to act on their advice or recommendations.
- NIHRC and NICCY need to co-ordinate their duties to monitor law and policy in an efficient and effective manner.

A STRATEGY FOR CHILDREN AND YOUNG PEOPLE AND A RIGHTS BASED APPROACH

Effective protection of children's rights requires a unifying, comprehensive and rights based national strategy rooted in the Convention developed through a process of consultation with children and young people and those living and working with them, with particular attention being given to identifying and giving priority to marginalised and disadvantaged groups of children (UNCRC, GC No 5: 9).

The strategy must be endorsed at the highest level of government and be linked to national development planning and budgeting. It must include a description of a sustainable process for realising the rights of children setting real and achievable targets in relation to the full range of rights in the Convention.

It must set out specific goals, targeted implementation measures and allocation of financial and human resources.

Once drafted, it must be widely disseminated throughout government and to the public (including in child-friendly versions, languages and forms) and include arrangements for monitoring and review, for updating and for periodic reports to parliament and the public (UNCRC, GC No 5: 10).

Children's Rights Approach

NGOs have expressed concern about the lack of a children's rights approach to policy making, reflecting the criticism of the Committee in 2002 (para 14). NGO representatives expressed concern about the lack of understanding of children's rights, and the seriousness of children's rights violations among government bodies in particular. For example, the draft DHSSPS strategy on children in need has been criticised for failing to have an overarching children's rights framework and for not being expressly based on the general principles of non-discrimination, best interests and the right to be heard (NGO Representatives).

While children's rights have been afforded increasing priority at government, legislative and policy level in NI, there is concern that the potential of these developments has not been fulfilled mainly due to direct rule, which some argue has led to a watered down approach to many of the on-going initiatives to protect and promote children's rights in NI. Among the NGO representatives interviewed there was a strong feeling that these initiatives have not been clearly located within a strong and enforceable human rights framework.

In light of the failure to recognise the Convention as the appropriate framework for the development of strategies at all levels of government throughout the UK, the Committee

recommended in 2002 that a comprehensive plan of action for the implementation of the Convention be adopted and implemented without delay through an open consultative and participatory process (UNCRC, 2002, para 15).

Children's Strategy

Within OFMDFM, the process of drawing up a strategy for children and young people has involved formal and informal stages (the 'Future Search' event took place in November 2002; a framework paper was then produced with a Working Paper on the Emerging Strategy being published in October 2003). Considerable consultation has taken place with both children and young people and with the children's voluntary sector.

NGOs have expressed concern about the development of the strategy on two issues:

- First, the time-scale for developing the strategy has continued to slip and nearly four years on from the First Minister's announcement of the process, consultation on the draft strategy has still not taken place. Having originally envisaged that the final strategy would be published in Autumn 2004, it is now proposed that the strategy will be released for consultation in Autumn 2004 (although this has not yet happened) with the final strategy being published in Spring 2005.
- Second, serious concern has been expressed about the direction in which the strategy has recently taken and the extent to which at least some of the basis for the rights approach appears to have been diluted. Measurement of the strategy against the Committee on the Rights of the Child's standards give rise to the following concerns:
- While the Working Paper stated that the strategy would be NI's 'implementation plan for the Convention', the latest (sixth) draft has replaced that assertion with a statement that the strategy will help 'NI to move closer in line with the principles and aspirations laid down in the Convention';
- A further watering down of the commitment to the Convention and a rights based approach is witnessed by the statement that 'not all of those principles and aspirations will be immediately realisable'. The document also introduces the assertion, not made in the CRC, that 'with rights come responsibilities', a message which the document says will be an 'important element of any rights-based education programmes for young people' (para 1.24);
- While the Working Paper explained the operational principle of 'rights promoting' to mean that policies and services would be developed 'in line with' the rights in the CRC (para 4.5.3), this has been changed in the latest draft to state that they would be developed 'in such a way as to carry NI closer to the principles enshrined in the UNCRC' (para 4.4.3).

While the strategy in its current draft form identifies many objectives the fulfilment of which will bring about significantly greater protection of children's rights in NI, it acknowledges also that this will require additional resources. Nevertheless, and contrary to the guidance of the Committee on the Rights of the Child, it is clear from the draft document that additional resources will not be made available and that departments must reprioritise their internal budgets to fund any necessary work (para 7.8). While not all parts of the strategy will require resources to implement, the failure to allocate significant funds to the achievement of the strategy's key objectives - such as awareness raising and training, and putting effective monitoring and co-ordinating structures in place - threatens to undermine the strategy's whole potential. As well as contravening international standards, failing to address directly the resource issue may also undermine the strategy's objective to address regional disparities in investment and the rights of particularly marginalised and vulnerable children.

Concern has also been expressed that the strategy must ensure that proper mechanisms be put in place to ensure that if it is not working, it is adjusted and targets are met. It was the opinion of NGO representatives that this was not currently the case.

Need for the strategies in other areas: lack of joined-up government

A range of NGO representatives, workers and other professionals have identified the need for strategies to be developed to tackle specific areas of children's rights. As highlighted below, the recognition of the need for coherent strategies in so many areas highlights the extent of the lack of joined-up government, which many complain is not happening in practice. To effectively promote and protect the rights of all children, these strategies must be linked to the children's strategy and the consultation documents central to their development should be produced in child-friendly forms to facilitate the involvement of young people in the consultation process (Child Care NI, 2003).

The lack of joined-up government and the fragmented approach to strategy and policy development highlight, for example, the separate concerns of children in need, family support and children disabilities, all currently being pursued as separate strategies. At the same time, these concerns do not break down for children and so authorities need to take a more holistic approach (NGO Representative). Others commonly expressed the view that there is a lack of joined-up and inter-agency working at all levels which was leading to some children not getting the services they needed.

The need to share information between agencies has also been highlighted by numerous organisations as a source of major concern and additionally, there is a lack of information sharing among professionals where there needs to be a better 'relationship of trust'. Often, the same terminology is used by different groups but it means different things to each (NGO Representatives). For example, with regard to children in need and children with disabilities, there is a clear demand for multi-agency teams, and consideration should be given to the introduction of powers to require medical and other professionals to share child protection information.

Some examples follow of where strategies are needed and/or where the lack of joined up government is a problem:

- *Child and Mental Health Services* - this suffers from a lack of a regional strategy and severe under-resourcing;
- *An overarching Prevention strategy*, which is child centred and based on children's rights, is necessary to join together all those sharing collective responsibility, clarify roles and responsibilities for social partners and to provide cohesion to existing strategic developments (Include Youth, 2004);
- *Children Services Planning*: while a positive initiative, there is widespread concern that the CSP is still not sufficiently joined up strategically at regional level and that a regional strategy is needed. One senior interviewee from the statutory sector explained that "it has not reached its potential because across the four board areas there has been a slowness to establish a cohesive and common policy approach. In particular, CSP has sub-groups and each of the four boards has a different character and distinctive priorities". Other NGO representatives criticised the CSP for failing to interface with DHSSPS strategy or policy, although it is clear that the lack of co-ordination between board areas is the central problem;
- A coherent strategy is needed to prevent and eradicate child poverty (Barnardo's et al., 2001) and any anti-poverty strategy developed must inter-connect with the children's strategy. While this is a key issue in the rest of the UK, it is not being prioritised in NI (see Chapter 3);

- A regional strategy is needed to prevent child deaths, including thorough and consistent investigation of all child deaths (Barnardo's et al., 2001);
- An inclusive approach to support services which focuses on the needs of disabled children and delivers such services via joined up policy and practice is needed (Barnardo's et al., 2001);
- The lack of a clear co-ordinated strategy for taking forward youth work is a key stumbling block to the development of the youth service in NI (NGO Representatives);
- A Positive Parenting Strategy has been called for in submissions made to the Physical Punishment Consultation process and as part of the Children are Unbeatable Campaign. This will not be delivered until 2006 (see Chapter 2);
- There is currently no single over-arching family strategy, although the Family Policy Unit has begun work in this area. NGO representatives expressed concern that this must involve wide consultation and that the Unit should take the lead in developing Family Support within NI to ensure a co-ordinated approach (NGO Representatives) (see Chapter 2);
- There is a need for a Regional Assessment Framework for Children In Need;
- There is a need for a coherent framework for Court Support Services for children and young people and an adequately resourced family justice system (Children Order Advisory Committee, 2004) (see Chapter 2);
- There is a need for a review of the use of restraint and seclusion in respect of children and young people and the need for specific overarching guidance in this regard (NGO Representatives) (see Chapter 6);
- There is no regional strategy for play in NI (see Chapter 5).

Key Issues

- There is concern about the on-going delay in the finalisation of the children's strategy and that it appears to be moving away from the model, recommended by the Committee on the Rights of the Child, which is rights based and a vehicle to implement the Convention and children's rights generally.
- There is a need to develop a series of inter-linking strategies and approaches to address the current fragmentation and lack of co-ordination in the provision of services which is undermining the protection of the rights of children in a variety of areas. These individual strategies must all be linked to the children's strategy to prevent an on-going fragmented approach.

MECHANISMS AND STRUCTURES TO CO-ORDINATE AND MONITOR IMPLEMENTATION OF THE CONVENTION AND CHILDREN'S RIGHTS

Effective implementation of the Convention requires visible cross-sectoral coordination to realise children's rights across all government departments, between different levels of government and between government and civil society including children and young people themselves (UNCRC, GC No 5: 11).

A special unit with high level authority would contribute to the overall purpose of making children more visible in government and to co-ordination to ensure respect for children's rights across and at all levels of government (UNCRC, GC No 5: 11).

Co-ordinating Implementation of the Convention

The OFMDFM established a Children and Young Person's Unit (CYPU) in January 2002 principally to work towards the creation of an office of Commissioner for Children and Young People and a long term strategy for children and young people in NI (although the strategy has been developed by a high level inter-departmental steering group).

While the work of the CYPU is to be commended, there is concern that it is neither a statutory body and that its mandate does not include the co-ordination between government departments of either the Convention's implementation or service delivery. In this regard, it does not meet international standards as it does not have the high level authority, influence or resources of an inter-departmental statutory committee or a Minister for Children.

There is no government body with the duty or power to co-ordinate implementation of the Convention in NI. While the strategy proposes to establish an inter-departmental group for children, the role of this body will be limited to overseeing the development of the strategy and will not, it appears, have a role in wider service provision or implementation of the CRC. Moreover, the draft strategy proposes to give the CYPU responsibility for monitoring the compliance of the NI administration with the Convention, and states that the strategy . . . will be the main mechanism for monitoring this (para 7.3.4). However, this will only work if the Unit is given the statutory authority, power and resources to carry out this work effectively.

It is clear that in its current form the strategy does not envisage the establishment of a central co-ordinating authority, a Minister for Children or a statutory Assembly committee with the power and resources to co-ordinate and monitor implementation of the Convention raising serious concerns that the lack of structures in this area does not meet international standards.

Many interviewees expressed strong support for a post within the NI Executive dedicated to cross-cutting children's issues and with sufficient political weight to make progress on policy and legislative issues in respect of children. They complained that the current structure of government means that children's issues fall across a whole range of departments with no one department having a clear focus or lead. Many supported the recommendation of a Minister for Children with a Children's Unit established in OFMDFM to ensure a cohesive and strategic approach to children across all aspects of government (Barnardo's et al., 2001; NGO Representatives). Others propose a similar model of a Minister for Children combined with a Department of Children which would centrally manage all children's services and co-ordinate the implementation of the strategy and the Convention (Include Youth, 2004; NGO Representatives). The common view here is that, as one NGO representative put it, "a single figure would be insufficient" without the necessary resources, staffing and remit.

It is clear that NI is lagging behind in establishing meaningful government structures to co-ordinate implementation of the Convention and children's services. In contrast, the equivalent CYP unit in Westminster (which has now been dissolved into the Children's and Young Families Directorate within the Department of Education and Skills) works alongside a Minister for Children and other jurisdictions, including Ireland and Scotland and many European countries, have established dedicated Ministers for Children with varying remits.

In 2002, the Committee criticised the absence of a central mechanism to co-ordinate the implementation of the Convention throughout the UK, while also noting that the process of devolution made the need for effective co-ordination of implementation of the Convention even more compelling. In 2002, it recommended inter alia that the Government assign co-ordination

of the implementation of the Convention within NI to a 'highly visible and easily identifiable permanent body with an adequate mandate and sufficient resources' (UNCRC, 2002 para 14). This recommendation has not yet been implemented.

Child Impact Analysis

Ensuring that children's rights are respected in law and policy and implemented at all levels of government demands a continuous process of child impact assessment which predicts the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights, and child impact evaluation, evaluating the actual impact of implementation. This process needs to be built into government at all levels and as early as possible in the development of policy (UNCRC GC No 5: 13).

There is currently no system in place to ensure that the impact of legislation or policy on children or their rights can be measured. The widespread view expressed by those in the children's sector was that "children's rights proofing is non-existent" and that "there is no comprehensive or systematic means of evaluating the impact of legislation or policy on children" (NGO Representatives). Nor is there any statutory or legal obligation to undertake children's rights proofing of law and policy despite recommendations from the Committee and the requirements of Article 4 CRC (NGO Representative). The only current strategy to evaluate the potential impact of policies on children's rights is in the form of S.75, about whose effectiveness concern has been expressed.

On a more general level, concern has been expressed about the lack of systematic and regular analysis of children's well-being in NI (Barnardo's et al., 2001) and NGO representatives expressed the need to develop indicators that would enable the assessment of how well children are doing and how well their rights are respected in NI as compared with other European states (NGO Representative).

Neither the draft Children's Strategy nor the DHSSPS Strategy for Children in Need envisage the development of proactive indicators of child welfare such as child well-being indicators to assist in service planning and outcome measurement and monitoring. While the strategy proposes the use of strategic indicators to measure performance in the area of children's services, it does not appear to propose the development of a specific model of child well-being analysis.

Good practice is evident elsewhere. For example, a major project to develop and consult on child well-being indicators is currently being undertaken by the Irish National Children's Office and work has also been carried out by the Annie E. Casey Foundation in the USA (Kids Count project). Other jurisdictions have incorporated child impact statements into the process of passing legislation and both the Flemish and the Swedish Parliaments have passed laws requiring child impact studies on all proposed laws affecting children (NCB, 1998).

Making Children Visible in Budgets

According to the Committee on the Rights of the Child, a state cannot tell whether it is fulfilling children's economic, social and cultural rights 'to the maximum extent of available resources' (required by Article 4 CRC) unless it can identify the proportion of national and other budgets devoted to children, both directly and indirectly (UNCRC, GC No 5: 14).

Children's budgets are necessary to be able to measure that decision making and planning at all levels of government is being carried out in line with respect for the rights of the child, and that children are being protected from the adverse effects of economic policies or financial downturns.

It is not currently possible to establish from budgetary information the impact of individual and cumulative budgetary changes on the rights of children and young people in NI (CLC & SC, 2004a) and according to one NGO representative, “there are major issues in terms of the way in which money and budgets come to NI meaning that a ‘centralised budget for children’ must be a priority”. NGOs widely criticised the failure to take measures to undertake child-proofing of budgets in NI and the problems caused by the current lack of information.

According to the Department of Finance and Personnel, there are inherent difficulties involved in producing a children’s rights analysis of the budget due inter alia to the fact that among the range of services provided by the administration there are a number of services which benefit not only children but the wider community. However, other countries have managed to develop models in this area and to undertake the required budget analysis from a children’s rights perspective. In South Africa, for example, a children’s budget is attached to the overall budget.

The fact that some states have published ‘children’s budgets’ is proof that it can be done and research developing models has already been carried out (SC, 2004; The Children’s Budget Unit, 2004). In 2002, the Committee recommended that the UK undertake an analysis of all sectoral and total budgets, including in the devolved administrations, in order to show the proportion spent on children, identify priorities and allocate resources to the ‘maximum extent of ... available resources’ (para 11). This has not yet been done.

Independent Monitoring

Independent monitoring structures are vital to measure progress towards implementation (UNCRC, GC No 5: 13).

In 2002, the Committee on the Rights of the Child welcomed plans to establish an independent human rights institution for children in NI and recommended that the institution;

- have a broad mandate and appropriate powers and resources in accordance with the Paris Principles to monitor, protect and promote all the rights of the Convention and for all children;
- be easily accessible to children;
- be able to determine its own agenda;
- be empowered to investigate violations of children’s rights in a child-sensitive manner and to ensure that children have an effective remedy for violations of their rights;
- have formal advisory functions with the relevant legislative bodies and establish formal links, including co-operation, with other similar bodies;
- have adequate resources and appropriate staff ;
- involve children and children’s organisations effectively in their establishment and activities (paras 16-17).

The Office of the Commissioner for Children and Young People was established under the Commissioner for Children and Young People (NI) Order 2003 and the Commissioner took up office on 1st October 2003. The Commissioner’s principal aim is ‘to safeguard and promote the rights and best interests of children and young persons’.

While NICCY has a wide range of powers which largely fulfil the requirements of the Paris Principles set out above, concern has been expressed that the Commissioner has limited powers

in respect of non-devolved bodies, particularly those in the area of youth justice, and there is concern that in practice this may fail to ensure that the rights of all children in NI are protected. A similar concern was expressed that the Commissioner's Office would be adequately resourced to enable it to use its powers effectively.

While there is widespread optimism among the children's rights sector about the establishment of NICCY, and considerable goodwill exists to help the Commissioner become established, concern was also expressed that the Commissioner would utilise all his powers to maximum effect. Considerable expectation exists also that the Commissioner would apply the highest standards of children's rights in the performance of every function of the office. Many examples are given below of where NGOs expect the Office to take a leading role. One key element of the office was the desire for the Office to be accessible to children and young people. As one NGO representative put it, "[NICCY] should be on all the billboards. They should be on the TV day and night. They should be everywhere. Every kid in NI should know who, not just Nigel [the Commissioner] is, but who all the staff are (and) they should be extremely approachable and extremely personable ... so that children know who they are and feel they can contact the office, come in and have a cup of tea with them".

In addition, all NGOs interviewed encouraged the Commissioner to make effective use of all of his powers, including its legal powers, with a view to furthering standards of children's rights in NI and raising the profile of children's rights issues. Clearly, enormous expectation exists among the children's rights sector, which worked so hard to achieve a Children's Commissioner with considerable powers.

It is also imperative that the government fully respects the role of the Commissioner for Children and Young People and that it proactively seeks and acts on the advice of the Commissioner in relation to the compliance of any legislative or policy initiatives with the Convention and other international human rights standards as they apply to children and young people. It will also be imperative that organisations working with or for children and young people take immediate steps to share their concerns in relation to children's rights with the Commissioner and that they quickly establish mutual information sharing procedures (CLC & SC, 2003).

Organisations which retain a remit and duties in this area - such as the Equality Commission and the Human Rights Commission - should establish joint working protocols at the earliest possible opportunity to ensure effective co-ordination of their roles and to prevent individual and general children's rights issues falling between them. This has not yet been done and should be pursued as a matter of urgency.

Key Issues

- There are no cross-departmental structures in place with the authority to ensure effective co-ordination of implementation of the Convention and protection of children's rights. There is no Minister for Children and no statutory Assembly committee on children.
- There is no system in place to measure the impact on children and their rights of developments of law and policy, and no mechanism in place to evaluate the impact of budgetary decisions on children.

DIRECT RULE

While the Committee on the Rights of the Child has warned that devolution may lead to fragmentation and a lack of co-ordination in government (UNCRC GC No 5: 12), it is apparent that in NI it is direct rule, rather than devolution, that has caused problems in the protection of children's rights.

Serious concern was expressed by children's sector NGOs about the impact of direct rule on current policy and law development. A number of issues were identified:

- The democratic deficit created by direct rule was a matter of serious concern. As one NGO representative put it:
"the advantage of the Assembly and local government ministers is that their constituency is NI and they will be held accountable for that so it's in their best interest to deliver to their constituents".
- Some contrasted the Assembly ministers who were "very involved, really accessible and very approachable on a daily basis" to the current position under devolution where ministers "who spend very little of their time here in NI" and are just "too far away from the normal person on the street to have a say" make it much more difficult to influence change (NGO Representative). Serious questions of accountability were raised by several interviewees and one NGO representative expressed concern over the "democratic deficit that we're living in [in] terms of trying to encourage change in NI. It's soul destroying". Another expressed how important it was for young people to see democracy at work saying "we were able to organise for them to go to see ministers, very influential people ... and it was also good in terms of positive role models for people to see that look I can do this ... somebody from ... working class areas or towns were able to become MLAs and you know it was very positive that way" (NGO Representative). In contrast, under direct rule, as another NGO representative commented "we're on nobody's political agenda".
- Concern was also expressed regarding the current ministers' failure to introduce legislation and policy that is specific to the needs and circumstances of NI. Currently, as many view it, they simply apply legislative and other models from England & Wales to NI without question (NGO Representative). Focus groups of key professionals also raised this issue with two groups specifically complaining about the lack of devolved government to hold politicians accountable and force departments to work across sectors and more effectively responding to peoples' needs. Many highlighted, by way of illustration, the way in which ASBO legislation was introduced here without consideration for the particular circumstances of NI and without meaningful or adequate consultation. The inability of NI's agencies and NGO sector to stop the introduction of ASBOs raised serious issues about what one NGO representative described as "the capacity of the (youth) sector to access and influence the agenda".
- The view was also widely held among interviewees that many of the positive initiatives undertaken or initiated under devolution had taken a "step backwards" since direct rule was re-introduced. As one NGO representative put it "[with devolution], there have been a number of policy developments and also failures of policy in different areas which I feel if we had devolution wouldn't have happened".
- Lack of consistency is also a problem with one NGO representative expressing it as follows:
"the difficulty when you're dealing with the civil servants is that ultimately it's dependent on the masters and the masters have changed round here several times in terms of local politicians and Westminster".

Key Issues

- The suspension of the NI Assembly and the imposition of direct rule in NI has led to a tangible democratic deficit which has had a knock-on effect on the work of the children's sector.
- The commitment of Westminster politicians currently responsible for NI departments to children's rights and a range of on-going policy initiatives was questioned.

DATA COLLECTION, ANALYSIS AND RESEARCH

According to the Committee, sufficient and reliable data collection on children, disaggregated to enable identification of discrimination and disparities in the realisation of rights is an essential part of implementation of the Convention (GC No 5: 13).

An annual publication of a comprehensive report on the state of children's rights in the jurisdiction is recommended, together with publication, wide dissemination and debate of such reports in parliament and in public (UNCRC GC No 5: 14).

Translations of such reports and child-friendly versions are essential to engage children and minority groups in the process (ibid.).

In 2002, the Committee recommended that the UK establish a nationwide system whereby disaggregated data are collected on all persons under 18 for all areas covered by the CRC and that these data are used to assess progress and design policies to implement the CRC. Despite this recommendation, there is still a serious lack of data on many aspects of children and young people's lives in NI (SC & CLC, 2003). The statistics produced in relation to the state of children and children's rights in NI are limited and those that are produced cross different parameters, timescales and ages (Barnardo's et al., 2001).

While the publication of the Key Indicators of Personal Social Services in NI, compiled by the NI Statistics and Research Agency and the Social Services Inspectorate, has brought about an improvement in this area, there are wide variations across Trusts. There is no in-built quality control mechanism in either the collection or interpretation of data. More needs to be done to mainstream the practice of producing and maintaining up-to-date and disaggregated data across government departments and agencies.

Problem areas include:

- Child poverty: failure to agree a methodology for measuring child poverty makes it almost impossible to measure progress in this area particularly with regard to children living in severe poverty. In this regard, it is welcome that OFMDFM has commissioned research on child poverty which is due to be completed in January 2005 and one element of this is to make recommendations for the most suitable measure for monitoring child poverty. However, concern was expressed that this information was always one-report-away and that a sense of urgency was needed in this area, alongside a longitudinal study which would look at the impact of child poverty (NGO Representative);
- Children with disabilities: There is an absence of current data on the prevalence and circumstances of children with disabilities (the last major study dates from 1990 and was published by PPRU in 1996). However, it is welcome that S 2 of the Children (NI) Order 1995 required the establishment of a register of disabled children and a project is currently underway to develop this register;

- Policing and Criminal Justice: PSNI do not collect reported offences against 16 year olds and there are also major gaps in the prosecution data for adults proceeded against and convicted for offences against children;
- General statistics on the Traveller community are very difficult to find and those that do exist are inadequate. For example, the census statistics count caravans and not people, which leads to problems of under-representation (NGO Worker);
- Concern has also been expressed about the inadequacy of data for certain groups of children such as young carers and children from ethnic minorities;
- There is a lack of statistics on the extent of children in families who are homeless and on the reasons for homelessness among young people (NGO Representative);
- There are major problems sourcing statistics on child refugees and unaccompanied minors in NI primarily because no-one agency compiles all of this information and the British Home Office, which does collect data, does not break the data down either by region or by children who enter the country with families or alone (NGO Representative);
- There is no definitive guide to the health of NI's children. Although a range of surveys have been carried out by some Boards and Trusts and a report published by DHSSPS ('Equality and Inequalities in Health and Social Care in NI') contains a lot of data on children's health, there is no child health survey covering young children in particular;
- There is a lack of research and knowledge on the impact of domestic violence and its relationship with child abuse (NGO Representatives);
- There is no available data on children who have been sexually exploited (NGO Representative) and consequently little understanding of the scope of the problem and the services required to address it;
- The problems of certain groups are unresearched and largely unknown, for example, the experiences of children from the Portuguese community (NGO Representative) ;
- There is a perceived lack of detailed information on the nature and extent of substance misuse among young people. There is a need for more research in this area to identify gaps in service provision (NGO Representative).

In addition, there is no annual publication setting out the state of NI's children and their rights and no regular survey of the state of children's rights protection in NI. This lack of up-to-date, comprehensive and holistic data on children's lives, combined with a lack of appropriate consultation with children and young people generally, raises questions about how the impact of government policies on children and the state of implementation of the CRC can be effectively and accurately measured (CLC & SC, 2003).

Key Issues

- There are gaps in the availability of quality up to date data on the lives of children and young people in NI, including children in the justice system, on the health and health care of certain groups, and relating to asylum seekers and unaccompanied minors.
- The practice of producing and maintaining up-to-date and disaggregated data across government departments needs to be mainstreamed.
- There is no annual publication of the state of children's rights in NI. Such a report, once compiled, should be the subject of public and parliamentary debate.

CHILDREN'S RIGHTS TRAINING AND CONTINUING PROFESSIONAL DEVELOPMENT

States Parties are required to make the principles and provisions of the Convention widely known to adults and children (Art 42 CRC).

The State has a duty to develop training and capacity-building for all those involved in the process of implementing Convention rights and for all those working with and for children and it should be integrated into all professional training codes and educational curricula. This training needs to be systematic and ongoing with the purpose of emphasising the status of the child as a holder of human rights, to increase knowledge and understanding of the Convention and to encourage respect for its provisions (UNCRC GC No 5: 19).

Periodic evaluation of the effectiveness of children's rights training reviewing the knowledge of the Convention as well as the extent to which it has contributed to developing attitudes and practices which actively promote enjoyment of children by their rights must be undertaken (UNCRC GC No 5: 15).

Children's Rights Training

In 2002, the Committee expressed concern that the UK had not undertaken adequate dissemination, awareness-raising and training activities concerning the CRC in a systematic and targeted manner. It recommended that the Government 'substantially expand dissemination of information on the CRC and its implementation among children and parents, civil society and all sectors and levels of government including initiatives to reach vulnerable groups' and "develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children" (UNCRC, 2002 para 21).

Despite this, the Government has failed to carry out an information campaign of any kind to raise awareness among adults, including those working with and for children, of the CRC and children's rights. While some agencies and professions have undertaken training on the CRC, training on the Convention is not mandatory for government officials in all departments or even personnel working with or delivering a service to children and young people (CLC & SC, 2003).

The Children's Law Centre, together with Save the Children, has been actively and exclusively involved in the provision of dedicated children's rights training to government and non-governmental bodies in NI for several years and it has built up considerable experience and expertise in this area. However, CLC receives only limited and temporary funding for this work and currently, in fact, has no funding for this specific purpose despite clear demand and obvious need for its training programmes. Many NGO representatives identified the need to mainstream and deliver to statutory bodies the excellent children's rights training delivered by bodies like CLC and SC. One NGO representative noted that:

"practitioners and statutory agencies need children's rights training across the board and there's expertise in the voluntary sector that can deliver that training. They just need to be resourced to do it".

Concern has been expressed that particular groups have an outstanding need for children's rights training. There is currently no or inadequate education on children's rights in the education and training curricula of lawyers, police, social workers, teachers and health professionals. The new

curriculum for the training of youth workers does not appear to be rights based although principles such as participation are reflected in practice.

Other concerns are as follows:

- several legal professionals expressed the view that that solicitors who represent parents and children should be specially trained and that judges also need to receive training on children's rights. According to one legal professional, "In looking at children's rights it is not enough to look at the children you have to look at those who are dealing with the children and that they understand what the rights are. Another advocated the need for accreditation of solicitors who work with children saying that "if you want to do Children's Order type work ... whether public or private, that they should have this particular qualification" (Legal Professional).
- many professionals identified the need to undertake inter-disciplinary training on children's rights to integrate professional approaches and improve communication and understanding of children's rights. As one legal professional put it "social workers have to understand lawyers and lawyers have to understand social workers" As another said, "Training is a key element, judges lawyers, social workers, doctors, need to be trained in this multi disciplinary approach. That is the key to children's rights".
- the NIHRC has focussed on providing human rights training and materials to teachers and school management in the light of the vital role they play in the education of children and in teaching human rights. Their education officer has highlighted the need for more support for teachers who lag behind other professionals in their understanding and awareness of children's rights and a dedicated human rights education officer has been proposed to support the development of human rights in the school curriculum;
- numerous NGO representatives and workers expressed the view that police personnel needed further training on children's rights and how to work and communicate with children.

In March 2004, the NIHRC commenced an independent review of the human rights education and training being provided in NI. This review will help to define the NIHRC's own role in this area as well as the work its education officer does with others in the area. This is an area where NICCY also has a mandate and there is a need for the Commissioner to learn from, as well as to liaise and co-ordinate with, both the NIHRC and the CLC with regard to the provision of training and education on children's rights.

Continuing Professional Education

Numerous reviews and consultation processes have identified the need for greater professional training, continuing professional development and capacity building among those who work with and for children. Some examples follow:

- education and training on child protection arrangements in each jurisdiction has been recommended, as well as greater use of cross-jurisdictional placements and secondment opportunities (Barnardo's et al., 2002);
- some organisations expressed the view that teachers need additional training on child protection, domestic violence, special educational needs, child welfare and emotional development (Barnardo's et al., 2001);
- front line housing staff and child-minders were identified as those in need of specialist training in child protection;

- there is a need for particular training in dealing with children who cannot communicate verbally and have special needs as social workers feel that they do not have the necessary skills and experience to communicate effectively with disabled children (Kelly, 2002). This is important to ensure that "all children are listened to and concerns acted on in an appropriate way" (Educational Professional).
- medical professions and teachers need specialised training to alert them to the particular cultural issues that arise for ethnic minorities and some interviewees thought that nurses need training in getting the consent of children to certain (minor) medical procedures and in communicating effectively with children regarding surgical procedures;
- because of the stressful and difficult conditions in which they work, staff in residential care institutions may be unable to avail of the training necessary for their continuous professional development. Concern was expressed that many newly qualified social workers are being asked to deal with complex child protection cases without the necessary experience and training (NGO Representative). The use of unqualified staff raises very serious issues of child protection and protection of the rights of these vulnerable children in custody and secure care. One example was given that staff who were untrained to deal with mental health issues tended to respond inappropriately to young people following a self-harm incident (NGO Representative). This research identified serious gaps in this context which, reflected throughout the report, identifies a need to improve the professional development of staff in areas of education, health and justice.

In addition to children's rights training, those who work directly with children should be specially trained on how best to effectively engage with them. In particular, NGOs recommend active training that would tease out the issues, and allow discussion and debate of issues involving rights and responsibilities, and competing rights. This was something that many felt NICCY should be spearheading.

Vetting of those who work with Children and Young People

Concerns have been expressed about the failure to implement effective and timely vetting procedures for all staff who work with children in any capacity. Particular concern was expressed about the following groups:

- All police staff who work with children in NI, as well as in the Republic of Ireland given the essential nature of cross-border co-operation;
- Health care professionals including dentists;
- Legal professionals;
- All volunteers who work with children and young people.

As a rule, all those who work directly and indirectly with or alongside children and young people, including in the provision of services, should be vetted (See Chapter 2).

Key Issues

- There has been no government campaign of any kind to raise awareness about the Convention or children's rights.
- Training on the Convention and children's rights is not mandatory for government officials or for those who work with and for children.

- There is serious concern about the lack of training on children's rights being provided to those who work in key positions with and for children, for example, judges, teachers and education welfare officers, police, social workers, lawyers and staff in residential and care institutions.
- Failure to implement effective and timely vetting procedures for those who work with children in any capacity raises a serious child protection issue.

Adults' Need for Information Relating to Children

Children frequently turn to adults, particularly those who work with and for them, for information, advice and practical support. Yet, it is apparent from this research that those adults are frequently not equipped to meet children's needs for information about their rights and the services to which they are entitled. As a result, these adults themselves have an unmet need for child-specific information. Some examples and recommendations follow:

- Child Protection: A recent survey discovered that only half of the NI population could recall seeing child protection material in the last 12 months, mostly in the form of television advertisements and leaflets (NSPCC, 2003). NGOs have called for national public information campaigns targeted at specific areas such as heightening awareness of and reducing child abuse (Barnardo's et al., 2001). The view was expressed that the DHSSPS has failed to take the lead on avoiding physical punishment, running awareness raising programmes or the introduction of regulations to outlaw the use of physical punishment by registered child minders (see also Chapter 2).
- Concern was expressed about the severe lack of information for professionals and workers who act as service providers for lesbian, gay, bisexual and transgendered young people (NGO Representatives and Workers). Confidentiality between these young people and their doctors is also a problem. Information and awareness about the issues faced by these young people should be built into youth and social work provision and teacher training programmes (NGO Worker).
- Youth workers get asked a lot of questions by young people on housing issues but they cannot answer them due to the lack of child-specific information available (NGO Workers).
- Those working with parents expressed concern that they do not always know what support is available as there is no information pack covering education, drugs and other health issues (NGO Representative). This lack of information is an additional problem in rural areas where the poor public transport exacerbates parents' isolation.

More generally, concern was expressed by a range of professionals working with and for children and young people that parents also need to receive more information on the rights of their children as they are often the gatekeepers for access to children's rights and services. For example:

- parents going through contact/residence disputes frequently lack the capacity to promote the rights of their children in the process;
- there is also a lack of support for parents with lesbian, gay, bisexual or trans young people who may not know how to deal with the issues their children face (NGO Representatives and Workers). According to one NGO Representative there was a need for "resources for them... a helpline or a meeting and something provided by social services as well".

In the absence of obvious statutory sources for this information, many adults contact the Children's Law Centre for this information. However, more needs to be done to target this information at specific groups of people who need to be able to meet the needs of children but who may not work exclusively with them. NICCY has a clear role and remit here and needs to give serious consideration to how best to fill the serious gaps in information that exist. One recommendation was to develop a directory of all the voluntary schemes available to children and young people (Legal Professional). It is recommended that NICCY should consider consulting with NGOs as to how best to approach this problem.

THE RIGHT TO ADVOCACY SERVICES, COMPLAINTS MECHANISMS AND INDEPENDENT REPRESENTATION

Because children's special status creates real difficulties for them in pursuing remedies for breaches of their rights, there must be effective, child-sensitive procedures available to children and their representatives, including child-friendly information, advice, advocacy - including support for self-advocacy - and access to independent complaints procedures and to the courts with necessary legal and other assistance (UNCRC GC No 5: 8).

Child-sensitive procedures and complaints mechanisms

Despite the evidence that children do not avail of adult type services and require child-specific ones, there is a lack of child-sensitive procedures and information in NI. In this regard, the point was made by one NGO representative that "even just using complaints procedures can be quite daunting for adults never mind for children". Another NGO representative commented that "children would say to us that they would find themselves very much excluded from the processes ... and that they are very much adult processes and adult structures that kids are expected to fit into". A further consideration is that children often do not identify what is happening to them as a rights violation and so awareness raising is needed around this. It was also highlighted that it "just kills a part of a person to have something happen to them and have no one to defend them" (NGO Representative). Access to child sensitive procedures, remedies and complaints procedures is clearly vital in this context.

The following specific problems were identified in relation to the lack, unavailability or inaccessibility of complaints procedures for children:

- many children and young people do not know where to go to access the information they need in child-friendly form, or to get advice, advocacy or support. This is a particular problem for school aged parents and young people leaving care (Include Youth, 2003);
- children and young people complained of 'nowhere to go' in respect of complaints that their rights are being violated by paramilitary bodies (Include Youth, 2001);
- Young people and NGO representatives said that often the area of most concern for young people was their relationships with adults and "the power relationship dynamic". In this regard, concern was expressed that the problems faced by children and young people may not be taken seriously by adults - "they fear that they will not be well received or that they will not be believed" (NGO Representative);
- in many areas - under the Race Relations Order, the Sex Discrimination Order and employment legislation as well as the Police Ombudsman for NI - there are no child- or youth-friendly complaints mechanisms (CLC, 2004b; NGO representatives). Concerns have been raised about the accessibility of the general complaints system to children and young people who are

unlikely to be able to advocate on their own behalf and who may be reluctant to give evidence. Moreover, the denial of legal aid to children means that they are denied access to effective remedies in areas such as employment disputes (CLC & SC, 2004).

- research has found that the dual set of complaints systems in operation within the DHSSPS (the Children Order procedure for complaints relating to children's services and the Wilson Procedures, which apply to services provided by health and personal social services in NI including hospitals, social services, or family practitioners) has the potential to cause confusion particularly for children and young people attempting to make complaints on their own behalf (Cousins et al., 2003). A key professional working in the sector agreed that the complaints system needs to be overhauled because it is not always clear whether complaints should be dealt with under the adult and/or children procedures. The Trusts should also engage in pro-active complaints publicity and awareness raising about rights and complaints procedures among vulnerable groups of children and young people;
- concern was expressed by several NGO representatives that children in care and in custody are not aware of the existing complaints processes and, where they do exist, have little confidence in them. According to one NGO representative, young people never or rarely make a formal complaint when in custody and she/he questioned what information they had received about the process, how it worked and how easy it was to use, not least due to the literacy difficulties experienced by some young people. Young people may also be reluctant to use the complaints process because of fear of reprisals or because their problem is an urgent one which will be unlikely to be resolved in time. Another NGO representative agreed strongly and recommended that on arrival in secure care, young people should receive a pack of child-friendly information which they feel confident to discuss and question with staff. They should also be given the CHALKY freephone helpline number (NGO Representative);
- adults who work with young people do not always appreciate the need to provide age-appropriate explanations, particularly regarding complaints procedures. For example, one worker involved in providing a service to young people explained to us that they fully understood the terms of the placement, whereas it was clear when we spoke to the young people themselves that they did not have this understanding. In this regard, failure to use complaints procedures should alert workers to their potential inaccessibility to young people.

Both the NIHRC and the NICCY have the power to support individual complainants. While NICCY is the more appropriate body to provide assistance to children in this area, there is concern that it will not always be given adequate resources to do so. Moreover, it is important to avoid confusion among the public about which organisation has the remit to assist individual complainants. In this regard, the NIHRC has confirmed that it will pass individual complaints from children and young people to NICCY, while making it clear that the complainant can come back to the NIHRC if they do not get satisfaction there. A memorandum of understanding to this effect is being drafted between these bodies. It should be completed without delay and communicated widely.

Counselling

Few counselling services exist throughout NI and hardly any are targeted at children in general or particularly vulnerable children although some NGOs, like Barnardo's, have plans to establish such services. Childline is currently the only 24-hour freephone counselling service available in NI (CHALKY at CLC is a broad based service offering information, advocacy and legal advice to young people. According to NSPCC, Childline is contacted by around 160 young people in NI every day, although it is estimated that due to a lack of funds, only about half of the children who call actually get through to receive the comfort and advice they need (Childline website, 2004).

The importance of making confidential counselling available to children and young people is more pronounced where children have suffered from domestic violence or sexual exploitation and do not have anyone else in their lives that they can talk to (NGO Representatives). A recent study of children who live with domestic violence, parental substance abuse or parental health problems found that such children do not know where to get formal help and rarely seek the help of professionals initially fearing stigma and unwanted intervention (NCB, 2004). They want someone to talk to, who they trust, who will listen to them and they may be more encouraged to approach a professional for help through a helpline. Their most persistent plea is for more age-appropriate information to help them understand what is going on in their family. There is also a need to establish support networks for children to disclose violence within the family and within the community (NGO representative)

Children and young people have themselves identified a need for more services like Childline. They have also identified a need for more drop-in centres and counselling services and for access to counselling services in all schools (CYPUP, 2003). In particular, they have said that they could not or would not approach teachers regarding sensitive issues and in the absence of school counsellors and other forms of support feel they are vulnerable to bullying, teenage pregnancy and other stresses in their lives (CLC, 2004c; See Chapter 5). Young people told us that sometimes access to the counsellor in a school can be difficult because of the timetable or the counsellor's availability (Young Female, aged 16 - Youth Group) and clearly wider and more open access to counselling services must be a priority.

Advocacy

Advocacy is understood here to mean the provision of independent information, advice and representation (including legal advice and representation) to children and young people with a view to realising their rights. An advocate is not a neutral party but someone who will support and act on behalf of a child or young person in a particular situation.

NGO representatives expressed the view that information and advocacy services for children and young people in general are very underdeveloped in NI. There are significant gaps in relation to children with educational difficulties, children from ethnic minorities including Traveller children, children with complex medical needs, homeless young people, children in secure accommodation, psychiatric care and juvenile justice centres, children involved in separation and divorce proceedings, and unaccompanied minors. Specific independent advocacy services are needed for all these children who may have difficulty accessing the limited independent advocacy services that are available. There is concern that without this access they cannot get information about their rights or find out about remedies for possible breaches of their rights.

Looked After Children (LAC) have been identified as a particularly vulnerable category of children to whom advocacy services are especially important in order to promote their self-esteem and knowledge of their rights (Barnardo's et al., 2001). Although VOYPIC has an Advocacy Service for children and young people in care and aftercare, which young people can access through a designated officer in their Trust or directly by telephone or email, the following issues nonetheless arise:

- many NGOs expressed the view that advocacy arrangements for looked after children need to be improved through strengthened access to independent advocacy and the provision of independent visitors for all looked after children (NGO representatives);

- there is concern that the statutory basis for advocacy services which exists in England and Wales (under s 119 Adoption and Children Act, 2002) does not exist in NI. As a result, Trusts under the draft guidance for the Children (Leaving Care) Act (NI) 2002 must only 'allow' young people to access an independent advocacy service; they do not have a duty to do so. It is also of concern that the draft guidance connects advocacy services to the complaints process and does not appear to recognise the importance of independent advocacy for children in the wider sense;
- Some interviewees expressed concern for a greater recognition of children's rights in the LAC system and, in particular, an investment in advocacy systems and legislative reform of article 36 of the Children Order (NI) 1995 re independent visiting.

Children in secure care or custody are particularly vulnerable and several NGO representatives expressed concern about their ability to access advocacy services. In this regard, the NIACRO Independent Representative (IR) Service provided in both Lakewood secure care unit and Rathgael Juvenile Justice Centre is important insofar as the representative meets young people either individually or in a group and brings their concerns to management staff. While this is an important mechanism, which allows young people to have their concerns represented by an independent advocate, Independent Representatives are understandably not always successful in resolving complaints and may encounter hostility from staff at the centres who need training as to the importance of their role. Also, IRs are not trained to provide information to young people on their rights and this is currently a gap in the service in this regard.

Concern has also been expressed about the complex needs of children asylum seekers, particularly unaccompanied minors, given the difficulties they experience having their needs met (NGO Representative; Legal Professional). One suggestion made was that there should be a voluntary befriending service to help vulnerable young people through the trauma of asylum seeking. It was also pointed out that the use and availability of interpreting facilities was central to enabling young people to access necessary medical facilities. Simple key information regarding advocacy services should be translated and located at points of entry to the UK for child immigrants and asylum seekers e.g. ferry terminals, airports, train and bus stations although this may not reach everyone particularly those who are smuggled into the country.

Concern was also widely expressed about children's experience of the courts system both as defendants in the criminal process where the court's response is frequently not sympathetic or caring, as third parties in residence/contact proceedings where they lack independent representation, and as witnesses. It was stressed that changes need to occur to the way children are treated in court and that relevant personnel being specially trained, particularly with regard to engaging with young people in this process (Legal Professional).

Some interviewees highlighted particular concerns regarding the advocacy needs of children who make complaints of sexual abuse and the potentially damaging experience of child witnesses and victims in the process. Others have identified the need for regionally consistent high quality support for all children giving evidence in court including defendants (Barnardo's et al., 2001). In this regard, NSPCC is funded by NIO to provide child witnesses with support facilities including pre-court preparation and support as they give evidence. It is also welcome that PSNI officers are currently being trained in how to interview children. There is also a recognition that child protection training is required (PSNI Representative).

NI has only one dedicated freephone helpline (CHALKY provided by the CLC) which provides information, advice and legal assistance to children and young people on a wide range of children's rights issues including family, education, youth justice, care, social security, employment and health and social services provision. Despite the invaluable nature of the service and the clear gap that it fills - something which is widely recognised among other children's NGOs - funding for this service is due to run out in March 2005.

Independent Representation

In 2002, the Committee expressed concern that the right of the child to independent representation in legal proceedings is not systematically exercised. It recommended that the UK take further steps to consistently reflect the obligations of both parts of Article 12 in legislation, and that legislation governing court procedures and administrative proceedings (including divorce and separation proceedings) ensure that a child capable of forming his/her own views has the right to express those views and that they are given due weight (para 30).

The following concerns continue to exist in this area:

- despite this, widespread concern exists among NGOs and legal professionals that children and young people involved in private family law proceedings do not enjoy access to independent representation;
- concern was expressed about the extent to which children are aware of and exercise their right to attend court. Where this does not happen, decisions may be made about children when they are not in court, and without any clear structure for whose role it is to inform the young person about what has happened in their absence (Legal Professionals);
- it is feared that the review of the Children Order may lead to a cut back in the service currently provided by the NI Guardian Ad Litem Service, which is already under-resourced (Legal Professionals and NGO Representatives).

Key Issues

- Few complaints mechanisms have been adapted to meet the needs of children and young people and those directed at children need to be made more accessible..
- The availability of independent counselling services is poor.
- Advocacy services are not available for children and young people in care, in custody and refugee children. Current services do not have the long-term funding they need to meet children's needs.
- Children in private family law proceedings have no right to independent representation.

THE RIGHT TO INFORMATION

Every child has the right to access information from a variety of sources to enable them to make decisions and choices in their lives (Art 17 CRC).

States Parties are required to make the principles and provisions of the Convention widely known, by appropriate and active means (in all languages and in child-friendly forms) to adults and children (Art 42 CRC). Understanding and knowledge of human rights must also be promoted to children themselves, including through the school curriculum (Art 29 CRC; GC No 1; GC No 5: 19).

Rights Awareness among Children and Young People and Information on their Rights

There is an almost universal lack of awareness on the part of children that they have rights and an even greater knowledge deficit as to how to realise those rights (CLC, 2002). There is widespread concern about the poor awareness among children of their rights and the lack of knowledge among young people as to how to access this information. Importantly, awareness levels have been found to be higher among those young people who have participated in a consultation process such as that around the Children's Strategy or the Bill of Rights (Keenan, SC et al., forthcoming).

While the perception may be expressed that children know their rights, this is not widely shared among those who work with and for children, or among the children themselves. Typically, one educational professional commented:

"I think now with people talking about rights and saying that all young people know their rights nowadays and you can't put a step wrong and all that there, it's not actually true. Young people don't know and their parents don't know".

There is little information available for children and young people on their rights. CLC has produced and made available on its website a series of 'Do You Know Your Rights?' leaflets for children and young people on with the CRC, the Human Rights Act 1998, Suspensions and Exclusions, In Care/Looked after Children, Youth Justice, Policing, Employment, Social Security and Admissions to Post Primary Schools. The CLC website has received 1.3 million hits in the last year making it clear, by any standard, that this service fills a need among both children and young people, and adults who also use the service.

Particular young people suffer from a rights knowledge deficit. For example, young people in the justice system lack appropriate information regarding their status and their rights in the system (CLC & SC, 2003a). Inconsistencies also exist in relation to how young people are informed about their rights especially the right to legal advice, and there is concern over the extent to which they understand the police caution (Quinn & Jackson, 2003).

Children themselves have complained that more child-friendly and accessible information is needed (CYPU, 2003). One group of young people interviewed for this research felt uninformed about their rights and complaints procedures, and complained that a booklet they were given was far too technical for them to understand its content. According to one young person, "you'd need to have an understanding of law, there's a lot of terms in it" (Young Male, aged 16 - at risk of becoming homeless). In relation to the lack of information and its potential impact, another young person commented "they're complaining about the rates of homelessness in NI, but if they told ye what you're entitled to and all that crap like, the rates of homelessness would go down like" (Young Male, aged 17 - at risk of becoming homeless). These young people described learning the system from each other and also complained about what they described as 'signing away their rights' on entering independent living accommodation. As one young woman put it "You have everything signed and all before they say 'right take it away and look at it" (Young Female, aged 18 - at risk of becoming homeless)

The lack of availability of information about their rights and issues relevant to them was supported by NGO representatives and workers who were concerned that information relating to children is often written in adult language and needs to be made more accessible. Three focus groups raised

the additional problem about the lack of available information for children at pre-school age.

Given the popularity of the internet among young people, it is a useful way to make information on their rights available and accessible to children and young people, although admittedly it will not reach everyone.

The Children's Commissioner has a duty to promote an understanding of the rights of children and young people as well as a duty to promote an awareness of the importance of those rights¹. Many interviewees highlighted the need for NICCY to take a leading role in the provision of information to children and young people and those who work with and for them, and expressed the expectation that NICCY would establish itself as the primary source for all such information in NI. As one NGO representative said "we would see this as being one of NICCY's central roles and functions". Another NGO representative said "NICCY has a huge role to play here. (NICCY) should be on all the billboards. They should be on the TV day and night. They should be everywhere. Every kid in NI should know who, not just Nigel (the Commissioner) but who all the staff are' and 'they should be extremely approachable and extremely personable ... so that children know who they are and feel they can contact the office, come in and have a cup of tea with them".

The Children's Commissioner has a duty to take all reasonable steps to ensure that children, young people and their parents are aware of the powers of the Commissioner, where the office is located and how they can communicate with the Commissioner². The Commissioner must also take reasonable steps to ensure that children and young persons are encouraged to communicate with the Commissioner³.

The NICCY website is already averaging 107 visitors per day although no policy or strategy has yet been developed as to how the website will be used to fulfil its role of protecting and promoting the rights of children and young people in NI. Clearly, this is an important area of work that needs to be undertaken as a matter of some urgency. It is also advisable that NICCY learn from the experience of others who have considerable experience of providing information to children and young people, and adults working with them, via the internet and other media so as to maximise the website's potential as a central source of information on the rights of children and young people. Young visitors of varying ages and backgrounds should also be consulted directly as to the potential content of the site and how their needs for information would best be met.

Many NGO representatives identified schools as the ideal place to provide information to children and young people on their rights stressing that there must be comprehensive human rights education in schools that is both accessible and participative. However, concerns were raised that young people often do not identify what is happening to them as a breach of their rights because they don't think in this way. In this regard, many stressed that the Commissioner has a huge responsibility in terms of making information 'accessible and meaningful and engaging and exciting for children and young people' (NGO Representative).

Human Rights Education in Schools

Human rights education should provide information on the content of human rights treaties. But children should also learn about human rights by seeing human rights standards implemented in practice, whether at home, in school, or within the community (UNCRC GC No 1, 2001 para 15).

1 S 7(1)(a), The Commissioner for Children and Young People (NI) Order 2003

2 S 7(5)(a) of the Order.

3 S 7(5)(b)

The new statutory curriculum will introduce human rights onto the school curriculum as a specific theme within Local and Global Citizenship. This subject will include the content of the major treaties including CRC (although children's rights are not mentioned expressly). More specific statements and materials include detail on the CRC. According to the Council for Curriculum Examinations and Assessment human rights is also a concept which underpins everything else such as the statements on diversity, and a significant amount of educational resources have been developed in both the formal and informal education sector.

While the citizenship programme is at present being piloted in post primary schools, it has not yet been mainstreamed throughout all second level schools. Moreover, there is no equivalent programme being developed for primary schools (CLC & SC, 2003).

Considerable work has also been done by the NIHRC, together with the Department of Education, to educate teachers and school management about the Human Rights Act 1998. Moreover, the Commission is about to launch an extensive set of teaching aids, including the Bill of Rights in Schools project (BORIS) materials for KS1 and KS3, which aim to provide teachers and young people with the skills and language to engage in the Bill of Rights process, and serve also to raise awareness about children's rights generally.

Information on Services

Various services for providing information to young people in Great Britain do not exist in NI. For example, Connexions is the government's information, advice and guidance service for 13 - 19 year olds in England which is delivered locally through 47 Connexions Partnerships. Connexions provides a wealth of information both at local offices and on its website, covering the following topics - learning, careers, housing, money, health, relationships, getting active and your rights. However, the Connexions service does not exist as a separate entity in NI and organisations working with and for children must have contact and on-going working relationships with a wide a range of different information providers, such as Government Departments, statutory agencies and others working in the sector in order to access this information.

Certain groups of children have particular problems accessing reliable information and details of services. For example, lesbian, gay, bisexual and transgendered (LGBT) young people complained that they could not access reliable sources of information and felt isolated from centralised services based in Belfast. Cards left in youth clubs, schools or church halls often 'disappear' or are removed, leaving these young people without necessary information and advice. Another NGO worker who works with LGBT young people commented "it's difficult for a young person to pluck up the courage to find some support but often when they try the mediums aren't there for them". These young people tend to use the internet as their source of information due to the lack of information elsewhere. One NGO representative explained "A lot of them [young lesbian women] actually got a lot of support on the internet, web pages and stuff which is why they designed their own, they thought it would be good for other young lesbians to access information on the web page". Having said this, a representative from a men's project explained that some schools had put controls on internet searches so that when the word 'gay' was put in a search engine that no pages holding this information would be displayed. This obviously has a direct effect on young people who do not have internet access at home and rely on school computers for accessing information. In addition, those looking for information about drugs do not find this information is widely accessible and they usually have to "phone up for it" (NGO Representative).

Sometimes the staff working in particular areas are not sufficiently aware of the entitlements of young people. An example given by one NGO worker was that those working in the benefits office are not aware that 16 and 17 year olds are entitled to claim benefit. A similar lack of information arises in relation to children with employment problems who do not get the information they need on contacting the office because of the staff's lack of familiarity with these issues. While the numbers may be small, it is likely that young people's lack of awareness of the availability of a remedy means that they do not challenge their ill-treatment.

Sex Education and Information on Sexual Health

While it was not previously part of the school curriculum, it is proposed that sex education will be part of the new statutory curriculum and the Council for Curriculum Examinations and Assessment is currently producing comprehensive guidance on content and materials. However, there is no specific requirement as to content which a school must include and there is concern, therefore, that schools may pick and choose subjects for omission (e.g. homosexuality). The only enforcement of the curriculum will be through the Education and Training Inspectorate (ETI).

Those who work with and for LGBT young people have expressed concern that the focus in sex education is on sex, not sexuality. One NGO worker put it thus "it's very much young people talking about safe sex ... not getting pregnant and that's the worst thing that can happen is get pregnant. So very sort of traditional". Interviewees also expressed the view that programmes are needed that give information in an unbiased way about sexual health issues.

NGO workers also identified a need to start educating children at a young age about lesbian and gay issues in order to normalise such relationships. One worker remarked, it is important to begin education children from a young age "basically just for the normalisation of the whole thing. They're going to be growing up and realising that this isn't such a big taboo ... And it can even be as simple as images. You see all these posters in youth clubs and stuff and it's a boy and girl holding hands. If it was two girls holding hands or two boys holding hands. But even if it hadn't a big message about LGBT people that itself is a perfect subtle way to say this isn't wrong you know".

Young people have also expressed dissatisfaction with the sex education they receive feeling that are not given information in a way that helps them to make an informed choice. Instead, it tends to be couched in moral terms of 'right' and 'wrong' and they want trained education workers to give health education classes not "scared and embarrassed teachers" (CYPU, 2003). As one young person explained "we done sex education in science but we had a male teacher and he wouldn't do it with us" (Young Female, aged 18 - at risk of homelessness) or where it is done it provides them with inadequate information, e.g. "in school like all you have about sex, is keep away, that's it but there's STIs like" (Young Male, aged 17 - at risk of homelessness).



Looking at the wider, but related issues, of the age of consent, contraception and sex education a young man (aged 16) commented: "I think the age of consent for sexual intercourse should be lowered! I also think that contraception should be available because if young people want to have sex before the age of consent and they cannot get contraception or they're afraid, then they have no protection! I think more sex education to be promoted to give awareness".

For others, sex education simply comes too late:

"Yesterday we had a 'love for live' talk which explains the risks of sex and the consequences...the talk was useful but it is a bit too late. We should learn about the risks and consequences of sex and using drugs at the end of primary school. People should know this stuff before they go into high school" (Boy, aged 15).

In the consultation document 'A Five Year Sexual Health Promotion Strategy and Action Plan' published by DHSSPS, one of the actions is for Education and Library Boards to ensure that appropriate training which implements RSE guidelines and takes account of the needs of the S.75 groups is made available to teachers and youth workers involved in sexual health promotion. The target date for this initiative is 2005.

Regarding information about their sexual health, NGO workers identified a lack of understanding among doctors with respect to lesbian women in particular. As one worker put it "There is a complete lack of understanding of lesbian health issues. I mean the whole concept of two women engaging in sexual activity just does not register... I mean I don't know how many women I've met who could be thirty, forty, or fifty, sixty and have never had a smear test in their lives because they're considered virgins and they're overlooked for all other regular health checks because they are not coming in having babies and all of those things of what their view of women's health is".

Barriers also exist in relation to other vulnerable young people getting access to reliable confidential information about matters of sexual health. For example, while there are a number of support agencies for young people in NI, the choice for young parents is very limited. Services in this area have long waiting lists even for adults and there is a real lack of local, confidential services in this area. Cultural and religious barriers to adolescents using such services also exist meaning that ethnic minority children are listened to even less.

Health and Related Information

NI has no single guide to children's health, their health rights and the extent to which they are being observed. It was suggested that NICCY and the Health Promotion Agency should write such a guide together.

Overall, children and young people want health education to start young, in primary school. Those in contact with medical and health care staff often feel that they are not told all of the information they need. Some say their parents get the information instead of them, while others feel that the selective dissemination of information is aimed at getting the young person to opt for a particular form of treatment (CLC & SC, 2002).

Concern was also expressed by health professionals about the lack of information available to young people about health matters, drugs and sexual health matters. They felt that children should be getting this information as early as possible and that peer education should be developed to facilitate this. They also recommended that health professionals should be on the board of governors in schools to encourage the development of health and well-being by focusing on the wider issues of health in schools including safety, mental well being, bullying and healthy eating. Schools should also have health strategies (See also Chapter 3).

Other interviewees have expressed the need for 'one stop shop' health and welfare services for certain groups of children including children with disabilities and their families, and those from minority ethnic communities which would give health care as well as advocacy, support and advice (Barnardo's et al., 2001; Health Professional). A particular barrier to giving and receiving

advice on contraception exists among the Traveller community and this needs to be addressed with a dedicated health strategy for the Traveller community (NGO Representative). For example, a National Strategy for Traveller Health was published by the Irish Government in 2002 (Department of Health and Children, 2002).

The concept of a one-stop-shop for young people over 16 years has also been identified as important to allow this group of young people whose needs are not otherwise addressed holistically to access a whole range of voluntary and statutory agencies in order to have their health and social needs met (NGO Representative).

These initiatives are flowing from the Greenpaper 'Every Child Matters' in England and Wales but have not yet generated the same degree of support in NI.

Career Information and Information for Life

Young people have criticised current careers advice provision and suggested that teachers are not sufficiently equipped to provide adequate advice. They propose that careers advice should be standardised and become a regular part of the schools timetable and not just the 'odd session'.

Young people feel that they do not get useful information when trying to choose subjects at school or during career guidance (CLC & SC, 2002). As one young person told us: "I think schools are quite well informed about drugs etc with many information days at school dedicated to this. But I feel that other things such as career advice is not looked at much and time is not dedicated to letting people use their facilities that there is for careers. Decisions within schools are not made by consulting us and our opinions are not asked" (Boy, aged 16).

Young people have also expressed the view that a lot of the information they receive about their lives focuses on the negative aspects. Instead, they would like to see information produced that will positively enhance their lives in other aspects. They also feel that there is not enough time in the curriculum dedicated to 'real life' issues and 'education for life' such as personal health, sex, pregnancy, relationships, alcohol, drugs and smoking.

It has been suggested that young people believe that schools should prepare young people for employment with a greater emphasis on vocational and more practical skills, than academic ones (NI Assembly, 1999). This has been one of the key objectives of the curriculum review - Learning for Life and Work - across a range of issues and a range of materials have been produced. It remains to be seen whether the implementation of this new curriculum will meet the needs young people themselves identify in this area. However, several young people complained that neither school nor further education prepared them for 'adult living'. As one young person commented: "The teachers don't give you enough information. They don't teach you basic life skills" (Young Male - at risk of becoming homeless). Another complained about the lack of cooking classes "All they teach you is to make buns and cakes...they don't teach you to make proper meals, proper dinners so that you know what to do like" (Young Female - at risk of becoming homeless). Nor was the situation any better in independent accommodation. As one young person described it: "Lucky enough when I moved on I knew how to cook and I knew how to do my own washing from I was fifteen. I found out myself but when you move on here [independent living accommodation] like they say that they will teach you how to cook and shit like that, but as she says, she was here for a while and they didn't teach her how to cook or nothing" (Young Male - at risk of becoming homeless)

Key Issues

- Awareness of the Convention and children's rights among children and young people is very low.
- The citizenship programme teaching children's rights has not been mainstreamed throughout all secondary schools and there is no equivalent programme for primary schools.
- Young people do not get adequate access to the information they need in appropriate and accessible forms, for example regarding careers and subject choice, objective information on sex education and matters of sexual health, and life and vocational skills.
- There is no single guide to the children's health in NI and no one-stop shop to provide health information for young people with special needs.

SUPPORT FOR AND CO-OPERATION WITH THE NGO SECTOR

The Committee on the Rights of the Child has frequently urged States parties to enter meaningful partnerships with NGOs in the children's sector stressing their expertise, familiarity with the situation on the ground and direct contact with children and young people. According to the Committee's General Comment on the role of National Human Rights Institutions (NHRIs) in the protection and promotion of children's rights (GC No 2, 2002), it is essential that such offices work closely with NGOs and that Governments respect the independence of both NHRIs and NGOs.

In NI, NGOs carry a considerable burden in the area of children's rights and have, at their disposal, valuable experience and expertise in protecting and promoting the rights of children. This has been recognised through the establishment of the NGO Forum set up to develop the model of Commissioner for Children and Young People and the children's strategy which many rate as "quite effective" (NGO Representative). In this regard, some expressed the view that the forum should become a permanent structure allowing NGOs to inform and respond to policy and legal developments in the areas in which they have considerable expertise and that there is a strong future for the children's voluntary sector to act as a social partner in government (NGO Representatives).

However, many of these NGOs struggle financially without core funding and must spend disproportionate amounts of their time putting together funding applications and proposals. They also find that because they have to chase funding, the proposals have to fit the funding and not the other way around. Two focus groups of key professionals raised the issue of core funding for voluntary organisations as a priority issue. Another NGO representative from a children's organisation explained that he had completed twelve funding applications in recent weeks, said "I feel that I haven't served the kids to the best of my ability because I have also been involved in doing fundraising". Another NGO worker commented that "you're constantly running after money rather than building on the good work that's been done". Others explained that they have had to cut the services they offer because of a lack of funding. Typical comments included: "you get into communities and start to build trust and then the money is cut or they have to move on to other communities" (NGO Representative; AEP Worker). Another worker involved in Alternative Education Provision explained the impact of this on staff morale: "it's just the same old deal, the voluntary sector struggling on short term grants and funding and it puts stress on staff ... I suppose people aren't thinking long-term ... they are thinking to themselves they don't know how long they are going to be there".

The constant burden of fundraising also has a direct impact on the role NGOs play in major consultation exercises like that around the Bill of Rights process. As one NGO representative said, "we have hand to mouth existence so we're not always able to attend all the meetings".

Despite the enormous importance of the work they do in the area of children's rights, the NGO representatives in the community and voluntary sector interviewed expressed serious concern that in the absence of 'peace money' and the reduction in the availability of funding in the statutory sector important projects providing training, education and information, playgroups and out of school facilities will not be able to function in the future. As one NGO representative put it "the lesson for me is that the sector in NI is grossly under-funded and that would reflect, I suppose, in the government priorities around young people". Another commonly held view was that there is a lot of bureaucracy in terms of the way you account for spending money with many NGOs feeling that they are under more pressure to be accountable and transparent than the statutory agencies (NGO Worker).

Key Issue

- Despite their various direct and indirect roles in the promotion and protection of the rights of children and young people in Northern Ireland, NGOs suffer from a lack of core funding and long-term government support

THE RIGHT OF CHILDREN AND YOUNG PEOPLE TO BE HEARD, TO HAVE THEIR VIEWS GIVEN DUE WEIGHT AND TO PARTICIPATE IN DECISION MAKING

Article 12 (1) CRC provides both for children's right to express their views on all matters concerning them and the right to have their views given due weight in accordance with their age and maturity. Article 12 (2) provides for the right of the child to participate effectively, directly or indirectly, in legal and administrative proceedings and decision making processes concerning them. Taken together, these provisions are invariably described as the child's 'right to be heard', 'right to participate' or 'right to be consulted' (GC No 5, 2003: 5)

It is a widely held view that children and young people in NI are not involved in individual decisions concerning them; nor are they consulted on policy developments or encouraged to participate in the wider political process. Throughout this research, serious attention was paid to whether genuine commitment exists to listening to children's views and giving them due weight. The level of meaningful participation in decision making was questioned by many interviewees including the young people themselves. For example, NGO representatives were unable to identify very many examples of organisations that included young people in exercising power. This is despite the fact that many recognise the importance of, as well as the duty to listen to children. As one NGO representative put it: "I think if you involve children and young people properly, it improves their self esteem and confidence and if they think that decisions that they're making, they are helping to make, is having an impact, then that has a knock on effect for them".

The Right to be Heard

Serious concerns have been expressed about the failure of adults to involve children in decision making processes which concern them. Children and young people also have widespread concerns about the failure of adults to listen to them, to consult with them and to take their views into account. Children have a clear sense of the importance of being heard.

For example, one girl from the Traveller community explained why it was important for adults to listen to children in the following way: "In case they get bullied and the adults say "No go away" and the children never get a chance to tell the adult that they got bullied or something is happening" (Girl, aged 12 - Traveller community). Another child put it thus: "sometimes other bigger children keep on bullying you and if you go to tell adults and show them what they did to you and sometimes they don't listen and they just walk away" (Girl, aged 10 - Traveller community). Others described how they felt "angry" and "annoyed" when they are not listened to (Girl, aged 12 - Traveller community). The children and young people we spoke to recounted many examples of not being involved in decisions which affected them and not having their voices heard. The drawing below highlights the views expressed by many - that children's views are often not sought and when they are, they are often not listened to:



Half of the focus group interviews raised the lack of consultation with children and young people as an issue of concern. They expressed the view that children are generally not consulted within all areas of their lives, and that decisions are made on their behalf by 'invisible people'. Two of the focus groups raised the need to consult with children in the family with regard to bad behaviour, divorce and separation and residential placement issues. Some questioned, for example, whether when children are misbehaving they are really trying to communicate a problem and thought that this highlighted their need and right to be listened to.

While it has been recognised that children and young people need to be involved in all aspects of their lives it was hypocritical, some felt, for children to be consulted in the flagship processes in the public sector only to have their views completely ignored at home and at school for example (NGO Representative). This research, particularly the schools research, highlighted that the failure to involve children in decision making in schools was a significant issue. In particular, children and young people complained that they are not sufficiently involved in every day decisions in schools and that their views on the curriculum are not sought. Widespread concern was also expressed about the failure to consult young people during the exclusion/suspension process. The establishment of school councils is patchy and needs to be mainstreamed along with best practice as to how the councils operate. According to interviewees, councils should allow pupils to be heard with regard to both their schooling and education policy matters generally. Others have argued for a statutory duty to set up school councils to involve pupils in decision making processes (Barnardo's et al., 2001). Young people told stories about being invited to join the school council but then not being given the opportunity to have a say, or alternatively when they raised a problem being simply told that there was no solution. This, they felt, was tokenistic. As one young person explained: "We have every class has a [rep] and I was [rep] last year and I thought this is great and I would be able to like put points across to people like at Form council meetings which were only once a month and as soon as you got in it was just like you got handed the minutes from the last meeting and you had to talk about this and this and it was mainly about the canteen and stuff and you really didn't get the opportunity to bring anything up" (Young female, aged 16 - Youth group).

Other areas where the failure to listen to children was a matter of serious concern were as follows:

- **Criminal Justice:** Children in the criminal justice system feel that their voices are rarely heard (NGO Representative). With particular regard to the court experience, the representative commented that for young people the court is still an "adult construct" and a place where "very often they don't understand what's going on" and they have "no real sense of their having been real participants in that process". Another NGO representative noted that young people have no say in most of the decisions made about them when in custody, leaving them to "just fit into the regime". For example, a common complaint is that they are not allowed to cut their hair very short when this is their normal style. The issue for them, therefore, is that they cannot choose - "this is about their own identity and everything else about their identity has been taken away from them" (NGO Representative).
- **The Family:** Within the schools sample, 18% of responses relating to having no say in decisions referred to this specifically within the family/home setting. Children wanted to be more involved in personal decisions made in the family regarding the level of their pocket-money, use of free-time and bedtime. They were also concerned about their lack of involvement in family decisions such as moving house, choosing cars and financial matters and decisions. Overall, there was a clear awareness among the school children that they were often not consulted on matters which affect their lives (See Chapter 2).
- **Children in care** expressed their frustration at not being involved in decisions made regarding their care plans. This was also reflected in interviews where those working with children in this sector expressed the view that children who enter the care system are often not consulted and are quite powerless. When asked who made such decisions, young people themselves referred to social workers, foster carers and teachers (VOYPIC, 2003). They felt they should be involved in decisions about their lives but found that generally they were not asked how they felt about their situation. By far the greatest contention was the lack of information or feeling of genuine involvement in reviews. They felt that no matter what was said, the decision-makers did not listen or 'had already made up their minds anyway'. They commented that 'no matter what you wrote you didn't know if they read them and nobody listened to you in reviews anyway' others complained that the professionals 'talked like dictionaries' (ibid.: 25). When asked what could help young people in reviews, they said that information should be discussed in a way that they could understand and that whenever the young person is talking the foster carer should be out of the room to facilitate them speaking freely. A further critical issue was the feeling that decisions made were rarely followed up, or if so, it was not explained how the work was completed. In general, young people felt that they should be involved more in decision making and that through this process they would feel better about themselves and their situation and it would also give them the opportunity to raise issues that were important to them whether they were big or small.
- **Children with experience of bereavement** also feel that they are not listened to, not told the truth and not asked for their views. As one NGO worker put it on their behalf "Bereaved children are ignored, not seen, and forgotten about. People don't realise that they have very specific needs". She told us that children themselves commented "no-one told me what happened", "I can cope with the truth - I wish people wouldn't lie to me".
- Concern was expressed that the participation of certain categories of children - such as Traveller children and children with learning disabilities - is limited both by their own capacity and ability to communicate, as well as by the attitudes of others (Health Organisation and NGO Representative). There is a particular need to build capacity around consulting with children who do not have verbal communication.

- **Legal System:** Serious concern was expressed about the failure to hear the views of children in legal proceedings, particularly in contact/residence disputes between parents. A related concern was the raising of expectations among children about what the outcome of them being consulted in the court process might be. This is particularly pertinent in the legal system where children are inadequately prepared for the court process around family breakdown. As one professional told us, "...they feel if they're heard it will change everything ... but if ... it doesn't change anything, it could ... make their views more intransigent and it can make them more against society and intervention". In this context, legal professionals expressed the need for greater preparation for young people coming to court and for those who engage with children in this context to be specially trained.
- **Health Care:** it was queried how genuine some nursing staff are about listening to children and was suggested that young children would not be given a lot of information in relation to being involved in such decisions (NGO representative). Concern was also expressed about the extent to which children have medical procedures explained to them in language that they understand. In this context, young people complained about medical staff who have 'swallowed a dictionary' and expressed frustration when a discussion is taking place between parents and medical staff at the end of their bed. The support of play therapists in explaining difficult issues to children can be vital but in NI this is seen as a luxury rather than an essential component of the health system (NGO representative).
- **Play and Leisure:** Children and young people are not involved in planning decisions about play, leisure, recreation and the arts (See Chapter 5).

Overall, there is widespread failure to listen to the views of children in decisions concerning them. This failure to enshrine both parts of Article 12 in all areas of legislation, as recommended by the Committee on the Rights of the Child has resulted in a consequent lack of commitment to implement Article 12 in practice. This is particularly pronounced in education and private family law proceedings.

Participation in policy development

While one-off or regular events like children's parliaments are positive, article 12 requires consistent and ongoing arrangements. Involvement of and consultation with children must avoid being tokenistic and aim to ascertain representative views. With a view to building communication channels with young people, Government must develop a direct relationship with them, not one simply mediated by NGOs, and it must ensure and encourage the active participation of youth in all spheres of society and in decision making processes at all levels (UNCRC GC No 5, 2003: 5).

Unenfranchised children's views must be heard in government and parliament. For consultation to be meaningful, documents and processes must be made accessible.

In 2002, the Committee recommended that the government 'take further steps to promote, facilitate and monitor systematic, meaningful and effective participation of all groups of children in society'. It also recommended that procedures be established to allow the views expressed by children to be taken into account in and to have an impact on developing programmes and policies affecting them (para 30).

The widespread view of NGO representatives and workers interviewed for this research was that the level of consultation with children is extremely patchy at best. It was widely recognised that

an attitudinal shift leading to what one NGO representative described as a "culture of inclusiveness with young people" was still awaited. It was also acknowledged that experience in some areas - the children's strategy, the physical punishment consultation and the children's commissioner - has been positive. In particular, in order to help the CYPU in OFMDFM to access the views of a representative group of young people for its work, an Advisory Forum was set up in October 2002. This group, consisting of approximately 50 young people, had a specific role in relation to the development of a strategy for children and young people and participated also in the appointment of a Commissioner for Children and Young People. While the proposal in the latest draft of the strategy is that the Forum has 'a continuing role in the development and roll out of the strategy' and is expected to be reconstituted for the next stage of the strategy's development, concern has been expressed that the Forum should not be accessible to other government departments for other purposes (NGO representative). Moreover, another NGO representative expressed anger and disappointment at the selection process for the original Forum and the way their young people were treated in the process. In particular, they complained that articulate A-level students were picked over others who are less well educated but nonetheless have much to contribute. According to the Committee, such for a must be genuinely and broadly representative and clearly efforts will have to be made to ensure that any future Forum is fully inclusive so that it represents the full experience of children and young people from a variety of backgrounds.

In this regard, it is significant that particular concerns have been expressed, more generally, about the extent to which the voices of those particularly disadvantaged or marginalised groups of children and young people are heard. While there are many articulate young people who are able to make their voices heard, the importance of involving marginalised or alienated young people in consultation processes was stressed, along with the proposal to establish partnerships with community and voluntary agencies to make that link with groups that are hard to reach (NGO Representative). As one worker involved in AEP commented:

"realistically you need to go out on the street and ask young people that are knocking about there because if you're getting them in youth centres or organisations you're preaching to the already converted, they already made a conscious decision to become involved in a youth service".

Apart from these significant positive experiences, Article 12 was said to have had "little or no impact" (NGO Representative). In particular, other reforms, such as the drafting of the DHSSPS Children in Need Strategy, the process of reviewing the national curriculum and the process of drawing up a race equality strategy, have not involved young people directly. Young people themselves complained about not being given a say in the reviews of the 11+ and the introduction of AS[2] level examinations as two areas which will have major impacts on their lives but on which they were not consulted (CLC, 2002). While those responsible for some of these initiatives involved organisations which they believed to be representative of children, some concern has been expressed about the need to be careful about making assumptions about the representativeness of children's NGOs; nor was the involvement of NGOs a substitute for consulting directly with young people. One NGO representative that we spoke to suggested the need to look at ways of developing "extended panels for young people who can be involved in all stages of consultation around individual pieces but on a rotational basis as well". This was seen as important so that the same one or two organisations are not always used as being identified as representative of all NI young people.

Many surveys of young people in NI have identified an overwhelming desire for inclusion within decision making although this is tinged with scepticism as to the extent to which their views will

be genuinely considered and taken on board. While some adults have questioned the capacity of children and young people to make a contribution, the evidence is overwhelmingly to the contrary. For example, even the youngest children - those in the pre-school category - have shown that they have an important contribution to make to future planning (NIPPA, 2002). However, NGO representatives stressed the need to support children and young people through consultation and participation processes and to equip them with the tools to participate in terms of skills to critically analyse and look at what's happening in their lives. Building esteem and convincing children and young about the value of their views and opinions is a vital part of this process.

Other problematic areas consistently raised by those interviewed were S.75 and the Bill of Rights project. The lack of effective participation by children in these processes threatens to undermine the goodwill generated through positive experiences elsewhere.

S.75: The Equality Duty

S.75 of the NI Act, 1998 places a duty on public authorities to promote equality of opportunity and includes the requirement that public consultations be conducted with reference to a number of variables including age. Guidelines on these statutory duties stipulate that consultation with advocacy organisations alone is insufficient, and that there should be direct consultation with persons who may be affected by policies. In the case of age, this includes young people themselves. Despite this, however, several interviewees expressed the view that the duty to consult with children under S.75 is not being implemented effectively and there is widespread and serious concern over the commitment of the Equality Commission to children's rights in this context.

This was highlighted by the example of ASBOs where NICCY took judicial review proceedings challenging the lack of a S.75 assessment on the grounds of age. This challenge failed with Justice Girvan finding that there was indeed no duty under S.75 to consult children and young people directly about the draft legislation. According to J Girvan :

"It is argued that there are mechanisms in place for consulting children, though one wonders in practical and realistic terms what meaningful response could be obtained from children unless they were in a position to understand the legal and social issues to anti-social behaviour, the mechanisms of dealing with it, the shortcomings of existing criminal law and effectiveness or otherwise of the English legislation and its suitability for transplant to the NI context, and the interaction of Convention and international obligations. Token consultation would achieve nothing. A decision by the Minister to consult in the way in which he did could not be considered irrational or unlawful"⁴.

Many feel that the future of S.75 and its application to children and young people is uncertain after this judgment. As one NGO representative said, "the ASBOs judgement has just created so much uncertainty and really just questioned the whole relevance of S.75 and whether it has any clout at all" (NGO Representative). Others simply stated that "S.75 is not working well", had "real problems" and was not working to any way near its optimal potential (NGO Representatives). Many recommended that the commitment to S.75 should be renewed by working, root and branch, with all staff in statutory agencies, training people on how to consult and what it means, and engaging with sectors that need to be brought in (NGO Representative).

A formal complaint was lodged in May 2004 with the Equality Commission on behalf of 10 non governmental organisations under Schedule 9 of the NI Act 1998 in respect of the consultation procedures leading up to the introduction of ASBOS. Although the legislation has already been introduced, this complaint is still being formally considered by the Equality Commission. While

many were appalled at the introduction of ASBOs into NI (see Chapter 6), as one NGO representative put it "what was really even more concerning was the way the quality commission interpreted S.75 in this case and how they have interpreted the NIO equality scheme to the effect that it does not include a duty to consult directly with children and young people. This has major implications for all future policy development".

Reassuringly, in a document submitted to this research, the Equality Commission (2004: 1) has stated:

'Equality schemes are the key mechanism for taking forward S.75, they are legally binding and include specific commitments around removing barriers to participation and meaningful and direct consultation with all S.75 groups including children and young people and those with learning disabilities' (their emphasis)

As to how this consultation would be done, the Equality Commission unequivocally rejects the notion that direct consultation is not required by S.75 by stating that

[t]here is a danger that the impact of public policies on children and young people can be left to be expressed by voluntary groups interested in promoting the interests of children and young people. This isn't the purpose of these groups and it puts extra strain on their already stretched resources. And anyway, it is not a substitute for direct consultation with children and young people' (their emphasis, ibid.: 1)

According to its Guidelines, the document says, 'specific consideration should be given to how best to communicate the Equality Scheme and relevant information to young people and those with learning disabilities' and that 'consultation on screening and impact assessments must be conducted in accordance with the guiding principles'. In addition, it says 'public authorities' impact assessments will have to take account of age' (ibid.: 1).

Overall, many interviewees felt that the statutory agencies were not taking the lead in this area, that they were under a duty under S.75 to consult with children and young people, and were resourced to put such mechanisms in place, yet had failed to do so (NGO Representatives). As an AEP worker put it 'You see the S.75 groups sometimes I think it's still a token...see unless something is actually actioned or acted upon I think it's just a waste of time, all these discussion groups and consultations ...'

The failure to see the connection between non-discrimination on the grounds of age and respect for children's rights is also evident, according to some NGOs, from the failure of OFMDFM to publish a child-friendly version of their consultation documentation on the Single Equality Bill for NI.

Bill of Rights

There is very serious concern among the children's sector about the lack of a transparent, objective framework and methodology for analysing and weighting the submissions made by children and young people and their representative groups to the NIHRC on the inclusion of children's rights in the Bill of Rights. While consultation with children and young people was carried out - 1, 350 children were consulted - their views do not appear to have been taken on board. When the NIHRC published a summary of over 300 consultation responses in July 2003, this summary did not incorporate the views expressed by the children and young people; nor were children and young people's groups listed in the summary of submissions as consultees.

The NIHRC has explained that this was because the views of children were published in the 'What you Said' booklet and that this was an adequate analysis of their views. However, NGO representatives have argued that the purpose of this booklet was to communicate with children and young people themselves rather than with decision makers or the wider audience actively engaged in the debate and that there was little distribution of the booklet.

Overall, it is felt that the omission of young people's views both from the summary of submissions and from the index of submissions raised real concerns about the weight attached to the views of children and young people by the NIHRC and the consideration they were then given when the NIHRC drafted the update report (NIHRC, 2004). As one NGO representative said "it's really quite insulting to children and young people and to the sector that has worked very very hard and worked in a very inclusive way. And the fact that it has cross the board support from 180 organisations from all shapes and sizes for a strong, separate chapter for children's rights that are enforceable. It's just a nonsense".

Thus, while it is positive that the NIHRC appointed some-one to consult with children and young people, it was felt that this was very hard fought for by the children's rights sector and that ultimately the NIHRC's response indicated a lack of serious commitment to facilitating the participation of children and young people throughout the entire Bill of Rights process (NGO Representatives).

These concerns were exacerbated by the very real dilution of children and young people's rights protections in the NIHRC's 2004 update report (ibid.: 61-64; See also NIHRC, 2001b). According to the NIHRC, its earlier proposals had been criticised because they gave 'undue prominence to the rights of children and insufficient attention to the other disadvantaged and vulnerable groups' (ibid.: 14). In response to this perceived criticism (no evidence of this appears in the Summary of Submissions - NIHRC, 2003), the NIHRC decided to alter its proposals, seriously weakening the level of children's rights protection offered by the Bill of Rights. In so doing, the perception of the children's rights sector is that the NIHRC has largely rejected the views of children and young people and those organisations who have all argued for the inclusion of the maximum children's rights protections. As one NGO representative put it "the word disillusioned keeps coming up" with respect to this process, which lacks political will and leadership to take it on.

Views of Young People on their Participation

Children and young people have widespread concerns about the failure on the part of adults to listen to them, to consult them and to take their views seriously. Many socially excluded young people do not feel that government or others in positions of authority (teachers, police, lawyers, magistrates/judges, parents) listen to them, much less take their views into consideration. A number of these young people expressed disillusionment and a cynicism that 'nothing they say would make any difference' (Include Youth, 2003).

While surveys of young people repeatedly conclude that they want to have a voice, some young people are already deeply cynical about the sincerity of involvement initiatives when faced with the opportunity to participate (Youth Council, 2001). It is clear that children resent being consulted simply so that the consulting body can meet its duty under S.75, for example, and instead, want to be consulted as recognition that they have something meaningful to contribute. There is a recognised need to move from getting the views of children and young people, to more active involvement and genuine participation. There is clearly much work to be done to build up the trust of young people with respect to their meaningful consultation and involvement.

Children who have been involved in consultation processes - such as the Bill of Rights, the Children's Commissioner and the drafting of the children's strategy - have expressed concerns about the impact of their involvement and they want to see the results of their participation. They expressed frustration at being unaware of what happened to their views and how the information was used or not, as the case may be (Include Youth, 2001). This view was also expressed by a number of children and young people in this research and there were clear examples of feelings of apathy or disappointment regarding consultations. For example, when a professional working with young lesbians asked her group to be involved in this research she told us that they felt that they had been 'consulted to death' and were not keen to participate in further research (i.e. they suffered from research fatigue). One young male interviewed as part of a youth group talked about it as follows:

"Yes that's the problem there has been so many people given responsibility of putting things together like there's three or four people out there saying we're advising on the strategy, which would be the best strategy or whatever. There's so many people devising these strategies and they're just put on a shelf and ah that was great we got funding for that we'll do this all over again, you know. Put up on a shelf then and nothing happens on the ground"

Another young female interviewed separately said in relation to previous expectations of consultation: *"That happens over and over again that all this stuff is going to happen and you never hear about it again"* (Young female, aged 15 - Youth group).

When young people are consulted, they say, it can quite often be seen as tokenism or an after thought. For example, some young people involved in the Save the Children research explained that they 'did not trust that their participation would influence decisions, and consequently were not motivated to become involved' (Keenan & SC et al., forthcoming: 16). There was a perception among such young people that 'statutory agencies are not interested in what young people have to say saying 'they usually don't want to know ideas', 'they don't listen' and 'they might not believe us!' (ibid.). They also stressed that 'poor communication' and 'lack of feedback' undermines participation and being treated with respect was a key factor to supporting young people's involvement. This view was widely shared by NGO representatives in our research who highlighted that equal terms and mutual respect must be part of the process of engaging with young people.

Significantly, evidence of one research project, which evaluated the processes in the statutory and voluntary sectors which involve children and young people in their decision making, found that less than half of those who did so evaluated the process (SC et al., 2001). The same survey found that 80% of respondents provided feedback to children and young people about the consequences of their contribution to decision making through direct or published feedback or implementation of ideas (ibid.). While this is positive, the concerns of young people clearly show that there is a need for this practice to be mainstreamed with further attention being given to implementation of ideas over publishing the responses of children and young people.

This is confirmed by Save the Children's more recent research (ibid.: 19) where the children and young people consulted explained that their principal desired outcome and expectation of participation was seeing 'real outcomes and positive change', not just the production of a report which was not evidence of change.

Regarding consultation, there is some acknowledgement that while flagship consultation processes are positive, they are not always necessary or possible (NGO Representative). There is recognition that different strategies need to be deployed for participation at different levels and that experience - positive and negative - of both long-term and short-term approaches with varying levels of participation and consultation with children and young people should be shared with a view to wider capacity building in the public sector (Youth Council et al., 2001).

Guidance and Training on Consultation

While the flagship consultation processes are evidence that positive, meaningful and inclusive consultation with children and young people is achievable, there is a clear need to build capacity, mainstream best practice and undertake training in this area. Sharing the benefits of such experiences on a wider scale would allow others to avoid the same pitfalls and would also enable the choice of the most appropriate consultation model or mechanism. At least one NGO representative acknowledged that the view expressed by Judge Girvan in the ASBO judgment - that consulting children would always be tokenistic because they cannot be expected to get their heads around the lofty ideas at stake - articulated what, perhaps, policy makers and public bodies believe, i.e. that there is no point in engaging with children and young people. Thus, beyond being a duty under domestic and international law, NGO representatives expressed the view that much remains to be done to establish best practice and to mainstream ideas and mechanisms for involving children in a meaningful way in decision making at all levels. As one NGO representative put it: "it takes imagination, resources and commitment but it also takes you prioritising it" and "none of these things are there across departmental and public bodies".

In this regard, there is scope for NICCY to become the focal point of best practice in consulting with children and young people in line with its functions which expressly provide that the Commissioner recognise the child's right to be heard. In the light of this duty, it is vital, therefore, that the Commissioner's own office is seen to demonstrate a genuine commitment to consultation with children and young people across the board, something which is required by the CRC and the guidance of the Committee. Clearly, the highest levels of capacity building within the organisation must first take place.

According to the General Comment on the role of NHRI's in the protection and promotion of the rights of the Child such institutions have a

'key role to play in promoting respect for the views of children in all matters affecting them, as articulated in article 12 of the Convention, by Government and throughout society. This general principle should be applied to the establishment, organisation and activities of national human rights institutions. Institutions must ensure that they have direct contact with children and that children are appropriately involved and consulted. Children's councils, for example, could be created as advisory bodies for NHRIs to facilitate the participation of children in matters of concern to them' (para 16).

The General Comment also provides that such institutions should 'devise specially tailored consultation programmes and imaginative communication strategies to ensure full compliance with Article 12 of the Convention. A range of suitable ways in which children can communicate with the institution should be established' (para 17).

It is apparent on some levels that the requisite level of guidance and training on how to engage in meaningful consultation with children and young people is not provided to those who need it.

For example, while the Education and Libraries (NI) Order 2003 provides for school pupils to be consulted about anti-bullying policies, the Department of Education has no plans to issue guidance to schools on consultation with pupils (CLC & SC, 2003).

Moreover, while there are a number of very positive, individual initiatives, there is a need to mainstream best practice and to build capacity in certain sectors, such as among ethnic minorities and children with disabilities (NGO Representatives). It must be recognised also that this exercise is not resource neutral, rather that dedicated resources must be allocated to participation activities in order to build the requisite capacity in the public sector. As one NGO representative put it, *"you can't have consultation with people if you don't have resources out there to facilitate that"*, although he also acknowledged that to date *"there haven't been any acknowledgements that there will be higher costs in developing your programmes for particular groups of people"*. Materials should be produced that are accessible to young people and use terminology, which is easy to understand. This is not currently happening and some interviewees acknowledged that it was a challenge to do so.

There is a lack of expertise and a strategic approach, particularly among the government agencies and departments, about how to consult with children and young people. There are good individual initiatives underway but good practice needs to be joined-up, standardised and more consistently applied. There is a need for details of previous consultation processes to be widely disseminated and to avoid duplication in the sector. Forthcoming research by Save the Children and others concludes that *"while there is evidence of a great deal of excellent practice with children and young people in NI, the principles of effective participatory engagement are not always consistently applied"* (Keenan, SC et al., forthcoming: 4). The research goes on to find that the majority of statutory agencies do not currently have, 'in-house' the requisite expertise to ensure that participatory practice is strategically and culturally integrated within their organisations' (ibid.). The fact that such consultation is required under S.75 of the NI Act, 1998 and is also a significant part of the forthcoming Strategy for Children and Young People makes it imperative that public bodies identify effective mechanisms and develop capacity to engage children and young people in their processes.

There is also a need for permanent structures to be put in place to facilitate consultation. For example, it has been recommended that Children's Rights Officers or advocates be established in each Health Board or Trust area which would, inter alia, facilitate the involvement of young people in service development, provision and evaluation (Barnardo's et al., 2001).

Political Participation of Young People

Education and training in democratic processes and the spirit of citizenship should be undertaken with a view to strengthening and facilitating the commitment of young people to, participation in and full integration into society.

There are currently an insufficient number of structures to allow children and young people to participate in the political process. Young people have expressed little connection with government structures in general and little interest or knowledge of the workings of the NI Assembly and its institutions (Include Youth, 2001).

Young people expressed the view that, for the most part, they are provided with only token opportunities to engage in discussions about their social, economic and environmental futures and are seldom given the chance to express their preferences in adult dominated institutions (NI Assembly, 1999).

While Youth Councils are well established in Fermanagh and Derry/Londonderry, and proposals to set up a Council in Belfast are underway, there is a need to establish these initiatives throughout NI. Young people themselves support the replication of Youth Councils in other areas (although many are unaware of the existing structures and feel the need for more effective promotion of their outcomes) as well as the need to establish:

- A regional youth consultation body;
- Youth forum structures at local and regional level
- A shadow youth assembly, and
- Young representatives on central bodies such as Parades Commission, Police Authority with structures whereby they can gain the views of their peers (NI Assembly, 1999).

No measures have been taken to promote the involvement of children and young people in the work of the NI Assembly, in contrast to the relatively significant progress made in the National Assembly for Wales which has established Funky Dragon, an organisation of and for young people to inform the Assembly itself (Children's Commissioner for Wales, 2002).

In NI, many young people recognise the important role played by schools and education in fostering political awareness and interest among their peers and see it as the starting point to developing political citizenship among young people (NI Assembly, 1999). They have suggested that mock parliaments and a Youth Parliament would give them an opportunity to develop their skills while parties and politicians better informed about and focused on youth concerns would also gain their interest (Democratic Dialogue, 2004). The lack of information both about politics as a concept and practical information about political parties was also viewed as an immediate stumbling block (NI Assembly, 1999).

Key Issues

- There are concerns about the extent to which children's views are being taken seriously in legal proceedings, particularly in residence/contact disputes between parents something which is exacerbated by the lack of independent representation/advocacy. There is also concern over the lack of legal aid to enable children to be represented in employment and other proceedings.
- Children and young people have widespread concerns about the failure on the part of adults to listen to them, to consult them and to take their views seriously.
- Children who have been involved in consultation processes fear tokenism and want to see the real results of their consultation.
- The duty to consult with children under S.75 is not being implemented effectively and there is serious concern over the commitment of the Equality Commission to children's rights.
- There is serious concern about the lack of a transparent, objective framework and methodology for analysing and weighting the submissions made by children and young people and their representative groups to the HRC on the inclusion of children's rights in the Bill of Rights.
- There is a lack of expertise and a strategic approach, particularly among the government agencies and departments, about how to consult with children and young people. Good practice needs to be standardised and more consistently applied.
- There is a need for details of previous consultation processes to be widely disseminated.

- The establishment of school councils needs to be mainstreamed and these should be used to allow children to be heard with regard to both their schooling and education policy more generally.
- There are an insufficient number of structures, such as youth councils, to allow children and young people to participate in the political process. No structures have been put in place to encourage children's participation in Government or to filter their opinions and ideas into the political process.

THE RIGHT TO VOTE AND PARTICIPATE IN CIVIL SOCIETY

While the CRC is silent on the right to vote, Article 1 clearly allows the State to recognise that majority is achieved earlier than 18 years. Accordingly, the establishment of a lower voting age would be compatible with the Convention, and would, if submitted, be consistent with its objective to recognise the independent civil rights and freedoms of young people like those reflected elsewhere in the Convention.

The more general right to participate in politics and to participate in civil society may, in any event, be derived from the Convention's recognition that the child has civil and political rights provisions. The recognition of children as rights holders is clearly consistent with conferring on them a right to be politically aware and active with preparation for full participation in society as responsible adults.

In 2004, the Electoral Commission published a report on the minimum ages of candidacy and voting for public elections in the UK. While the document recommends a reduction in the minimum age of candidacy from 21 to 18, it concludes that there are insufficient grounds for lowering the voting age. This latter recommendation has been met with disappointment and criticism by children and young people's organisations (Bridges, 2004).

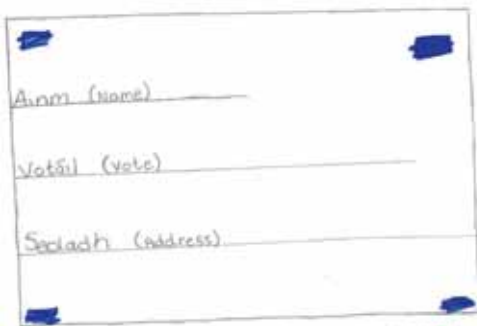
A proposal was made in the NIHRC's consultation paper on a Bill of Rights for NI to reduce the voting age to 17. However, according to the Summary of Replies to the consultation document, only a few submissions supported changing the voting age with many more arguing that it would not be appropriate for a Bill of Rights to change the voting age. Apart from the lack of transparency here which does not allow for an evidence analysis of submissions, there did not appear to be disagreement on the substantive issue, therefore, merely whether such a provision could appropriately be included in the Bill of Rights. In any event, the provision establishing 17 years as the voting age was not repeated in the NIHRC's latest draft of its proposals (NIHRC, 2004).

Only 25% of 18 year olds are registered to vote suggesting either a lack of political awareness or interest among young people. NI's Chief Electoral Officer Denis Stanley has recommended that the process of elections and electoral registration become part of the curriculum in the final years of secondary school and at university (Belfast Telegraph, 23 July 2004).

Young people themselves have raised concerns about the fact that the government takes tax from them when they are over 16 years but they are denied a vote until they are 18 years. They say this is inconsistent (CLC, 2004c). As one young person in our research said: *"I'm going to sort of talk about voting and money here. You have to be eighteen or over to vote, yet you're considered an adult on things like buses and in other places you want to go to like cinemas, ice skating, bowling and anything else and tax as well. And you have to pay that up to your sixteen I think there should be a choice you know a vote whether it should be sixteen or eighteen and the taxing should change within that. Within reason"* (Young female - Youth group).

An NGO representative put it thus: "I think there is a really strong argument for lowering [the age] if you really want to show that you're serious about it that their views are important".

Some young people recommended the reduction of the voting age. For example, one girl told us "I think it's so unfair the way kids don't get a say in political voting. For flipsake, I know more about politics than some adults" (Girl, aged 11). Another said "I think we should be allowed to vote at 16 in NI as politics is a big part of our lives and I think we are mature and understand enough to vote sensibly and responsibly" (Girl, aged 14). Another girl expressed a similar view: "Voting is an issue that really concerns me. I think that some people under the age of 18 have a valid view of politics but they can't vote or get their point across. I think that people from around the age of 15 up should be allowed to vote if they really want to. If someone this age thinks they really want to vote, then they should apply for it and get information on the parties they want to vote for" (Girl, aged 15).



Seans a bheith againn
 votáil.

"The opportunity to vote".



Children from the age of 13
 should be able to vote.

Others do not particularly want the right to vote as soon as they are 16 but they want to participate nonetheless. As one young person told us "I believe that the legal age for voting is fine but I do believe that younger people should have an input into the peace process and elections in some other way" (Girl, aged 14). This view was also displayed in a poster designed by a group of young men, with regards to young people having a view in relation to global and local issues:



Another 19 year old, however, had a different view when asked whether the voting age should be lowered: "I don't think so. I don't think you should know. Like I'm nineteen nearly twenty and I haven't a clue. The reason I haven't a clue is because those the parties go out there they're sort of saying bla bla bla they give the whole spiel about young people and that's it. Okay you're an adult but you're still young you know".

A gradual reduction in the voting age to 16 is supported by the Youth Council for NI who believe that young people of 16 have both the competence and capability to make informed political decisions. However, this comes with the rider that the proposal is rationalised in a positive manner and not as an attempt to counter negative issues such as political apathy (Youth Council, 2004).

Research by Democratic Dialogue (2004) concluded that young people have a relatively high knowledge of basic political facts, but can struggle when it comes to understanding. This coincides with research by the North Belfast Community Research Project which found that despite an apparently low level of general interest in politics, 73% of respondents were able to identify their local MP although only 44% were able to name the Secretary of State for NI (ICR, 2003). Perceived to have a lukewarm interest in politics, the views of young people conceal a much greater issue in particular issues like war, poverty, health and crime (Democratic Dialogue, 2004).

More needs to be done to promote the inclusion of young people in the political process and to make political parties and politics more 'youth friendly' (NI Assembly, 1999). One NGO representative told us that "*political parties are really quite fossilised in terms of accessing young people's issues*" and are more likely to see young people as a source of a complaint than a constituent.

The North Belfast Community Research Project discovered that most young people get their information on politics from the television and radio (76%) with only 8% getting it from party political literature and 7% getting it from the education system (ICR, 2003). While only 3% of those surveyed belonged to a political party, 27% said they would consider joining one. Overall, the project suggests that developing more proactive and imaginative ways to engage with young people may well be a fruitful move for local political parties although the typical view expressed by one NGO representative was that "*we have a long way to go in terms of how we actually encourage [young people] to engage with political society*". Further research on the topic was also recommended.

Young people at a conference with Assembly members in 1999 expressed dissatisfaction with the ability of politicians to talk with and listen to their young constituents and it was suggested that some politicians needed to improve their communication skills if they are to gain the respect of young voters (NI Assembly, 1999). The Democratic Dialogue research also saw young people identify the failure on the part of politicians to engage with the issues in which young people are interested as a barrier to their engagement in politics (Democratic Dialogue, 2004).

In the UK, the Electoral Reform Society has argued for a more integrated approach to political literacy whereby young people receive citizenship education and go on to exercise their right to vote immediately after leaving school (Bridges, 2004).

While conceding that they themselves need to press for inclusion, young people also doubt whether those in authority have genuine intentions about involving young people. In this regard, some young people note they have been excluded from having a say in the political peace process and are unrepresented on the various commissions set up by the Good Friday Agreement reflecting a culture where young people are left out of the fundamental politics of NI (NI Assembly, 1999).

In the formulation of the young person's response to 'Shaping our Future', the young people consulted expressed a sense of great frustration at their powerlessness in terms of influencing local and regional policies. They complained about the inaccessibility of political documents, especially in terms of the language used and the perceived disdain held for young people by local politicians. Calls for both a Minister for Youth and direct youth representation on decision making bodies were made as well as a demand that young people be given a meaningful voice in the political peace process (Shaping our Future, 1998).

Young people recommended action that political parties should take to become more accessible to young people including:

- identifying a youth spokesperson who would have active contact with youth councils and other youth groups,
- publicising political surgeries and making them more youth friendly,
- providing internet access for the purposes of communicating with young people and encouraging Assembly members to go on a roundtable of schools (NI Assembly, 1999).

Young people also recommended that there be more young people represented on the Civic Forum (set up under the GFA article 34 Strand 1) which to date has had only one member under 20 years. Putting Children First, a lobby coalition for children's organisations, challenged the First and Deputy First Ministers to equality proof the Civic Forum and to take measures to increase the involvement of children and young people, no change to its membership has occurred. One NGO representative suggested that reserving a 'youth' place on the forum would be tokenistic, and favoured instead the development of strong links with other youth groups. Nevertheless, it is clear that young people have a positive contribution to make to the Civic Forum, and that the issue of youth representation on and meaningful participation in the Forum should be given further serious consideration.

Key Issues

- Politics and politicians are currently inaccessible to children and young people who have an interest and an understanding in politics, but lack basic information about the political process.
- More research needs to be carried out into lowering the voting age in NI.

KEY PRIORITIES

The following priorities emerge as key to the effective implementation of the Convention. Many of these reflect recommendations made by the Committee on the Rights of the Child, which remain unaddressed, and all are fundamental to ensuring the enjoyment of the rights of all children in NI.

- Given that children's rights and particularly the Convention's guiding principles are inadequately protected in NI law, it is recommended that a key priority for the Commissioner's Office should be to lobby intensively for incorporation of the CRC into domestic law, as well as for the inclusion of a strongly worded and detailed clause protecting the rights of children and young people in the Bill of Rights for NI. NICCY should also promote the return of the children's strategy to its original objective of the mechanism via which the Convention is to be implemented in NI.
- In addition to using all of its powers to monitor the compatibility of law and policy with the Convention, NICCY should also promote the development of children's rights indicators or impact analysis for both law, policy and budgetary decisions. It should lobby for a high level, cross-departmental statutory/Assembly committee and/or Minister for Children with the power and resources to effectively co-ordinate implementation of the Convention and children's rights more generally.
- Raising awareness of the Convention and children's rights among children and young people, and adults, including those working with and for children, all of whom require on-going training on children's rights, should be a priority for the Commissioner's office.
- NICCY should work to establish itself as the central point for information on children's rights in NI and should develop strategic ways to ensure that all children and young people have effective access to information about their rights in child sensitive forms.
- The Commissioner needs to address the serious lack of child-sensitive complaints procedures and independent advocacy services for children and young people, possibly consulting with NGOs on what precisely can be done to fill these gaps and how existing mechanisms can be appropriately adapted.
- Priority should be given to producing and maintaining up-to-date and disaggregated data across government departments and producing an annual, comprehensive publication on the state of children's rights in NI.

- NICCY should take a leading role in seeking to promote the right of all children to be heard and have their views taken into account in individual decisions as well as law, policy and in the political system generally. It should establish firm links with representative NGOs as well as with children and young people directly involving them in a meaningful way in the work of the Office. The Commissioner should also work with the Equality Commission on ways to maximise the potential of S.75 in respect of the age criterion and seek to collate and disseminate best practice on how to consult with children and young people. It should promote the right of children to be heard via the use of schools councils, and youth councils in district councils and in the NI Assembly.

CHAPTER:

tWO

**FAMILY LIFE AND
ALTERNATIVE CARE**

INTRODUCTION

The UN Convention on the Rights of the Child (CRC) makes extensive provision for the rights of children and young people to a family, in the family, on family breakdown or if alternative care is needed to ensure the child's care and protection. Every child's rights in these areas, as in others, must be secured in full compliance with the Convention's fundamental provisions of non-discrimination (Art. 2), best interests of the child (Art. 3) and the right to be involved in decision making which concerns the child (Art. 12). The European Convention on Human Rights (ECHR), incorporated into domestic law via the Human Rights Act, 1998, also provides for the rights of children, their parents/guardians and the state. Moreover, the European Court of Human Rights has supplemented this protection in a detailed manner in numerous judgments on the right to respect for private and family life protected by Article 8 ECHR. Together, the CRC and the ECHR not only set out the individual rights of children and young people within the family, but also promote an active partnership between them, their carers (generally parents) and the state.

This partnership approach is supported in Northern Ireland law by the Children (NI) Order 1995 (the Children Order) and its guidance and regulations. The Children Order represented a root and branch reform of the existing law relating to children between private individuals, usually parents/carers (the private provisions) and between parents and the State (the public provisions). It was intended to be a comprehensive legislative basis to guide decision-making about disputed family affairs and state intervention in family life.

The CRC approach is also supported by Children's Services Plans (CSPs), which have been developed in all four Boards to implement the Children's Services Planning Order 1998¹. These CSPs are explicitly committed to promoting children's rights and family support through integrated approaches to planning (McTernan and Godfrey, 2004). A similar position is anticipated in the Department of Health, Social Services and Public Safety (DHSSPS) Strategy for Children in Need and the overarching children's strategy issued for consultation in November 2004 by OFMDFM (See Chapter 1). It is also likely to be reflected in the work of the Standards Development Task Group of DHSSPS, which is developing, focused, minimum standards for a range of care services, including those for children. The partnership approach and the balance between the child or young person, their carer and the State has been welcomed by most child care professionals (Pinkerton, 2003). However, there have been reservations as to how effective the Children Order is in achieving its aims due to areas that it does not cover, where it is inconsistent, or at variance with other legislation (e.g. adoption, mental health, education), where there are limitations in the practices that have been developed to implement it, and the adequacy of resources that have been committed to its implementation. How supportive, or indeed aware, children and young people and their carers are of the aspiration to active partnership between them and the state is not known (Higgins et al., 1997).

This chapter analyses the delivery of children's rights as laid down in the CRC and the ECHR in relation to family life and alternative care. The analysis draws on documentary evidence combined with the perceptions of the participants in the research. It is informed by, and located in, local research wherever possible but where relevant studies have not been identified national research has been drawn on. It is divided into four main sections as follows: Everyday Family Life of Children, Children at Risk, Children as Victims/Vulnerable Witnesses and Children in Alternative Care with sub-sections under each. The structure of each section follows that described in the Introduction (page xv)² and issues identified in each section are based on the common themes that emerged from the data with selected quotes being used to illustrate these common themes.

FAMILY LIFE

The Convention on the Rights of the Child recognises that the family is the fundamental unit of society and that it is in the best interests of every child to grow up in a safe, secure family environment. For this reason, several of the Convention's provisions require the state to support the family so that it can undertake its responsibilities to their children (Art. 18). However, the Convention also requires the state to balance the right of the child to grow up in a family with the child's right to be protected from harm. Thus, the CRC provides that children who are deprived of their family environment have the right to alternative care, and that where they are separated from their parents and it is not contrary to the child's best interests, they have the right to maintain regular direct contact with their parents (Art. 9 CRC; Art. 8 ECHR).

The CRC does not define family life although the case law on Article 8 ECHR, which requires the state to respect family life (in both abstaining from arbitrary interferences in the family and taking positive action to support the integration of children into the family) makes it clear that family life is an autonomous concept which includes all relationships between parents and their children, married or unmarried, cohabiting or living apart, as well as those bound by close personal ties. It is a flexible concept which has not yet been found to include same sex relationships, but it has been found to include the relationship between a woman, her partner who was a female to male transsexual and the child born to them by donor sperm, (i.e. those involving social rather than biological ties), (X, Y & Z v UK, 1996)³.

There is no doubt that children's rights must be protected and promoted within, as much as outside, the family. According to the Committee on the Rights of the Child, Article 12 requires that children who are capable of expressing their views have the right to do so and have those views taken into account in decisions made about them. This applies to decisions made in the family, while Article 5 provides for the principle of evolving capacity. This requires that the extent to which parents exercise the rights of very young children on their behalf should diminish as the child grows in maturity and understanding and is able therefore to exercise their own rights. Additionally, Article 16 protects the child's right to privacy within the family and home.

Everyday Family Life

Social, economic and political change has impacted on all aspects of family life. Such changes invariably lead to differing demands being made of the family alongside changing expectations regarding the quality of personal relationships within it. In Northern Ireland (NI), the vast proportion of children grow up within a family whilst also living against a backdrop of the political conflict which is experienced in a variety of ways. Despite the interest of local and international researchers, the direct impact of this political violence on family life has not been well documented. There is some indication that children who live in interface areas do not feel safe in their homes because of community tension (Leonard, forthcoming), that some children and young people support the notion of cross-community marriages but believe that this would involve the making of difficult choices (Leitch and Kilpatrick, 1999); and that negative attitudes towards 'the other community' are passed on from one generation to another at an early age (Connolly, 2004; See also Chapter 1).

If little research has focused on the impact of 'The Troubles' on family life, even less has explored the quality of family life in general in NI. Figures such as the fact that one in ten young people will run away or be forced to leave home overnight before they are sixteen because of problems

at home (Raws, 2001) and the difficulty that gay and lesbian young people have in 'coming out' to their parents (Carolan & Redmond, 2003; Youth Action NI, 2003; YouthNet, 2003) suggests that family relations are not always harmonious. This dearth of information on family life in NI means that it is primarily from the school research carried out for this study that we are able to get a glimpse into what everyday family life is like for children and young people living in NI today.

It is most probably significant that, in this research, a small percentage of children felt it important to state that their family 'was fine' (5% of all those who gave responses relating to family/home life), despite being asked specifically about aspects of home life that were unfair. Of the comments that were made about unfairness in the home just under a third (29%) concerned not having a say in family matters. This included personal matters such as how free time or pocket money was spent, what time children had to go to bed, deciding what programmes to watch on television (it was invariably an adult who had control of the remote control) and involvement in household chores (including babysitting). Additionally, not having a say in more general family decisions such as decorating the home, buying new cars, family holidays, financial decisions and moving house was also raised. These issues are illustrated in the poster and in the quotes below:



"Kids are not asked if they want to move house, they are just told. Children have no say in where they move to. Children have no say in how the house is wallpapered and which colour" (Boy, aged 15).

"I get annoyed about my bed time because all of my friends get to go to bed later than me even if they are the same age as me. Also in the summer months I have to go to bed in daylight" (Boy, aged 11).

However, the biggest issue raised by children and young people when asked about unfairness in the family related to difficulties living with siblings. Here children complained about being treated differently to their brothers or sisters or compared to them and/or that their siblings annoyed/picked on them. One third (33%) of responses received in relation to the home raised the issue of sibling rivalry with children aged 9-11 years being amongst the most likely age group of children to comment on this matter. Typical statements made by these children included:

"I am the oldest child in my family so if I fight with my sister I get in the most trouble even if my sister start it " (Boy, aged 11);

"It 's unfair because my twins come in to me and my brother 's playroom and mess it up. Then my dad says that me and my brother have to tidy it up and I am the only one ends up tidying up" (Boy, aged 9);

"Sometimes I feel that because I am the youngest so much is expected of me. For example, I have to be as smart as my brother and as good at drama as my sister is" (Girl, aged 11).



When asked about the things they considered unfair in the home, one in five children (19%) raised the issue of parents/guardians being over-protective in relation to not giving children enough freedom of choice. Because of their young age, many children felt that their view was either not sought, or simply ignored or over-ruled in decisions taken by their parents. As illustrated in the following picture and quotes, children were sometimes frustrated at the lack of independence afforded to them by their parents/guardians:



"Sometimes parents don't try to see things from your point of view. They believe because they are older and more mature that they are right which could lead to disagreements instead of compromises" (Girl, aged 15).

"I think parents put too much pressure on us. I know they try to do their best but sometimes they look after us too much and don't give us our freedom. They're always worrying. I think children should do what they want but learn from their mistakes" (Boy, aged 13).

One other issue raised in relation to parents concerned the lack of time quality family time one or both parents spent with their children. Although the issue of parents working too much was only referred to by a very small number of children, the fact that it was mentioned at all suggests the importance of family life to children and young people:



"My dad doesn't have dinner with us because he works from early in the morning to late at night... I would like to have a proper dinner with my family" (Girl, aged 10).

The fourth main concern, which children raised in their submissions about what was unfair in the home related to the issue of privacy. Although only 8% of children raised this point it was clear that the manner in which their private space was invaded was important to them (Art. 16 CRC;

Comment

There is an extremely large gap in our knowledge regarding the extent of parents/carers and children's knowledge of their rights. Additionally we know little about what daily family life is like in NI for the vast majority of children and young people. It is important that large-scale research into these questions be commissioned in order to have a baseline from which to explore the strengths and difficulties of everyday family life. Without such information it will be difficult to assess the impact of any wide-scale children's rights awareness raising campaign such as has been recommended by the Committee on the Rights of the Child Concluding Observations in 2002 (UNCRC: 21).

PARENTING: GUIDANCE AND RESPONSIBILITIES

State parties are required to provide appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible (Art. 18(2) and (3)).

Context

The state has a duty to respect the rights and responsibilities of carers and support them in exercising these. This includes provision such as maternity rights, paternal leave and early years provision, as well as support for meeting the challenge of parenting in socially and economically deprived areas, which are often also areas of sectarian conflict (Muldoon, Trew and Kilpatrick, 2000). Law, policy and practice recognises the need to strike an appropriate balance between respecting the integrity of the family and providing services and interventions for family support and child protection. This is achieved through combining universal services such as health and education with selective services such as family support for 'children in need' and protection for those 'at risk of significant harm'. There is also a balance to be struck between family support and investigative child protection, which at present continues to be weighted towards the latter. Responsibility for the development and delivery of universal services lies with a number of Government Departments. Developing focused family policy is the responsibility of the Family Policy Unit, DHSSPS, as is responsibility for policy in relation to private law provisions such as domestic violence. Responsibility for children with disabilities or mental health problems rests with the Disability and Mental Health Unit of DHSSPS.

Practice

Support for parents of children of pre-school age and after school provision has been expanded significantly by the voluntary and community sector following an increasing emphasis on this area by Government. For example, Sure Start is a government initiative, which operates across Northern Ireland. The programme aims to achieve better outcomes for children, parents and communities by: increasing the availability of childcare for all children; improving the emotional development for young children; and supporting parents as parents and in their aspirations towards employment. (Sure Start website, 2004). There are 23 Sure Start schemes operating in NI with approximately one-third of these being in rural settings. The numbers of parents accessing the schemes varies according to location. The schemes are multi-disciplinary and while they are based in disadvantaged areas they are aimed at all families living in the catchment area; and their emphasis is on early prevention. In addition to Sure Start there are many other family support projects which are being offered by the voluntary sector and community groups including, Barnardo's, Home Start, NCH, NIPPA, and Playboard to name but a few. On occasions these NGOs work together as part of a Sure Start project. It is interesting to note that Family Centres

also provide a range of support services and resources to parents and children, but in 2000 had not increased in numbers (Higgins and Pinkerton 2000). Additionally, day care facilities for children including registered child minders, playgroups, day nurseries and out-of-school clubs also provide family support of one type or another. The majority of these are provided through voluntary organisations, private companies or individuals as a business, community groups as co-operate enterprise, or any of these bodies on a partnership basis. (Mooney et al., 2004).

Under Article 20 of the Children Order each Board has to undertake a triennial review of daycare and child minding in its area and publish the results. Additionally, at Trust level there is a register of all daycare and child minding providers but it remains difficult to get a comprehensive picture of the early years provision since there is no centrally held directory. In light of this a much needed parenting audit was conducted by the Parents Advice Centre (PAC), which identified that parenting services are extremely patchy in NI. Recently, NGOs have been particularly active in promoting and developing parenting courses and PAC, in particular, provide a range of support for parents, including training on alternatives to physical punishment. Other developments driven by PAC include the establishment of a Parenting Forum. Furthermore, it is thanks to research conducted by PAC, in collaboration with Save the Children (SC) that we have some insight into how parents and children perceive the job of parenting, the range of essentials skills needed and the type and level of support that they require. This report highlights amongst other things: the various limitations of statutory support for parents, stigmatisation and statutory workers' fixed ideas about parents; professionals not listening, lack of information and lack of access; and problems with coordination and consistency in services. The unevenness in provision of support for parents from the voluntary sector was also raised. (SC and PAC, 2003).

Despite the fact that family life in NI is lived against a background of political conflict support for families living in areas most affected by that conflict has been extremely sparse, though the provision of funding by the Victims Unit of OFMDFM has led to some developments in this area primarily by NGOs. Most notable in relation to family life has been Barnardo's Parenting in a Divided Society project. This project has developed a comprehensive resource pack, 'We' ll never be the same', which is relevant to a 'wide range of organisations concerned with children, young people families, community and society'. (Barnardo's, 2004). Additionally, the DHSS in collaboration with the four Area Child Protection Committees have developed a Safe Parenting Handbook, which is to be launched shortly

Issues

- There is a lack of access to and evaluation of, early years preventive work, including out of school provision, especially in rural areas. Associated with this is the need to raise awareness among government and society at large as to the importance of an early intervention strategy *"... that 's one of the most pressing issues, it's about getting the wider public to say we accept that there needs to be this preventative early intervention work, it needs to be supported"* (Statutory Sector Representative).
- There needs to be greater promotion of family and community-based anti-discriminatory practices to enable NI families and society to move beyond sectarian divisions and political violence.
- In relation to positive parenting, a concern consistently raised by many of the interviewees was the lack of awareness raising programmes from Government, or any real lead on the issue of physical punishment (see further below).
- While there are schemes to support parents, concern was expressed that access to these was not evenly distributed across NI. Furthermore, support for certain parents was seen as inadequate, especially parents who work, young single parents and those with a child with a disability.

Comment

Currently, there is no one over-arching family strategy, though the Family Policy Unit has informed the research team that work has commenced on its development. Support for the family will also have to be central to the overarching Children's Strategy and the Strategy for Children in Need, which are also currently being drafted (See Chapter 1). Policy commitment in this area must be matched with increased resource allocation and appropriate development in service delivery structures and practices. In addition, particular attention needs to be given to gaining the active support of children and young people, along with their parents and carers, based on an informed understanding of parents' responsibilities in providing direction and guidance to children and young people in the exercise of their rights under the CRC. The principle of evolving capacity is key here.

CHILDREN AND YOUNG PEOPLE WITH ADDITIONAL NEEDS

In addition to non-discrimination in the enjoyment of rights, Article 23 CRC recognises that children with disabilities and special needs have the right to special care to help them enjoy a full and decent life in dignity and achieve the greatest degree of self-reliance and social integration possible. In advance of the long-awaited UN treaty on people with disabilities, attention is drawn to the more detailed standards as set out in UN Standard Rules on the Equalisation of Opportunities for the Disabled.

While the majority of children and young people will not face major difficulties in family life some will have exceptional adversities to overcome. These can come in a range of forms which make children particularly vulnerable and may place them at risk of discrimination in the enjoyment of their rights, such as children and young people with mental ill-health needs, those with a disability, or young carers. Some of these young people, including minority ethnic communities, Traveller children, or stigmatised social groups such as lesbian, gay, bisexual and transgendered (LGBT) young people, face multiple and long term problems. In such instances, these young people require additional support to help them overcome disadvantage, discrimination and racism. In other cases, the difficulties may not be so complex and may represent once-off difficulties (for example, the death of parent) but nonetheless these young people and their families may need appropriate support to come through difficult periods in their lives.

Given the wide range of groups of children and young people who are vulnerable and at risk of not enjoying their rights on an equal basis, especially in relation to family life, it is impossible within the confines of this report to cover all instances and therefore three key groups have been selected; young carers, children who are bereaved and children with disabilities. These were identified on the basis of exploratory discussions with NGO and statutory representatives who were asked to highlight particular groups of children and young people whom they felt had difficulty in accessing their rights especially in relation to family life.

Young Carers

Young carers can be defined as children and young people who are the main carers of a sick or disabled parent or sibling. They therefore take on a role not usually assigned to young people, which immediately make their life experiences different to their same-aged peers. There are no official figures on the number of young carers and it is difficult to estimate this particularly since families often keep silent about the problem for fear of separation, guilt or pride (NCH website). In the absence of official figures the Carers National Association has estimated there to be

between 15,000-40,000 young carers across the UK with the average age being 12 years, though the range is from as young as three years. Most of the available research has been conducted in England though there has been a recent study in the Republic of Ireland (Gilligan and Halpenny, 2004) and a small small-scale qualitative study in NI (Leonard and Davey, 2001b). When the findings from these studies are combined the picture that emerges is one of a young person who has to grow up fast, but who often report that this experience can be a rewarding one. Many young carers take pride in the fact that they are able to give support to a parent in need. However, being a young carer can make serious physical and emotional demands on the individual who will take on tasks such as housework, cooking and bathing their sick and/or disabled relative. The physical and emotional strain is sometimes too much; many suffer depression and report feeling lonely and isolated. Missing school is also common and 25% of young carers leave school with no GCSEs, as a result they are more likely to be unskilled and do not obtain vocational qualifications, which has serious consequences for their work and life opportunities as they mature (Eley, 2004).

The lack of support was also an issue for the young people in the aforementioned research, and there is clearly a need for services such as respite care, counselling, advice, and social and leisure pursuits for these young people.

The NCH is one of the main providers of projects for young carers in Great Britain and these offer:

- a break from caring and an opportunity to meet and make friends with others in the same situation;
- organised activities and outings (such as trips to the cinema or football games);
- professional help with one-to-one sessions with project staff;
- advice on accessing practical support, grants and funds from social service departments, health authorities and other agencies

In NI there are three HSSTs based young carers projects in the SHSSB, one of which is run by NCH. These are designed to support young people in their caring role, help them enjoy life like any other child and ultimately help keep families together. Based on experience in other areas and on research it is estimated that around 23% of the under 18 population in the SHSSB live in households where one or more family members is hampered in daily activities by chronic physical or mental health problems, illness or disability. The value of such projects can clearly be seen by the comments of the young people who attend them and the staff who facilitate them⁴.

"Here I can just relax without having to explain anything - everyone here understands what being a young carer means." (Young carer, aged 11);

"I wouldn't have coped at all without the project and I don't know where I'd be without them." (Young carer, aged 16).

The submission (2001d) by the Children's Law Centre (CLC) to the proposal for a Carer's and Disabled Children's Bill proposes that a multi-disciplinary approach should be taken in relation to the development of clear protocols between agencies so that children's rights in this area can be protected. Furthermore, it highlights many additional needs and raises the key issues in relation to

young carers. Such proposals need to be moved forward urgently so that progress can be made on supporting all young carers and not just an isolated few. If these young people are to enjoy their right to family life then they must be seen as a priority:

"The most important thing we can do here is give young carers the time and space to be children again" (Young Carers Project Manager).

Children who are Bereaved

The death of someone close to a child or young person can have a profound and devastating impact, particularly where the death of a parent or sibling is concerned. If not handled sensitively, grief of this nature can have traumatic ramifications in the making and maintaining of relationships in adulthood (Ryan, 2000). The experiences of children who are bereaved are best told through their own words and the following is based on quotes from children who were attending Barnardo's Service for Bereaved Children⁵ and the NICCY schools research:

Children often blame themselves for the death of someone close: *'It is my fault my mummy died...I was messing about and she told me to keep quiet. I was cheeky to her... the next night she died'* (Girl, aged 12);

Changes in the family home are also extremely difficult for children to cope with or understand: *" Our home used to be a happy one, now we fight all the time. My mummy doesn't make dinners anymore and goes to bed at 8 o' clock"* (Girl, aged 13).

Additionally, because the entire family may find it difficult to cope with the grief the child's distress may go unnoticed or unattended to: *"My mum and dad argue all the time since my brother John killed himself. They blame each other and I blame myself"* (Boy, aged 14). Sometimes adults may decide not to tell children the truth about a death feeling that it is too painful, and frequently the views of children are not sought with regard to funeral arrangements and events subsequent to the death. The hurt, anger and distress that this causes for the child in question is very real *"I can cope with the truth - I wish they hadn't lied to me"* (Boy, aged 9). A small but significant number of children raised this issue in the NICCY schools research. For example, one child (aged 11) drew a picture of an angel with a question mark over the face and wrote beside it, *"My baby brother died when he was born and I don't even know what he looks like..."*

An NGO worker summarised these concerns regarding children who experience bereavement as follows:

"Children who are bereaved are frequently ignored, not seen and forgotten about and people do not realise that they have very specific needs. Social services and health authorities feel that they are not high risk enough to be given priority but they end up as this - there is a great need for more preventative work so that we don't end up with young people who have serious mental health problems as a result of childhood bereavement".



The need for early preventative work is clearly key to allowing the child who has been bereaved to have a voice in matters affecting them and to prevent long term problems. Such preventative work can take a variety of forms, including information leaflets on the grieving process (which is sometimes all that is needed), telephone advice and one-to-one counselling. To be effective, however, this needs to be child appropriate and accessible to children in these situations.

Children with Disabilities

Unlike the previous two categories of children with additional needs, detailed legislative and policy provision regulate and guide the provision of services for children with disabilities, much of which is directed towards the social inclusion of these young people. However, the implementation of some of this policy has been fragmented and lacks a coordinated approach. A review of Mental Health and Learning Disability has recently been completed and the final report is awaited. In relation to access to family life for children with disabilities, the research is said to be skewed towards seeking the parent's perception of this, rather than the child's. This is perhaps understandable given the communication difficulties that might be encountered with children with learning disabilities. However, the use of creative techniques, and especially artwork, is a means of communication, which can allow such difficulties to be overcome, as demonstrated in the current research.

The issues raised regarding family and home life by the young people with learning disabilities in the research were similar to those raised by all children and included concerns around unfairness in the home in terms of lack of say in personal decisions such as bedtime, coming in from playing and household chores. Similarly, the same points as were raised in the mainstream schools regarding siblings "picking on" or "bossing them" or using their things without asking permission and parents shouting at them and giving them orders were also mentioned. However, one issue, which appeared to concern a small number of young people with learning disabilities, as opposed to those in mainstream schools, was the level of noise in the home, which, they said, kept them awake.

When teachers working with these children were asked about areas in which they felt children's rights may be ignored one person, in particular, raised the question of parents being over-protective (a point made by children themselves in mainstream schools) and how this in many ways infringed upon their rights (especially Art. 12). "Special children seem to be the most vulnerable because sometimes even their parents don't respect their rights!" (Educational Professional). This raises a question about the issues of independence and evolving capacity as the children approach adulthood. Many of these young people tend to socialise with their peers from special schools and thus have few friends close to home and little access to social networks. This results in them being excluded from social activities with their same-aged peers outside school and there is a danger of them becoming increasingly isolated socially once they leave school (Kilpatrick and McClinton, 2004).

Monteith et al., (2002) and Kelly (2002a) explored the views of children with disabilities and parents in NI. Findings from these studies indicate that parents often do not appreciate the extent of their children's awareness of being different to others. Furthermore, it was rare for families to discuss a child's disability with them. Small scale unpublished research by McCann (1998) describes the family experiences of brothers and sisters of children who are learning disabled, which are primarily positive, though some frustrations are expressed. On the basis of such findings, and as recommended by Monteith and Kelly practical support and information on how to guide children through the experience of growing up with a disability should be provided to

appropriate families. Additional support should be offered to help overcome the barriers to inclusion that may be encountered.

Given the difficulties in communicating with children with learning disabilities it would seem important that those working with this group of young people should have specialist training focused on the ways in which it is possible to ensure that the voice of children with disabilities are heard. As one educational professional put it: “ all children need to be listened to and [have their] concerns acted on in an appropriate way” (their emphasis). (See also Chapter 5: Education)

Comment

Due to a lack of systematically gathered and collated information on the extent and effectiveness of both existing services and need, it is impossible to determine whether the rights of vulnerable children and their parents are being met and whether these rights are enjoyed without discrimination. Planners at all levels are increasingly aware of this problem and the Children’s Services Planners, in particular, are working to find solutions to the conceptual and technical problems involved, (for example there is ongoing work to create a register of children with disabilities to inform the service planning process), but there is no room for complacency. There is an urgent need for this issue to be addressed in a holistic manner so that a comprehensive picture of the situation faced by all vulnerable children and their families in NI can be drawn. Only then can those groups for whom access to family life is problematic be identified with a degree of certainty.

CHILDREN AT RISK

While many children grow up in safe and secure family environments unfortunately this is not always the case. Some children face violence, abuse or neglect and in such cases the State has a duty to intervene to safeguard and promote the best interests of the child. Sometimes this interference requires HSS Trusts to acquire parental responsibility for children and court proceedings ensue between the Trust and the parents. Despite the extremely wide range of issues that arise in this area, extensive interviews conducted for this research with statutory and NGO representatives and workers requires that the issues of physical punishment and child protection procedures are worthy of special attention.

Article 19 CRC provides that:

“State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”

Under Article 8 ECHR, any intervention in the family to protect the child must be proportionate to the aim to protect the child’s interests and well-being and must also be carried out without discrimination and with due attention to procedural safeguards. Considerable ECHR case law exists on where the delicate balance lies between respecting the integrity of the family (and the child’s right to grow up in it) and protecting the child’s rights and interests (Kilkelly, 1999, 2004). Adherence to procedural safeguards are paramount and require, inter alia, that the parents enjoy effective involvement in decision-making processes at all levels (Art. 8 ECHR), and that due process applies throughout (Art. 6). Cases involving children must be expedited with due care and decisions must be taken based on evidence compiled by competent authorities. Children must be heard as part of this process (Art. 12 CRC). The state also has obligations to provide victims of abuse and neglect with support and treatment, and has a duty to identify and punish those responsible for the abuse. (Art. 39 CRC).

Physical Punishment

The Committee on the Rights of the Child has expressed the firm view that the physical punishment of children is contrary to Art. 19 and recommended in the Concluding Observations of both 1995 (31) and 2002 (36-38) that the UK abolish the physical punishment of children including in the family. **Both** the Committee and the European Commission on Human Rights (*A v UK*, 1998)⁶ have criticised the vague nature and inconsistent application of the defence to assault, i.e. where the punishment complained of is argued to constitute 'moderate and reasonable chastisement'.

Physical punishment remains an issue in NI despite several publications and calls for action by NGOs who have already raised the issue with the Commissioner for Children. A public consultation was carried out by the Office of Law Reform (OLR) in 2003, but no clear consensus on the issue of legal reform emerged and the majority of individual respondents remained unconvinced of the need for change. However, there was consensus about the need to develop measures to support parents and parenting (OLR, 2004). Several of those interviewed for the current research questioned whether the general public was sufficiently aware of the damaging and detrimental effect that such punishment can have on the lives of children to enable them to make an informed judgment on the issue. The current awareness raising work that NGOs such as PAC, Save the Children and Positive Parenting are doing in this area will, it is hoped, have a significant impact. The unequivocal view expressed by the vast majority of children, young people and adults spoken to for this research was that all forms of physical punishment should cease.

Child Protection

There are primarily two types of referrals to social services in respect of children in need: firstly 'children in need' under Article 17 of the Children Order where extra family support or the provision of services is required to meet their needs and, secondly 'children in need of safeguarding' referrals under Article 66 of the Children Order where the child is suffering or likely to suffer significant harm. Children in need referrals accounted for 54.9% of all referrals to social services in 2001/02, while children in need of safeguarding referrals accounted for 25.5% of all referrals in the same year (Mooney et al., 2003).

The duty of child protection agencies to intervene where a child is suffering or likely to suffer significant harm and the range of legal orders available to safeguard children are set out in Parts V and VI of the Children (NI) Order. Guidance on managing child protection cases is provided in *Co-operating to Safeguard Children* (2003) and in November 2003, Draft Standards for the Inspection of Child Protection Services were issued by SSI (2003c) to establish criteria against which the inspection of a range of child protection services could be measured. Each Trust is expected to adhere to the guidance set out in *Cooperating to Safeguard Children*, including carrying out an initial assessment within seven days of a referral being made. Regional Area Child Protection Committee (ACPC) procedures, which develop the guidance in *Co-operating to Safeguard Children*, will be launched in April 2005. Additionally, each Trust has a range of policies and procedures with regard to assessment, case planning, case management and recording of cases, which are disseminated as guidance to their family and childcare social workers. There are also a number of bodies, which have been established with a remit to assess and promote better child protection services including the Child Protection Panel (CPP) within each Trust and the ACPC within each Board. In 2002 in response to a Private Members Bill to regulate ACPCs (which fell due to the Assembly suspension), DHSSPS established the Child Protection Advisory Group (CPAG) comprised of key agencies and professionals to act as a high level advisory body on regional child protection issues. These various committees, panels and agencies are generally keen to re-focus the service delivery culture from one, which is crisis driven and

procedural-led to one, which is outcomes focused with an emphasis on quality. (WELB, Children's Services Plan 2002-05) The fact that so many boards and committees have a remit for child protection highlights the seriousness with which the issue is viewed⁷.

Practice

There has been a steady increase in the number of children and young people who are dealt with through the child protection system. According to the Children Order Statistical Bulletin 2003, the number of children whose names are on the child protection register rose by 16% (1,386-1,608) between 1998 and 2003. Three out of four of these children are aged under 12 years and 40% have been on the register for a year or more. The reasons for inclusion on the register in 2003 ranged from neglect (40.5%), physical abuse (23.5%), sexual abuse (11%) and emotional abuse (14%) to a combination of these reasons (11%). There are many factors that may play a part in the increase in the number of children whose names are included on the Child Protection Register but it is important to note that this is more likely to indicate a growing awareness and concern of the issues surrounding child protection and continually improving guidance, and procedures rather than necessarily an indicator of an increase in child abuse.

There is no overarching regional policy regarding the management of child protection issues and structural arrangements vary across Trusts. However, within each Trust all child protection referrals will be screened and prioritized in one way or another, though there are variations across Trusts in the models used. Furthermore, concern (supported by other research e.g. Spratt, 2000) was expressed by several of the interviewees that the perception of significant harm differs from one case worker to another and can vary with personal prejudices. It was argued that this lack of consensus might contribute to regional variations:

"There are differentiations across the different Trusts. North Belfast might deal with a majority of neglect cases whereas another Trust might deal with mostly emotional abuse so the criterion for significant harm could well differ based on regional circumstances like the level of social deprivation" (Child Protection Professional)

Where the case reveals or suggests significant harm to a child then there is an obligation under Co-operating to Safeguard Children for that child to be seen and spoken to within 24 hours of the referral having been made. There is not this requirement for cases deemed non-urgent at the point of initial referral and while not considered appropriate practice there is some anecdotal evidence that some of these cases due to pressures at a local level are classed as 'family support' and placed on a waiting list. In relation to this point some concerns were raised by NGOs about the possibility of what may be in fact some unallocated child protection cases. None of the Boards has raised this issue with the Department and there are no published statistics to determine whether or not there is a problem. One possible way of addressing this issue is the New Beginnings Initiative of the Western Board, which has a heavy focus on multi-disciplinary training and co-operation in terms of the appropriate referral of child protection cases. While this may be a promising approach the model is in its infancy and needs to be carefully and rigorously evaluated before being more fully implemented. Another alternative, which was put forward by some interviewees, was for ACPCs to establish mechanisms to ascertain if there were unallocated cases, which could be reframed as family support and thus downgraded. However, this suggestion does not take cognizance of the Laming Report in which it is stated:

"I also have evidence that the downgrading of cases to the status of Section 17, and afterwards closure, was becoming an attractive option to childcare teams struggling to deal with what they perceived to be an ever-increasing number of child protection referrals,....." (para 17.102)

"this approach to the use of Sections 17 and 47 (Articles 17 and 66 of the Children Order) can only be described as dangerous... sections 17 and 47 of the Children Act 1989 are used simply to identify the part of the Act which is used and is not a justification for inactivity" (para 17.108).

Clearly a thorough reading of the Laming Report would be essential before any decisions were taken regarding this issue.

Referrals confirmed as being of a child protection nature are generally subject to case conferences, which are attended by the social workers, the child's parents, a police officer and any other involved professional including doctors, health visitors and teachers. Young people also have a right to attend their case conferences but this is not advised for children under 12 years of age. In such instances the guidance suggests that the Chair of the case conference should make a decision based on the best interests of the child. Though this is not open to individual interpretation differing opinions as to its value were expressed by interviewees in this research, for example:

"Personally I don't support the presence of children at case conferences. This is not that they should be denied this right but on the basis that these meetings are not therapeutic and can often be unpleasant and traumatic for the child" (Child Protection Professional).

In order to address such problems it is important to ensure that children and young people, as well as professionals, receive adequate support and training to ensure that the situation is dealt with in an appropriate manner and that children feel involved.

Depending on the outcome of the investigation, a decision may be made to make application to the court for one of a number of court orders though this occurs in the minority of cases. McAlister, Toal and McCrea (2004) explored young people's views and perceptions of their involvement in the child protection process with a small group of eight young people between the ages of 12-16 who were subject to registration in the Western HSS Board's area. Findings indicated that these young people did not know that their names were on the Child Protection Register and those who were in care did not separate child protection arrangements from those associated with being looked after. Furthermore, they saw child protection as something that was outside the family and they understood social workers to be associated with brothers and sisters or parents rather than with themselves:

*"some people have them (social workers) because of their brothers and sisters, if they're disabled";
"X (a brother) has a social worker cause he goes to a special needs school";
"we've always had one cause Mummy had one";*

The young people also had much to say with regard to what would make a difference for them including:

*" employ people who listen to children and don't disregard what they say";
" don't write everything you say down, be more relaxed and easy going";
" talk about other things - not just my life".*

Additionally, though all the young people had heard of Childline and knew the telephone number they were less than confident about using it because of concerns as to how they would communicate what they wanted to say. While this is a small scale study it is one of the very few

that has examined this sensitive issue and has been published. The findings highlight important misperceptions and/or misunderstandings as well as ways in which the process might be improved for the young person. It would seem that larger scale similar research to elaborate on these findings would be extremely valuable and help ensure that the child protection procedures encourage children to be involved in a process, which they understood and are able to benefit from more fully.

Many of the participants were keen to make the point that the numbers of newly qualified social workers attracted to work in the area of child protection and family and childcare teams are not always sufficient to meet staffing needs and this, accompanied by the heavy workload and high turnover of staff, was highlighted as a serious cause for concern:

"They are over loaded with work from the start. They don't get a chance to learn and expand their skills" (Child Protection Professional).

These staffing difficulties can have a knock on effect on the time between referral and the child/family being seen by a social worker, and thus have implications for individual cases and may affect the quality of care afforded to the children and families. Additionally, the young people themselves commented on this as a particular difficulty for them as reflected in the comment, 'social workers shouldn't always change'.

Other Concerns:

(i) Vetting/sex offenders and violent offenders

Several other concerns were raised relating to safeguarding children including the operation of the Pre-Employment Consultancy Service (PECS) with particular emphasis being placed on Schedule 1 offenders and the gaps in vetting procedures across jurisdictional boundaries especially in relation to the interface with the Republic of Ireland

"Alleged or convicted Schedule 1 offenders who commute across jurisdiction boundaries pose a problem regarding monitoring. Whilst working relationships between the PSNI, Gardai and the relevant social work teams are excellent differences in statutory duties associated with variations in legislation, operations and services have been apparent " (Child Protection Professional).

The lack of a statutory basis for the assessment and risk management of sex offenders was also highlighted as a problem and widespread concern was expressed in relation to the guidance and legislative framework for the management of violent offenders, which was seen as being much more limited in NI (compared to England and Wales). It should be noted that the new Multi Agency Sex Offences Risk Assessment and Management (MASRAM) arrangements were described as working well and these are currently subject to the first thematic inspection by the Criminal Justice Inspectorate (NI).

Some of the current gaps in this area may be addressed under the Protection of Children and Vulnerable Adults (NI) Order 2003 (POCVA) as it is enabled in stages through 2004 and 2005 and accreditation provisions have the potential to ensure vetting and safeguarding practices are extended to a huge range of community and voluntary groups (VDA, 2004). Additionally, implementation of Part V of the Police Act 1997 and new structural arrangements established by the NIO Employment, Checking, Reform and Implementation Team (ECRIT) have the potential to improve the delivery and efficiency of vetting arrangements though it is too early to assess the impact of these changes.

(ii) Child Deaths

There is a worrying absence of detailed figures on child death through abuse and neglect, (an issue which was raised in the Concluding Observations of the Reporting Committee para 40 a, b, d). This situation should be improved by the DHSSPS regional key indicators. Additionally, revised procedures on the conduct of Case Management Reviews (CMRs) and the establishment of a sub-group of CPAG, the Child Management Review Group, to consider the wider implications of CMR Overview Reports should ensure that there is better dissemination of lessons learned, with regional implications, from serious cases. In response to the Lewis Inquiry (Implementation Team, 2003) a regional Child Death Review Protocol has been developed under the auspices of the SACPC and this will be formally consulted on by DHSSPS⁸.

"In previous years this information remained within Boards. Now the aim is to learn lessons and disseminate information across all the Boards and trusts in Northern Ireland" (Child Protection Professional).

(iii) Children with Disabilities

As with child deaths there is a concerning absence of figures on cases involving the abuse or neglect of disabled children despite the fact that ... " disabled children are more vulnerable to abuse or neglect by virtue of the fact that they may not be able to communicate the abuse" (Child Protection Professional).

Issues

The following identifies the main issues, which emerged from the research including the consultation with statutory, and NGO representatives and workers, the comments from young people, and relevant reports in the area, including the Lewis Review, (Implementation Team, 2003) the Laming Inquiry (DH, 2003) and other related policy documentation.

- The absence of a common, regional assessment framework is highly problematic in that it leads to a lack of consistency in assessment and establishing thresholds across Board areas. Similarly, the absence of precise criteria in terms of significant harm and differing interpretations regarding thresholds can have an enormous effect on how cases are treated and prioritized.
- Concerns were raised around insufficient levels of multi-agency and inter-Board communication (both within NI and on a cross-Border basis) in addition to the accompanying lack of clear lines of accountability or understanding of individual roles. The need to re-clarify lines of accountability between Trusts, Boards and DHSSPS was raised as a key issue in the Lewis Inquiry (Implementation Team, 2003). These concerns have been addressed in Co-operating to Safeguard Children but only careful monitoring of the situation will establish how effective they have been.
- There is a need for more effective multi-disciplinary training firstly to emphasise the basic principles of child protection in terms of assessment and reporting procedures whilst also addressing emerging areas such as the effects of domestic violence or sexual exploitation.

"A multidisciplinary approach is the key to asserting and delivering children's rights so that we understand these things better " (Legal Professional)

- Issues around the assessment and management of sex and/or violent offenders were raised. While several initiatives have been introduced to address these issues further progress still needs to be made. In particular the need to place arrangements onto a statutory footing and the need to ensure that the legislative and procedural framework for the management of violent offenders is sufficiently robust.
- There is a need to ensure that child deaths and child protection issues related to children and young people with disabilities and physical punishment are all kept high on the child protection agenda.

Comment

There is a need to invest in structural improvements to child protection system and in particular the need to strengthen the functions of ACPCs in Northern Ireland. While there have been a number of welcome policy developments, overall the procedural and legislative framework for child protection can be regarded as light and under developed in Northern Ireland.

Government in England have ensured considerable investment and policy development in child protection following the Laming Inquiry and the Children Act (2004) will see the replacement of ACPCs in England and Wales with statutory Safeguarding Boards. The legislation also introduces clearer lines of accountability in child protection and new provisions on co-operation and information sharing. Many of these initiatives will have relevance to child protection in Northern Ireland.

The Department have indicated that they are considering the implications of the Children Act in Northern Ireland by placing ACPCs onto a statutory basis as well as dealing with a number of child protection matters that may need a legislative basis such as information sharing. This, combined with other proposed arrangements such as the Child Death Review Protocol, and the establishment of the DHSSPS Child Protection Advisory Group may well assist in improving child protection structures, interagency working at all levels of the system and policy development, thereby enhancing the safeguards available to children.

The Social Services Inspectorate is currently undertaking an inspection of child protection arrangements in four HSS Trusts and the PSNI has recently published a force order and guidance in relation to officers and staff dealing with child protection issues. Furthermore, MASRAM have developed cross-agency training involving social workers, police and probation officers at a regional level and the Criminal Justice Inspectorate are examining the current framework for the management of violent offenders with a view to bringing Northern Ireland into line with England (see also Chapter 6).

Other developments include the launch of the revised fourth edition of the Joint Protocol for the investigation of Abuse by Police and Social Workers and the launch of regional ACPC procedures in April 2005. The latter is a key step since it will result in regionally agreed procedures as opposed to one for each Board. These initiatives are also likely to have implications for voluntary organisations that are delivering services for Boards and Trusts on a contractual basis (4 Nations Child Policy Network, 2004). The success of these programmes is dependent not only on policy or procedure but also individual commitment, communication and cooperation and additionally, careful monitoring is required to determine the level of their impact.

Finally, the issue of physical punishment within the family is still a significant concern. While the Minister Ian Pearson has indicated that he intends to bring NI legislation on physical punishment

into line with the position in the Children Act (2004) there is a major challenge for government to mainstream and promote the use of alternative forms of positive parenting. High priority needs to be given to this and the other issues raised above in order to ensure effective implementation of the right of all children and young people to be protected from all forms of abuse, violence, harm and maltreatment under Art. 19 of the CRC and Art. 3 of the ECHR.

CHILDREN AS VICTIMS/VULNERABLE WITNESSES

For a child, being the victim of abuse is highly likely to have a significant emotional and psychological impact. Having to undertake the role of a witness in court proceedings may also add to the trauma already experienced and needs to be handled with understanding and sensitivity. Unfortunately, this is not always the case and children are often left open to, “unacceptable levels of harassment in court” (Legal Professional). It is vital therefore that those professionals who are involved in court proceedings involving children and young people are fully aware of the emotional turmoil and vulnerability of the young person concerned.

The Children Order provides the statutory framework for public and private family law proceedings, which had previously operated separately and the courts are responsible for delivering the range of court orders. The Children Order Advisory Committee (COAC) plays a major role here and publishes annual reports as well as support documents for professionals and others working in this area such as The Best Practice Guidance. (COAC, 2003a, 2003b)

Court Proceedings: Public Law

Public law proceedings are those that occur where the authorities intervene to acquire parental responsibility for children (DHSSPS, 2001). In public law cases, the HSS Trust usually commences the proceedings and cases may be heard in one of two specialist classes of courts namely, Family Care Centres or Family Proceedings Courts, although all cases must commence at a Family Proceedings Court. The complexity of a case or the potential to join it to another hearing involving the family may require that it be transferred up to either a Family Care Centre or the High Court.

Despite the Children Order establishing the ‘no-delay’ principle the determination of children’s future in cases within the Courts has become an increasingly lengthy and expensive process. (COAC, 2003c, Kelly and McSherry 2003, McSherry, Iwaniec and Larkin, 2004). Some of the key findings from these reports were also raised by those interviewed for the current research and included: continued delays, lack of expert witnesses, the role of the social worker combined with a failure to recognize the expertise of social workers and the absence of a review mechanism to ensure Care Plans are implemented once an order has been granted.

Continued delays have implications for all concerned but especially the children and young people. The impact of the delays has been increasingly well documented (ibid.). Delays remain, however, a matter of concern for most of those we interviewed, though several people did note that the recent directives aimed at improving the system such as the COAC Best Practice Guide ((2003a) may not have had time to have made an impact. Additionally, legal professionals and social workers in the McSherry et al. study suggested that a major source of delay can be the process of trying to balance the parent’s right to a fair trial and family life as set out by Article 8 of the Human Rights Act (1998) with the no-delay principle of the Children Order.

A second point raised by those working with children and young people in the current study was the lack of expert witnesses, particularly in the field of assessing parenting capacity and mental health. There was a strong suggestion that better use could be made of the expertise that exists in NI and it was argued that more senior and experienced social workers could fulfill this role though this would require the negative attitude sometimes displayed towards them by the legal professions to be overcome.

Another issue, which was raised by many interviewees and which is linked to the above point is that of the multi-faceted role that the social worker is expected to play and the fact that preventative services have their limitations (Cleaver et al., 1999; Quinton, 2004). The move into the courts and the child protection nature of the work was seen by several participants to lead to changing roles and relationships for social workers:

“There is a mismatch between what social workers expect to do and what they actually end up doing; they come into family work to do preventative work and end up in court doing child protection and court work. They aren’t in the courts in an adversarial role they’re there to support the welfare of children but they are treated as if they are part of the adversarial system” (Senior Social Worker).

Concern was also expressed by some legal professionals regarding the outcome of cases once an Order had been issued and court involvement is finished. Currently there is no opportunity for courts to follow-up how care plans are implemented. In response to this concern it had been proposed that some cases should be ‘starred’. These cases would then be reviewed by the court at a later date to ensure that the care plan had been implemented and was continuing to meet the child’s needs. The suggestion of ‘starred cases’ has previously been put forward in England but was overturned by the House of Lords in 2002⁹. A possible alternative to this is the approach taken in England and Wales where, as a result of Article 118 of the Adoption and Children Act (2002), which amended the Children Act (1989), there is now provision for reviewing officers to be appointed in these jurisdictions. The reviewing officers monitor the performance of authorities and it was suggested by some interviewees that NI should consider the value of a parallel initiative.

The NI Guardian Ad Litem Agency

The NI Guardian ad Litem Agency (NIGALA) was established by DHSS in accordance with Article 60(7) of the Children Order and the associated Guardian Ad Litem (Panels) Regulations (Northern Ireland), 1996. The function of the Agency is to safeguard and promote the interests of children by providing independent social work investigation and advice in care and adoption proceedings. The court must consider appointing a Guardian ad Litem (GAL) in proceedings specified in the Children Order and associated court rules. This includes care or supervision orders, child assessment or emergency protection orders, contact orders relating to children in care, residence orders for children already in care or proceedings concerning the placement of young people in secure accommodation. In relation to children’s rights, one of the principal purposes of the GAL, who is an independent officer of the court, is to ensure the provision of independent representation of the wishes and feelings of the child who is the subject of specified public law proceedings, (or adoption proceedings), and also to ensure the safeguarding and promotion of the child’s best interests. Thus, in all instances the GAL has a duty not only to make the child’s wishes and feelings known to the court but also to advise the court as to what is in the child’s best interests, notwithstanding that this may not accord with what the child wants.

A distinction therefore needs to be made:

“between the best interest of the child which the Guardian Ad Litem and the public bodies represent and the views of the child which don’t necessarily coincide” (Guardian ad Litem).

For example, if a child wants to live with an abusing parent where they continue to be at serious risk the GAL will, in analyzing and assessing the information, advise the court whether or not this is in the child’s best interests.

In all Children Order cases the Guardian will appoint a solicitor. However, if a young person is deemed competent they may appoint their own legal representative. This may occur where the views of the young person differ from those of the Guardian.

Court Proceedings: Private Law

Private law proceedings are those that arise in the course of domestic proceedings and matrimonial cases, or where dispute arises regarding children. They thus relate primarily to situations where the child may be separated from his/her parents.

Where a child does not live with his/her parents, he/she has the right to maintain contact with both parents unless it is deemed by the competent authorities to be contrary to his/her best interests. (Art. 9 CRC) and under Art. 8 of the ECHR parents and children have a mutual right to contact. Article 12 CRC provides that children have the right to legal representation in legal proceedings, which affect them.

Context

In cases where parental dispute causes family breakdown, the state has a duty to ensure that the children are adequately protected in the arrangements made regarding their residence and contact with the non-residential parent. The state is not a party to these proceedings, which are principally about the private family law interests relating to the parents. Where parents cannot agree on arrangements regarding their children’s upbringing following separation, Article 8 of the Children Order provides for the court’s determination of these issues.

The two key orders here concern arrangements regarding with whom the child will live (residence order), and the contact the non-residential parent will have with the child (contact order). The ‘no order principle’ means that an order will only be made where the court decides it is better to make an order, than no order. In residence/contact proceedings in the family proceedings courts provision does not exist for children to have independent legal representation, or a Guardian Ad Litem (see public law proceedings). Courts can, however, seek welfare reports, (which include ascertaining the wishes and feelings of children), from HSS Trusts under Article 4 of the Children Order. Additionally, where the courts have concerns about a child’s welfare a request under Article 56 of the Children Order can be made for a HSS Trust to investigate the child’s situation. A number of Trusts employ court welfare officers to provide dedicated services to courts in their areas, and although this is not available across all courts a sub-committee of the Children Order Advisory Committee is currently preparing a report on such provision.

In the case of domestic violence, Article 28 of the Family Homes and Domestic Violence Order (1998) amended Article 11 of the Children Order. This requires the court to consider whether children have suffered or are at risk of suffering any harm through either seeing or hearing

someone being ill-treated by a prohibited person when deciding whether to make residence or contact orders. Furthermore, the COAC fourth annual report (2003b) draws attention to domestic violence as a key issue in relation to the child's right to protection.

Practice

Within NI, one in three first marriages and one in two second marriages end in divorce. Each year some 2,500 children in NI under the age of 16 are affected by their parents' divorce with the average age being seven. Furthermore, research suggests that, within three years of divorce 50% of non-resident parents lose all contact with their children (Relate NI, 2003). Of the total number of private law orders made in the financial year 2002/2003, 49% were contact orders, (of which the vast majority were permission) and 34% were residence orders. Of all private law orders, the applicants tended to be mothers (64%) with 29% being fathers (COAC, 2003b). Family breakdown often ends up in court and disputes over residence and contact issues were frequently referred to by many of the legal professionals interviewed:

"One of the greatest problems I have is where mum or dad refuses to let the other partner see the children" (Legal Professional).

Family break-up is often characterised by anger, conflict and disagreement over parenting arrangements such as where the children will live and how often they will see the non-resident parent. Frequently the child is: "just seen as a pawn in this battle between mum and dad" (Legal professional) and the trauma that they experience may often be forgotten about (NGO worker). In the NICCY schools research some children expressed concern about family breakdown (3% of all responses relating to family/home). Although this figure may appear small, the fact that some pupils raised this issue in an environment not wholly conducive to exploring sensitive information is insightful in itself. For the most part, these children raised the issues of the importance of having a say in contact issues and the decision making process (Article 12). This is illustrated in the picture and quotes below:



"When my parents split up I decided to stay with my mum and see my dad at the weekends. Other children should be able to decide what they want to do" (Girl, aged 11).

Echoing this request was a plea from one child who was part of a custody battle to decide whether he would live with his father or grandparents after the death of his mother. The extract taken from the story below clearly highlights the emotional impact that such custody proceedings can have on a child. His use of the words 'fight' and 'own me' would suggest that he felt very much like he had no part to play in these proceedings:

"On Saturdays I visit my Granny and Granda. Years ago my Mummy died and there was a fight to see who would own me but Daddy won the fight ... but now I want to live with my Granny and Granda" (Boy, aged 11 years).

A few other children who had not been through parental separation also mentioned the difficulties this posed for other children, if not themselves, for example:

"My family is fine. If they decide to split up children should decide who they stay with" (Girl, aged 11).

Domestic violence may also accompany family conflict and in NI there are, on average, six people killed by a current or former partner each year and domestic violence affects the lives of thousands more. Additionally, research indicates that at least 11,000 children in NI live in environments where domestic violence occurs (SSI, 2003). The effects of family conflict and breakdown and some of the circumstances leading to it, unquestionably have an impact upon children. However, there is a dearth of information in this area both in terms of actual statistics and research, especially in relation the impact this has on the young person themselves. Despite this children and young people are not unaware of domestic violence and its negative impact as reflected in one young man's comment.

"I would like dads to stop hitting their wives and their kids" (Boy, aged 15).

However, we were told that the Department's policy Tackling Violence at Home "Doesn't highlight children, and there is a big gap - children's choices aren't being heard". Having said this,

"These are difficult to get at - kids aren't going to talk ...this was like it was with children protection years ago ... we are still in a situation where people don't talk about it and children are afraid that they will get mum in trouble if they say anything" (NGO Representative).

The need to support children who have experienced domestic violence has been addressed by Women's Aid who have developed a 'helping hands for children' strategy, which allows children to talk about feeling safe and unsafe.

The issue of the child's contact with parents from who they are separated is also one that needs to be addressed, especially in cases of domestic violence. It was suggested by some interviewees that there were occasions where children may be afraid to say that they do not want to have contact with one or other parent and that a thorough assessment of the situation might allow for a clearer picture in such instances. Such an assessment might also have helped avoid the following situation as well as ensuring greater clarity from the young person's perspective.

"They [social workers] were always on my back, when I was younger me Da moved to England and they gave me Ma custody and what ever ... When I turned 16 then I had the legal right to my own choice to go and see me Da and I was going to see him and the fuckin social workers were still on me back, 'What are ye at going to see him?'" (Young man, aged 16, at risk of homelessness).

Where children are separated from their parents there is a possibility of maintaining regular supervised contact in one of the four established Child Contact Centres in NI. These Centres provide a neutral meeting place where children of separated families can enjoy contact with one or both parents and occasionally other family members in a safe comfortable setting, should there be no other alternative. However, while these Centres provide a valuable and important service, statutory resources are primarily directed towards public law cases. The COAC sub-committee on Child Contact Centres, following a thorough consideration of the provision, made several recommendations, including the need for a cohesive formal structure combined with mainstream funding and a protocol for the operation of the centres common across NI (COAC, 2003b).

Frequent mention was made as to how the emotional trauma that children and young people experience when their parents separate is lost sight of, especially when the parents do not manage the separation well. Attention was drawn to the fact that this may have longer-term repercussions and this may be particularly notable in cases of domestic violence. (see chapter 1). The comments made by the young people in our school-based research are supported by adults working with children and young people and other small scale studies in NI (e.g. Fawcett, 2000). These suggest a need for greater awareness around children and young people's needs and concerns when they experience domestic violence and/or parents separate. Women's Aid projects supporting children and Relate's counselling and mediation services are welcome but these services must be made more widely available if the needs of children are to be met and Contact Centres should be supported by mainstream funding. Additionally, the introduction of court welfare officers in some HSS Trusts is a start to the independent and separate representation for children in private law cases but the provision of such a service across Northern Ireland must be addressed as a matter of urgency.

Many interviewees raised as a matter of serious concern the absence of a legislative basis or mechanism providing separate representation for such children in private family law cases in the family proceedings courts and divorce proceedings. In their concluding observations the Committee on the Rights of the Child expressed serious concern in 2002 (29) that the obligations of Article 12 had not been consistently incorporated in legislation, for example in private law procedures. It went on to recommend that the UK take further steps to consistently reflect the obligations of both paragraphs of Article 12 in legislation, and that legislation governing court and administrative proceedings ensure that a child capable of forming his/her views has the right to express those views and have them given due weight. In England and Wales steps have been taken in this direction with Section 122 of the Adoption and Children Act (2002) which amends the Children Act (1989) to allow for separate representation in private law proceedings, though this still is not mandatory.

Court Related Family Mediation

Family mediation has been demonstrated to be helpful in resolving parental disputes. Unfortunately there has been little opportunity to access such provision in NI though one NGO (Relate NI), in conjunction with two family proceedings courts (Ballymena and Belfast), has established a family mediation pilot project. This project takes steps towards upholding the 'no order principle' by seeking to resolve family disputes through negotiation, cooperation and agreement. It is currently being evaluated by the Office of Law Reform who also highlight this approach in their rolling review of family law. (OLR, 2004). A form of support for the young people themselves is a counselling service offered by Relate Teen. The majority of young people who use this service are referred to it by their parents but referrals are also made by other individuals such as GPs, teachers and social workers. The support provided varies according to individual need but is frequently directed towards:

'helping the young person make sense of what is happening, helping them explore how they can have their say in the process without taking sides, and ensuring that they understand where their responsibilities lie' (NGO representative)

Criminal proceedings

Children who have been victims and/or witnesses of various crimes including sexual assault may have to appear in court in criminal cases. In recognition that children may be particularly vulnerable as witnesses a range of special protection measures was introduced by the Criminal

Evidence (Northern Ireland) Order 1999 for witnesses who meet one of the following criteria (i) under 17 years of age¹⁰; (ii) Incapacity¹¹ (iii) Fear or distress¹²; (iv) Complainants in sexual cases¹³. Though children as witnesses in the criminal courts are dealt with in Chapter 6, it is noted here because professionals suggested that a similar service to that of the Child Witness Service funded by NIO and operated by the NSPCC, which provides important support for child witnesses, would also be of value in family court proceedings.

Issues

The following are issues that emerged from both public and private law proceedings.

- Almost all those working within the court system identified the need for multi-disciplinary training which, it was argued: “ is a key element, judges, lawyers, social workers, doctors need to be trained in this multidisciplinary approach. That is the key to children’s rights” (Legal Professional).
- Concern regarding delays in courts and the lack of expert witnesses in Northern Ireland has been well documented in other research but was again highlighted in this study and both issues need to be addressed as a matter of urgency. A possible way of beginning to alleviate such problems could be the promoting of experienced social workers as experts in this area.
- Understanding the impact that a disrupted family life may have on the child was also seen as key to understanding children’s rights and this requires additional training - “It is very easy to say that children’s rights...are simply about ... having their voice heard. Understanding children is as important a right as any. Children have the right to be understood in the problems they face” (Legal Professional).
- A further concern raised was the danger that the Children Order was interpreted in too paternalistic a manner within the courts thereby tipping the balance in favour of parents over the child. Related to this point was the concern that the child’s perspective could get lost given the intimidating nature of the courts, “There is no point in having a child there if they are completely intimidated by the situation because they just shut off ” (Legal Professional), although it was believed that this would be countered to some degree by the GALs.
- The question of separate representation in private law proceedings and the need to ensure that the views and wishes of children and young people in divorce or domestic violence proceedings were both mentioned frequently and were the subject of widespread concern. (see also Chapter 1). While separate welfare reports can be requested, and court welfare officers are available in certain courts there needs to be a much more concerted effort to address these issues and it is to be hoped that the OLR review into separate representation will lead to some movement in this area.
- There are several innovative proposals, which are designed to explore alternative ways of resolving disputes about the care of children between Social Services and parents and between parents themselves, (sometimes referred to as Alternative Dispute Resolution) The general aim of such programmes is to preserve the positive aspects of relationships between parties and negotiate parental consent to engage in a programme of support, which would maintain the family unit while also ensuring the welfare of the child. Similar projects within the field of private law proceedings have also been described.

Comment

One of the most resounding messages that emanated from the material, which focused on court proceedings, was the need for ongoing inter-disciplinary training. This would allow for awareness raising around the roles and duties of the different professionals involved in court proceedings

and enhance inter-disciplinary cooperation and partnership. Such training could also explore many of the concerns raised above and should include awareness raising regarding the emotional and psychological effects of abuse on children. It could further open up the debates on issues such as the age at which children can take part in the decision-making process, which tends to be somewhat conservatively judged on the basis of outdated theories in NI. It may be that the Guardian Ad Litem could also play a role here given the wealth of their experience and knowledge regarding looked after children. Another issue worthy of further consideration is the possibility of establishing a panel of specially trained lawyers for children, similar to that which already exists for specified public law proceedings but with a much wider brief, (See also Chapter 1). Finally, attention should be paid to exploring innovative ways in which the range of issues raised regarding court procedures and separate representation for children in private law proceedings could be addressed.

ALTERNATIVE CARE

Key principles of the Children Order relate to the paramountcy of the best interest of the child, working in partnership with parents and supporting parents in the exercise of their parental responsibilities. Where a child is judged by the court to be suffering or likely to suffer significant harm, it may give an HSS Trust parental responsibility for the child through a care, or interim care order, or an emergency child protection order. In such situations, the Trust can decide to what degree parents will exercise their parental responsibility over their child, even when the HSS Trust decides to remove the child from the care of the family and place him/her in alternative care. Placement options available to HSS Trusts are foster care, including placement with kinship carers, a residential children's home or secure care accommodation. In a small number of cases, adoption may be sought for children who can no longer be cared for by their birth families; this is the only means by which parental responsibility is permanently removed from birth parents. This section will commence by examining the general area of alternative care before examining, in greater detail, the following issues:

- foster care;
- residential care;
- secure accommodation;
- leaving care;
- adoption.

A child temporarily or permanently deprived of his or her family environment or, in whose best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the state (Art. 20(1) CRC). Such placements in Northern Ireland include both alternative family-based care and institutional care.

When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic religious, cultural and linguistic background (Art. 20(3) CRC) and respect for the family life of the child and his/her parents and siblings must inform the choice of placement and its implementation (Art. 8 ECHR) bearing in mind that in most cases alternative care is intended as a temporary measure

Every child in care is entitled to a periodic review of his/her treatment and all other relevant circumstances (Art. 25 CRC) and must be protected from all forms of abuse, ill-treatment and neglect. (Art. 19 CRC)

Context

Legislation allowing children or young people to be removed from their family is found in the Children Order, which is underpinned, by associated regulations and guidance. When an HSS Trust accommodates a child through a care order, this may be on a voluntary or a compulsory basis. In the case of the former parental responsibility remains exclusively with the parents while in the latter it is the Trust that acquires parental responsibility for the child. This can be shared with the child's parents, although the Trust has the right to decide to what degree parents may exercise their parental responsibilities for the child and effectively the HSS Trusts have corporate responsibilities for children whom they accommodate.

Policies, legislation, both primary and secondary, and priorities for looked after children are set by the Child Care Policy Directorate of the DHSSPS. The four HSS Boards are each required to develop Children's Services Plans based on an assessment of needs of its resident population and commissioning services to meet these. For looked after children, the four HSS Boards commission services from their eleven Health and Social Services Trusts and others, usually NGOs, to deliver essential services to meet assessed needs.

Services provided are informed by a range of policies to guide their provision e.g. child protection policy (Cooperating to Safeguard Children), leaving and aftercare policy (Volume 4 of Children Order series of regulation and guidance), residential care policy (Volume 4 of Children Order and Children Matter) Both the pending Children's Strategy (OFMDFM) and the pending Children in Need Strategy (DHSSPS) are also expected to be of direct relevance once finalised. The DHSSPS Human Rights Working Group on Restraint and Seclusion recently issued draft guidance on the use of these procedures across the HPSS for Consultation and the closing date for responses was 3rd September 2004.

In contrast, in England and Wales the Choice Protects programme is designed to improve outcomes for looked after children through providing better placement stability, matching and choice, particularly through the expansion and strengthening of fostering services, was launched in 2002 (Choice Protects website).

Practice

The number of looked after children in NI has remained relatively stable over the last decade at around 2,500 children (2446 on 31st March 2003), representing approximately 0.5% of the population of children aged under 18. The majority of children are placed with foster carers (64.5%.) and a small proportion (12.1%) are in residential care. There is also a significant proportion of looked after children who are placed with their family of origin as foster carers, though there is little information available regarding the needs and support that this group of children and their carers are receiving.

Reasons for removal into care can vary though it is most commonly sought for child protection reasons. Other factors include concerns around parental misuse of drugs and/or parenting deficits. Factors influencing the decision to apply for a care order include the availability of suitable placements and the age of the child, (Mooney and Fitzpatrick, 2003).

There is less information available on placement stability and the last comprehensive review here was that of the Social Services Inspectorate in 1997 (SSI, 1998). This report makes two points in relation to the figures. Firstly, there was considerable variation in placement stability between Trusts and secondly, the overall level of instability was higher than that reported for England and Wales. A more recent study (Cousins et al., 2003) examined the care careers of young children

under five years of age over a two year period and reported that 68% of the children had high stability (less than three placements) and 32% had low stability (more than three placements). While these findings are more encouraging, the study did not include older children and adolescents whose placements are known to disrupt most frequently (see for example Sneddon et al. forthcoming). That variation in placement provision and stability still gives rise for concern is highlighted by the fact that it was raised by a number of policy makers during this research.

The Children Order requires HSS Trusts, voluntary organisations and privately run children's home to establish procedures for considering representations and complaints about children's services. Research by Cousins, Milner and McLaughlin (2001) reports that 104 Children Order complaints were made in the year 2000/01. Fifty-four of these were made by children themselves and of these 50 were from children in residential care and four from children in foster care. The majority of these complaints were about rules and regulations of the accommodation. Of the 50 complaints that were made by adults on behalf of children the majority concerned professional practice and judgment in the decision making process

Key Issues

Some of the general concerns expressed by statutory and NGO representatives and workers, which spread across the various types of alternative care provision, can be identified as follows:

- The fragmented nature of policies and lack of cross-departmental strategies to the extent that one interviewee from the statutory sector commented that: "...the system is awash with guidance but that doesn't necessarily lead to good practice";
- The wide variation in the range of options available in the Trusts and the fact that, sometimes, placement may depend on what is available at the time rather than what is best suited to meet the needs of the child. This may raise an issue of equal treatment;
- Worrying gaps in knowledge on the needs, support and protection being provided to looked after children, the subject of care orders who are placed with either family carers or who their parents under the Placement of Children with Parents etc Regulations 1996
- Descriptive statistical data are available on placement data for children in alternative care but this needs to be used to a much greater extent to inform the debate around placement issues such as stability and permanence at both local and regional level.
- Placement issues are one of most common types of enquiries and requests for support made by young people to VOYPIC's (Voice of Young People in Care) Advocacy Service, raising issues over a lack of information and support in this area.

Comment

There is evidence to indicate that a substantial number of looked after children experience instability of placement and carer, with multiple placements occurring in both foster and residential care. Placement instability appears to have become an accepted feature of provision for looked after children yet it is not accurately recorded and is not the subject of regular enquiry. This is despite widespread recognition that this is a principal cause of the very poor outcomes reported for looked after children. Additionally, policy advice does exist (Circular 3/02 on the Roles and Responsibilities of Board and Trust Directors for Looked After Children and Child Protection) which provides quite detailed information on monitoring children's services, including placements. There is a gap, therefore, between the policy documentation, which states the need to provide continuity of upbringing for children, and young people who are looked after and the reality of what happens in practice.

Regardless of policy, the inadequate supply of places in the system ultimately determines the lack of placement choice resulting in instability. Additionally, the European Court of Human Rights has made it clear that administrative problems, such as the lack of available foster families, can play only a secondary role in decisions made about the child's alternative care. The child's best interests must be the paramount consideration (*Olsson v Sweden* 1988)¹⁴.

FOSTER CARE

The standards that have been outlined above in relation to 'Alternative Care' apply also to foster care and so are not repeated. However, attention is drawn to the fact that the Committee on the Rights of the Child expressed concern in 2002 (39) over the lack of consistent safeguards for children who are privately fostered (REF). In this regard, the Department issued guidance to HSS Boards and Trusts on private fostering in 2002, ("Private Fostering: Including Children from Overseas" CC1/02).

Context

Guidance on fostering is provided in Volume 3, Family Placements and Private Fostering, of the Regulations and Guidance to the Children Order. In terms of monitoring the delivery of fostering services across the UK, there is a Code of Practice for the Recruitment, Selection, Training and Support of Foster Carers (1999) and the UK National Minimum Standards for Fostering Services (Department of Health 2002). Though HSS Trusts are guided by UK wide measures on-going regional plans are also being developed. These include a forthcoming Regional Fostering Strategy produced by the four HSSBs and the Fostering Network of NI (Fostering Network 2004), and the Fostering Standards, which are currently being developed by the Standards Development Task Group within DHSSPS (DHSSPS 2004b). The latter are designed to support and monitor fostering services and foster carers and do not apply to the services provided directly by foster carers themselves. The HSS Trusts were asked in 2001 to audit fostering services against the UK standards. These were subsequently reported to the Department, which, in turn, used the data to inform the 2002/03 Priorities for Action.

Practice

The percentage of looked after children who are fostered has grown steadily over the last 30 years, it remains, therefore, the dominant form of placement. In 2003, 65% of all looked after children were cared for in foster care compared to 12% in residential care and 22% placed with their parents. The percentage of children placed in foster care is a result of consistent Government policy since the 1940s, and a strong foster care culture in child care in NI. A higher proportion of girls (66.6%) than boys (62.5%) are placed in foster care with the average length of a foster placement being 2.2 years.

However, the number of foster carers has not grown in parallel with the increased demand for places. In a survey conducted for the development of the Fostering Strategy (2004) 257 children were found to be waiting for foster placements. Social workers reported that long-term placements were non-existent and that access to placements in an emergency was difficult. Furthermore, it was almost impossible to place adolescents in foster care. This shortage of placements was also reflected in Mooney and Fitzpatrick's study (2003) where 93% of the social workers reported 'insufficient' placement availability. Sixty four per cent also reported that the lack of availability of suitable placements:

"...affected decisions they made about admitting a child to public care or on the type of placement chosen for the child".

Taken together, these two reports reflect a general concern regarding the prospects of recruiting carers to meet the current needs. The Fostering Network Northern Ireland describes this as a:

"crippling shortage (which) will only begin to be fully tackled when all carers receive an allowance that covers the entire costs of fostering."

This shortage means that the young person's ideal foster placement is not always possible. Drawing on research by VOYPIC (2003c) with young people who were, or had been in foster care the ideal foster placement should be, amongst other things:

"Near your school and near your friends and the community you are used to" and "Match the setting to the individual" (VOYPIC, 2003c: 15).

With better understanding of social networks, attachment, separation and loss the value of kinship care is increasingly recognised and acknowledged (Broad, 2001), and the number of family and friends carers has slowly increased from 14.1% in 1996 to 17.1% in 2000 in England (Department of Health 2001) while the estimated figure for NI is 13% (SOSCARE download). Research in the UK (e.g. Wheal, 1999) and Northern Ireland (Lernihan, 2003) has confirmed the findings from the US that family and friends placements are more stable than other forms of foster care though it should be noted that the findings from one recent study in the UK (Sinclair et al., 2004) do not support this earlier research.

Some insight into these conflicting research findings might be drawn from the VOYPIC research, (2003c). This small-scale study reported that young people felt fostering placements with family and friends could either be a positive or negative experience. On the positive side there was an obvious desire by the young people to have an existing, strong relationship with someone in the foster family:

" They understand what your circumstances was so that they could help you work it out" (VOYPIC, 2003c: 22);

But on the other hand it was stated that:

" If you' re in foster care you' re there for a reason and then that reason might continue" [if placed with family]. (VOYPIC, 2003c: 22).

On the other hand it was clear that the young people felt that if a family placement was to be suitable, there would have to a clear assessment of family carers concerned to ensure that they did not feel obliged or pressurised into offering a placement. It was further suggested that if this happened it might cause significant difficulties and eventual breakdown of the placement.

Such conflicting research findings do not detract from the fact that increasing the number of family and friends placements would give effect to the guidance of the Children Order to first consider placement with family.

Traditionally, foster carers in the UK are predominantly volunteers (73%). They are paid a boarding-out allowance to cover the cost of caring for their foster children, but this does not include a wage or fee element for their labour. It has been argued that one possible means of increasing the number of foster carers is by remuneration. Research examining this issue has

indicated that foster care is increasingly seen as employment and payment to carers can increase their efficiency and is thus an effective incentive for recruitment and retention. However, remuneration alone is not enough and a range of supports and relationships between agency and carers is equally important (Kirton, 2002; Triseliotis, 2000).

Again, turning to the young people's perspective on remuneration of foster carers there were various views on the topic. Some young people expressed concern that people might become carers for the money rather than a genuine willingness to help though this, it was suggested, could be resolved by a form of screening:

"You need some sort of screening you know so as people know that they're not in it for the money" (VOYPIC, 2003c: 15).

There was however, general agreement amongst the young people that foster carers should have training, especially those who did not have children of their own. Additionally, they suggested that a range of other help and support could benefit carers. Thus, for example it was proposed that social workers could be a means of support by:

"Come out to actually talk to the foster parents and help them get stuff off their chest and other stuff like that" (VOYPIC, 2003c: 16).

It was particularly interesting to note that some of the points that young people who were (or who had been) in foster care made about foster parents were similar to those made by the children and young people in our school-based sample including: 'making sure the rules are fair'; 'keeping business private'; 'decorate your own surroundings' and 'treated like a normal child - stay at friends houses and go to discos!'

Issues

- There is concern that the traditional model of foster placements is no longer appropriate for the increasingly specialised roles foster carers must fulfill under current legislation.
- The volunteer nature of the service is an impediment to the recruitment of the number and range of carers needed to meet the needs of the looked after children population.
- The scarcity of foster placements, especially long-term, short-term emergency placements and kinship carers, results in lack of choice for children when being placed and thus the child's wishes and/or needs may not be met.
- Lack of places also leads to difficulties in ensuring that the child's ethnic, religious, cultural and Linguistic backgrounds are appropriately taken into account. Representatives from NGOs working with vulnerable groups particularly mentioned the great difficulty in placing children with learning and/or physical disabilities and Traveller children with foster carers. These professionals also indicated that kinship foster placements may be difficult within the Traveller community for a variety of reasons including their geographical mobility, and other factors, which might impact on the assessment of a relative as a Trust foster carer in such situations.

Comment

The provision of an adequate foster care service is clearly a positive and beneficial means of providing for children who cannot be cared for by their own families as it provides them with the experience of family life necessary for their future development. The failure to provide a fully resourced foster care service in NI where there is relative prosperity raises concern with respect to the Government's duty to meet the best interests of such children under both the CRC (Art. 20)

and the ECHR (Art. 8). In this respect the draft Priorities and Budget issued for consultation is to be welcomed. The lack of places means that there is little scope for placement choice either on the part of the social worker or the child and this also raises concerns as to whether foster care is implemented in a manner consistent with the child's best interests and may well result in the child's wishes on such matters being meaningless. (CRDU 1994).

RESIDENTIAL CARE

In addition to the rights to which all children in alternative care are entitled, children in residential care are particularly vulnerable and thus additional safeguards may need to be put in place to ensure their rights are adequately protected. In particular, their right to have their voices heard (under Art. 12 CRC) means that they have a right to be involved in decisions made regarding their care, they have a right to independent representation in both administrative and legal proceedings and they have a particular right to access relevant information on their rights as well as independent advocacy services to realise those rights, (See Chapter 1).

Children in secure care have a right not to be deprived of their liberty arbitrarily and have a right both to challenge the lawfulness of their detention at reasonable periods and to regular review of their situation (Art. 5 ECHR; Art. 20 CRC).

Context

Volume 4 of the Children Order, Residential Care sets out the guidance and regulations for the children's residential sector. There have been several recent developments in this area prompted primarily by the review of residential child care, which gave rise to the Children Matter report (DHSS 1998). This identified the then stock of children's homes as out-dated and often institutionalised, and recommended the development of small domestic homes located within the community. Since June 2000, a Ministerial Taskforce has been in place to secure delivery of the Children Matter agenda and its main aims including: an increase in the supply of places, the development of more specialist residential services and the replacement of residential units which are no longer functional (Report of the Children Matter Taskforce Phase I: 2001 to 2003, DHSSPS 2001). A regional plan to create specialist units for children with emotional and psychological needs is also expected to be rolled out as Phase 2 of the Taskforce's work.

As part of the ongoing development of minimum standards for services, the Standards Development Task Group has issued Draft Children's Homes Registration and Inspection Standards (DHSSPS 2004a). The Standards are being finalised following a period of consultation and it is intended that they will be used by the HPSS Regulation and Improvement Authority responsible for regulating children's homes in NI. Currently, children's homes are inspected by the Registration and Inspection (R & I) Units of each of the four HSS Boards which apply the Quality Living Standards for children who live away from home (SSI, 1996a 1996b).

Practice

At the 31st March 2003, 12% (296) of all children who were looked after in NI lived in a residential child care setting. These residential care places are provided for in one of 40 children's homes. The vast majority (80%) of these children were in children's homes provided by a Health and Social Services Trust, a voluntary child care agency or a private provider. Fifteen per cent were accommodated at the Regional Care Centres based at Lakewood and Glenmona and 5% in Secure Accommodation¹⁵. For a number of children residential care is provided by specialist units outside NI such as specialist therapeutic communities in England. For some

children residential care is the preferred placement choice, while for others, they are placed in residential care because there is no suitable alternative placement, such as fostering, adoption or living with family members.

Children in residential care tend to be older than those placed in foster care with almost half of them being over 12 years of age. They are also the children who present the looked after system with the greatest challenges as they frequently have complex social, behavioural, psychological needs (Sneddon et al, forthcoming) and are also likely to have had difficulties with their educational careers, (see Chapter 4 for further details).

An additional concern was also raised by NGO professionals working with commercially exploited young people who argued that children in residential care may be especially vulnerable to this type of abuse. Other interviewees suggested that the lack of placement choice in residential provision, combined with the challenging nature of the behaviour of the young people themselves made it difficult for residential establishments to deliver good outcomes for children, particularly where admissions are not in keeping with the unit's 'statement of purpose and function'. Related to this point is the concern that was expressed by a few interviewees that children in residential units were being criminalised by Trusts who sought to have them charged with criminal damage offences when property was damaged, an approach which was viewed as being reactive rather than proactive. These factors, when combined, are likely to impact on the ability of children's homes to offer stable caring environments and may also have the potential to contribute adversely to the behaviour of young people within the units. (Murray, 2003).

Drawing on the perspective of the young people themselves who had experienced residential care a range of views was expressed and these seemed to depend to some extent on the relationship with key workers and social workers. Additionally, comments were made regarding the rules and regulations in different homes with some young people feeling that these were too restrictive and reporting that they frequently did not have a say in establishing the rules while others reported that they were too lax! Typical of such comments were:

'I couldn't even make myself a cup of tea if I wanted it - the kitchen was closed and we were just told those were the rules and that was that' (young woman, leaving care)

'We just ran around like I just went out when I wanted - they couldn't stop me - I did what I wanted ' (young woman, leaving care)

NGOs such as Extern, VOYPIC and Include Youth (particularly in the form of LACE¹⁶) provide additional support for young people in residential care through mentoring and befriending schemes. However, it is the residential care staff who have to manage the type of challenging behaviour that is reflected in the above comment, thus highlighting the need for adequate training and support to work in such settings. Given the range and number of potentially stressful factors it might be envisaged that staff would experience 'burn-out' but recent research (Sinclair, 2003) has reported that both staff qualifications and morale are remarkably high in residential care in NI and better than that of residential care staff in England.

Issues

- The difficulty recruiting and retaining appropriately qualified and experienced staff makes it hard for relationships between young people and their key workers to be established and consistent. It is vital that staff in residential units are suitably qualified and have received both child protection and children's rights training (See also Chapter 1).

- Young people in residential care present with a wide range of difficulties and the specialist and therapeutic provision necessary to support their needs is not always available. In some cases the young people themselves are unwilling to avail of these services, which are generally provided by outside agencies. It is hoped that this will be addressed by the regional plan to create specialist units for children with emotional and psychological needs which is to be rolled out as Phase 2 of the Task Force's work alongside the development of more specialist provision within each of the Boards.
- The inappropriate mix of young people placed in residential settings was raised by several of the interviewees and the negative impact that this can have on the entire group sometimes leading to placement disruptions and bullying. This was especially difficult when staff, despite their clear concern for the young people, were inexperienced and lacked sufficient specialist training to manage difficult situations.
- A further issue that was raised by several of the professionals and policy makers was society's, *"very negative attitude towards young people in care. They seem to them undesirable and so don't want them. You talk about rights ... these young people have the right to live in communities, they have a right to be themselves and not be judged and they do not get that right ... society doesn't want them"* (NGO Representative).

Comment

The state has a duty to ensure that all Convention rights, including the right to education and health care, are fully implemented within residential care settings. Given the above concerns, it is clear that in residential care children face particular challenges to the protection and promotion of their rights. The recent developments in the form of an increase in residential provision and the updating of current standards for residential care are encouraging. However, there is a danger of not addressing current concerns simply because it is believed that the proposed developments will improve the situation. This is no reason for failing to address issues such as those outlined above more urgently. Furthermore, given the concerns regarding the lack of specialist and experienced staff attention should be given to ensuring that there are enough people with the therapeutic skills to staff the new support units that are being proposed.

SECURE ACCOMMODATION

While the CRC does not contain specific provisions on the rights of children detained for their own protection, it is clear from Art. 37 that detention should only be imposed as a measure of last resort and that every child deprived of liberty must be treated with humanity and respect for the inherent dignity of the human person and in a manner, which takes into account the needs of persons of his or her age.

Art. 5(1)(d) ECHR provides that children and young people may be detained, in the non-criminal context, in order to provide them with educational supervision. According to the European Court of Human Rights educational supervision must not be equated rigidly with notions of classroom teaching: in the context of a young person in local authority care, it must embrace many aspects of the exercise by the local authority of parental rights for the benefit and protection of the person concerned (Koniarska v UK, 2000).

Art. 5(1)(d) ECHR also provides that everyone deprived of their liberty has the right to have its legality reviewed on a periodic basis and the right to be released from custody if it is found to be unlawful.

Context

Under the Human Rights Act, 1998 liberty can only be deprived where it is compatible with Art. 5 ECHR. The relevant legislative provision for restricting a child's liberty is found in Article 44 Children Order. Secure accommodation is defined in the legislation as "accommodation for restricting liberty". Higgins in the Re AK judgment (T20/98/OCP) ruled that secure accommodation was defined by its purpose rather than being a place. Article 44 provides that restriction of liberty cannot be justified unless: the child or young person has a history of absconding and is likely to abscond from any other form of accommodation AND if they abscond they are likely to suffer significant harm; OR if they are kept in any other description of accommodation they are likely to injure themselves or others. Trusts have a duty to remove a child from the secure setting as soon as these criteria cease to apply. Further provisos are found in the Children (Secure Accommodation) Regulations (NI) 1996 including additional safeguards in respect of the restrictions on placement in secure care of those under the age of 13.

Practice

Currently, there are two secure units in NI providing accommodation for 15 young people at any one time. During 2002/03, 51 young people were admitted, approximately half boys and half girls with the average age being 14 and 15 years old respectively. In total, there were 58 placements since some of the young people were admitted more than once. The demand for secure accommodation places at the regional centre always exceeds supply. For every young person who is offered a place by the Secure Accommodation Admissions Panel, three young people who meet the criteria are refused a regional place. The fact that all beds at the regional centre are full does not remove from a Trust the duty to restrict the child's liberty in some other way when it has been determined that the child's requires such an intervention.

The question remains, however, what do Trusts do for the young people who are not placed in one of the 15 available regional places; little is known about those young people, with the exception of the secure care inspection, which considered eight cases of children who were not admitted. However, there has been no long-term follow-up undertaken to compare the outcomes for those young people admitted or not admitted to secure care.

Problems of inconsistency with the ECHR have also been highlighted particularly by the Social Services Inspectorate (SSI) and Education and Training Inspectorate Report (ETI) in 2002. With regard to Article 5(4) ECHR, the Report called for the need to review Regulation 10 of the Children (Secure Accommodation) Regulations, which provide for the independent review process. Particular concerns were expressed about the remit and structure of the Independent Review and recommendations were made to enhance its independence (para 7.17). While the panel has a duty to review whether the criteria for keeping the child in secure accommodation continue to apply and whether the placement in such accommodation continues to be necessary, there is concern that the lack of availability of an alternative placement is influencing the outcome of the process. As it stands, concern that this procedure is not ECHR compliant is clearly justified. In addition, the Report recommended that Trusts ensure that the Independent Review take place within the statutory time limits, and that children, their parents and relevant others are facilitated to participate in the process, receiving written confirmation of the decisions reached in line with the Regulations (para 7.19).

The secure units are based within Ulster Community and Hospital Trust although admissions are on a regional basis. The Children Matter Taskforce identified the need to replace the existing secure accommodation following an inspection in October 2001, which found the existing

facilities in the Lakewood Centre inadequate to support the work of either the social work or the teaching staff team. Some £6m has been set aside to replace the existing provision and increase occupancy. The new building is due to be complete in December 2005.

A young person in secure accommodation also has the opportunity to speak to an independent representative, a service provided by NGOs such as NIACRO, who can advocate on their behalf and offer them support. Generally, the issues raised by the young people with these volunteers were reported to be everyday practical issues such as the quality and choice of food, and the no-smoking policy. Additionally, the independent representatives felt that the young people had little say in most things that affected their daily lives 'they just have to fit into the regime'. In contrast an extremely innovative way in which young people have been involved in decision-making in Lakewood has been the invitation to VOYPIC to assist in the design and development of the new secure unit. A consultation with young people was carried out by VOYPIC (Toal, 2003) and a young person trained to participate in the discussions with the planners and architects, including involvement in their appointment.

In addition to the deprivation of liberty, a young person placed in secure accommodation also risks being denied the enjoyment of additional rights such as: the right to play and leisure, the right to health and health services, the right to education and the right to family life. On these matters, the Social Service Inspectorate and the Education and Training Inspectorate (SSI & ETI, 2002) in their report on secure accommodation stated that the facilities for play and leisure in the current facilities were inappropriate, particularly for those young people who had to spend lengthy periods in secure accommodation. The report also suggests that proper health assessments were not carried out on residents and that the inspectors were concerned about the young people's access to Child and Adolescent Mental Health Services (CAMHS). In relation to education, the inspectors found that the curriculum was limited and that there was no training available to those young people who were over the compulsory school age. Furthermore, the Inspection Report raised concerns around the length of time taken to acquire secure accommodation orders and the use of interim orders, which meant it was unlikely that meaningful work could be undertaken with the young person concerned.

The independent representatives who participated in this research similarly reported that they felt there was an increase in mental health issues, especially amongst the younger groups (i.e. 13-14 year olds) and that staff did not always have the skills or experience to deal with this (see also Chapters 3 and 6). They were similarly concerned about the restricted leisure facilities and associated health issues, limited provision for females and concern regarding education provision especially for those who were past school-leaving age.

Issues

- The issues identified for residential care above also apply to secure accommodation. Further concerns have been expressed about the rights of children in secure accommodation, particularly in the Independent Review and with regard to the rights to health care and education. Attempts have been made to address these where possible though some, which are perhaps outside the control of the Unit itself, remain a problem. One of the main challenges here is how to provide a programme of work based on a thorough assessment of need and aimed at continuity of care where short placements/interim orders are used.

- A widely recognised concern is the high level of cross-over between secure care and juvenile custody, (See Chapters 1 and 6). Indeed, it was suggested that some young people might prefer the finite duration of a custodial placement, which contrasts with the uncertainty, which sometimes prevails in the care system. Greater insight into such issues will be gained through the current research exploring the interface between secure care and juvenile justice, which has been commissioned, by DHSSPS and NIO.

Comment

Secure accommodation raises significant issues in relation to the CRC. To deny a young person of their right to liberty is one of the most serious penalties that can be imposed yet there is little knowledge as to how effective this is in meeting their needs. The demand for secure accommodation always exceeds supply yet there has been no long-term follow-up research undertaken to compare the outcomes for those young people admitted to secure care and those who were refused. This opportunity to assess the effectiveness of secure accommodation, which presents itself, would clearly inform the children's right debate and provide valuable information on the impact of the denial of liberty. A further issue in this context is that Schedule 2 of the Children Order requires HSS Trusts to develop other services to obviate the need for secure accommodation, and the Children Matter Report notes also that the lack of a proper infrastructure of services places increased demands on the secure care sector

LEAVING CARE

International standards contain little express provision regarding the rights of young people leaving care. However, it is clear that the rights to which every child are entitled - to have contact with parents and family (Art. 9 CRC), to be involved in decisions made (Art. 12 CRC), to health care including preventive care (Art. 24 CRC), to social security (Art. 26 CRC), to access educational and vocational information and guidance (Art. 28 CRC) and to be protected from exploitation including economic and sexual exploitation (Arts 19, 32-36 CRC) - are even more important for this vulnerable category of young people. The principle of non-discrimination requires that these young people should not suffer disadvantage by virtue of their time being looked after.

Context

Provision within the Children Order for those leaving care will be enhanced by the implementation of the Children (Leaving Care) Act (NI) 2002. The new legislation aims to improve the life chances of looked after children in the transition to independent living. Provisions within the 2002 Act do not apply to all young people who have had experience of care in NI but accord differing levels of assistance depending on whether a young person can be classed as an "eligible", "relevant" or "former relevant" child. For those who meet the qualifying criteria as detailed in the legislation, measures to assist will include the development of a "pathway plan" before the young person leaves care and the allocation of a "personal adviser" to assist with help and advice after they leave care. Responsibility for financial support will be transferred from Department of Social Development to the four HSSB and through them to each of the eleven Trusts. Where a young person qualifies they will receive support and assistance up to the age of 21 or up to the age of 25 where they are in full time education or training. In August 2004 consultation was completed on provisions to be included within the regulations and guidance to accompany the new legislation (DHSSPS 2004c). A regional implementation group has also been established to develop an implementation plan to oversee the operation of the personal adviser role, pathway plans and new financial arrangements.

Practice

Evidence of how successful the HSS Trusts has been in providing “ special care and assistance” to children and young people in alternative care can be gleaned from their circumstances on leaving that care. In NI each year, about 200 young people leave care and, as elsewhere in the UK, the message from research is that, whilst they are very mixed group containing a range of needs, the outcomes for them are likely to be poor. VOYPIC find this is one of the main areas of enquiry to services. Compared to their peers, care leavers are likely to be less qualified, to be unemployed and on low income, to experience difficulties in finding suitable accommodation, to have difficulties in relationships and being young parents (SSI 2000 Hannan 2002; Mooney et al., 2003; Pinkerton & McCrea, 1999).

That said, a significant proportion do manage to negotiate a successful transition and the Children (Leaving Care) Act (NI), 2002 aims to ensure that more care leavers are supported in joining that group through: ensuring that young people do not leave care until they are ready to do so; improving the assessment, preparation and planning for young people leaving care; providing better personal support for young people after they leave care and improving the financial support available to care leavers.

Issues

Ensuring that the potential of the Act is realised on implementation will require:

- greater engagement of young people in the development of policy and provision, including their own pathway planning and review;
- a significant increase in resources; a greater number and variety of specialist services, from supported accommodation to community drop-in facilities;
- sustained specialist training and skills development; and
- effective co-ordination at all levels from the planned young people’s personal advisors through to the policy makers in the DHSSPS.

Comment

The new legislation is a welcome and positive step, which must be accompanied by the necessary resources to support its full and effective implementation. Ongoing monitoring of its implementation will also be essential to assess its impact. It is positive that in the draft guidance for the Act provision is made for access to advocacy for young people though this is limited to complaints. It is important that if advocacy services are to be available they must cover all matters concerning leaving care for the individual young person. It is also essential that there are sufficient trained staff available to support the service. (See Chapter 1).

“They [social workers] wouldn’t leave me alone and then when I was 16 I was left on my own and I couldn’t get nothing ... cos I have a foster ma who is good to me they give me nothing. That ’s just when you need them (when you are 16) you don’t need them when you are assessed whenever you need them they aren’t there” (Young woman, aged 17 in foster care).

ADOPTION

Adoption is an irreversible step, which permanently severs the legal relationship between a child and his./her birth parents. In recognition of this, international standards require that the best interests of the child must be the paramount consideration in this process (Art. 21 CRC). There is considerable support in international standards for a system of open adoption, which respects the

child's right to maintain contact with his/her birth family unless that is contrary to the child's best interests (Art. 9 CRC). There is also significant weight in the argument (based on Arts 8 and 9 CRC) that the adopted child has the right to access information about his/her origins. This has some support also in the case law of the European Court of Human Rights (Kilkelly, 2004). Article 21 (CRC) further recognizes that inter-country adoption may be considered as an alternative means of the child's care in certain instances (Art. 21:b,c, d, e).

Context

The primary piece of legislation on adoption in NI is the Adoption (NI) Order 1987 as amended by various enactments, including the Health and Personal Social Services (NI) Order, 1994, the Children Order 1995 and the Adoption (Inter-country Aspects) Act (NI) 2001. The 1987 Order imposes on each Health and Social Services Board the duty to provide an adoption service for its area; makes provision for children who are, have been or may be adopted and for the parents and/or guardians of such children; and allows for the introduction of schemes for the payment of allowances to adopters and prospective adopters in certain circumstances. In 2000, the Social Services Inspectorate (SSI) undertook a regional inspection of the statutory adoption service in NI. The overview report, *Adopting Best Care* (SSI, 2002) noted the lack of a coherent framework for the delivery of adoption services by each of the four HSS Boards and eleven Trusts. The report also proposed the need for a regional adoption strategy and new primary legislation more suited to the needs of a modern adoption service. The Department is currently developing both a strategy for children in need and a regional adoption strategy (DHSSPS 2003a). The latter will primarily address matters relating to the adoption of looked after children but will also make proposals that acknowledge current issues in family adoptions and the life long implications of adoption for birth families, adoptive families and adults who have been adopted. The strategy, which will be subject to wide consultation, will contain proposals for major new legislative measures which, if implemented will result in a radical overhaul of the adoption service for children and families in Northern Ireland.

Practice¹⁸

Adoption is one of the most controversial placement decisions made for looked after children. For most of its history it has been seen primarily "as a service for adults wanting a child rather than one promoting the rights of children" (CRDU, 1994). However, in more recent years in Northern Ireland there has been a clear drive to provide looked after children with a safe, stable and permanent family home and an "unprecedented emphasis on achieving 'permanency' and positive life opportunities for children in a care system that has traditionally failed them" (SSI, 2003). This has resulted in adoption "becoming the optimum care plan for greater numbers of children" (SSI, 2003: 60). In all adoptions it is accepted practice that children should be aware of their family of origin and at 18 years adoptees have the right to information about the circumstances surrounding their adoption. The acknowledgement that adoption, particularly at an early age, will provide an environment that enables children who have experienced early adversity to achieve their potential is based on strong evidence (e.g. Rutter et al, 1998; Duyme et al., 1999). Additionally, it has also been demonstrated that children adopted from care do better than those who are raised in foster or residential care (Triseliotis & Hill, 1990). Such research suggests that the drive to increase adoption is well founded, though Rushton (2004) gave voice to a growing concern that "to favour adoption, may turn alternatives like long-term foster care and residential care into second-class options, although good quality placements of this kind may be the first choice for some children" (p 91)

The emphasis on adoption described above is reflected in the increase in its use across Northern Ireland as a whole (Kelly and McSherry, 2003), with a peak in the numbers of children adopted in 2000/2001 and 2002/03 (NIGALA, 2002 & 2004). However, the policy could not be said to be operating consistently across Northern Ireland with rates varying considerably between HSS Trusts, (McSherry, Larkin & Iwaniec, ongoing research). Furthermore there are several other challenges facing adoption services which are identified in the SSI report including “how to identify children early and enable them to be placed quickly with an adoptive family without compromising the quality of professional considerations about the potential of the birth family to provide their own child with a loving, safe and permanently secure home, or the due process of the legal system” (SSI, 2003: 63). The current research by McSherry et al. is likely to provide information to help address such challenges and further inform the adoption debate, though further research may be required to explore this and other issues raised in the SSI (2002 & 2003) reports.

Despite the fact that in Northern Ireland interest in intercountry adoption has grown rapidly, the time constraints on this study have meant that it has not been possible to cover this topic. Further information on it may be found in the draft DHSSPS guidance ‘Implementing the Adoption (Intercountry Aspects) Act (NI) 2001- A Summary of the Regulations and Procedures (June 2003) which informs the current provision of intercountry adoption services. The topic is also dealt with in the SSI Report (2003): A Better Future: 50 years of Child Care in Northern Ireland (particularly pages 66-67) in which a key action point identified is: “*The development of specialist expertise in intercountry adoption and structured post placement/adoption support for children adopted abroad*” (SSI, 2003: 74)

Issues

- In terms of practice, adoption is a very fraught area since it often requires social workers to enter conflictual relationships with parents they have been working to support under the Children Order.
- There is a need for a more consistent practice across HSS Trusts in relation to the development of adoption as a placement.
- Concerns exist around a range of contact issues especially contact with siblings and the need to discuss the issues around more flexible forms of adoption which allow varying levels of both direct and indirect contact between birth families and adopted children.

Comment

Adoption legally provides a child with a new family and contact with the birth family is rarely regular and often not face to face, thus making it unlikely that the child will preserve his or her original family identity (Art. 9 CRC) or “personal relations and direct contact with both parents” (Article 10 CRC). However, the fact that before it takes place, the adoption must be determined to be in the best interests of the child means that this right to contact must be balanced with the child’s right to alternative family provision (Art. 20 CRC) where the circumstances demand it. The best interests of the child must be paramount in such decisions (Art. 21) and must take into account the views of the child who is old and mature enough to express them. (Art. 3 and 12 CRC). Consideration needs to be given to making domestic adoption legislation consistent with the Children Order with the paramountcy of the welfare of the child being clearly and unequivocally the principle on which all decisions are made. This must also be underpinned by the fundamental principle governing all child care policy and practice that children should be cared for by their birth families unless it is determined not to be in their best interests, and that, by

remaining with their family, they are, in the words of the Children Order, suffering or are likely to suffer significant harm

PRIORITIES

This chapter has identified major areas where children and young people's rights to a family, in the family, on family breakdown or when they are in alternative care provision are being ignored or underplayed. The priority areas, which emerged from the research, are listed below and are underpinned by the cross-cutting themes outlined in Chapter One.

- An overarching family policy with a focus on positive parenting and preventative strategies, particularly in the early years, needs to be developed and implemented in collaboration with the voluntary and community sector.
- A programme of multi-disciplinary training at all levels, combined with a co-ordinated approach to interagency working at practice level should be put in place.
- The issue of recruitment and retention of social work staff in all areas of family and child care and the lack of specialist staff, particularly in the area of therapeutic work and child and adolescent mental health needs to be addressed.
- There needs to be a continuing, high profile drive for the removal of physical punishment in the family.
- Within the area of child protection the overall procedural and legislative framework is light and under-developed in Northern Ireland. There is a need to invest in structural improvements and to strengthen the functions of Area Child Protection Committees. Such improvements should include a regional assessment framework and clearer criteria for establishing thresholds to determine significant harm.
- Continued efforts need to be made to address issues specifically associated with the progress of Children Order cases through the court system. These include, addressing the problem with continued delays, the lack of separate representation in private law proceedings for children and young people and greater use of family mediation and/or alternative dispute resolution projects.
- The scarcity of foster placements results in lack of choice for children when being placed. This scarcity must be remedied if the child's wishes and/or needs are to be met.
- The proposals for the development and restructuring of residential care are welcome but issues regarding current provision in this area remain to be addressed in the interim period.
- In secure accommodation urgent steps should be taken to bring the operation of the Independent Review mechanism into line with international standards specifically Article 5 ECHR.

Within the area of family life and alternative care there are a number of areas where existing provision from a children right's perspective is under review, consultation or in the process of reform. These various changes, some of which are associated with the above priorities and have been identified in the chapter, should result in significant improvements in children's rights and welfare. The Commissioner may wish to monitor these changes to ensure that they are implemented effectively and are accompanied by the anticipated raising of standards as outlined in the CRC and elsewhere.

CHAPTER:

three

**HEALTH, WELFARE AND
MATERIAL DEPRIVATION**

INTRODUCTION

Social and economic rights are well established as crucial in the protection of human rights. In addition to the CRC which specifically protects children's social and economic rights, there are many international human rights standards relating to these rights. The World Health Organisation (founded over 50 years ago) has been central to the development and promotion of the right to health and health care. Its constitution states that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition." Among the rights developed are specific rights for people with mental illness (Principles for the protection of persons with mental illness and the improvement of mental health care).

The United Nations Universal Declaration of Human Rights (UDHR) promotes a world where people are free from "fear and want" (Preamble, 1948). The International Covenant on Economic, Cultural and Social Rights (ICESCR, 1966) also proclaims that freedom from fear and want can only be achieved "if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights" (Preamble). In 2002, the United Nations Commission on Human Rights appointed a Special Rapporteur (currently Paul Hunt) whose mandate focuses on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The Special Rapporteur has noted that the right to health contains both freedoms and entitlements:

Freedoms include the right to control one's health, including the right to be free from non-consensual medical treatment and experimentation. Entitlements include the right to a system of health protection (i.e. health care and the underlying determinants of health) that provides equality of opportunity for people to enjoy the highest attainable standard of health. (United Nations Economic and Social Council 2003: paras 23 &24)).

The European Social Charter (Council of Europe) includes rights to housing, employment, social protection (eg welfare benefits and social services) and non-discrimination. The Northern Ireland Human Rights Commission's preliminary proposals for a Bill of Rights for NI (2001) included proposals for social and economic rights. Public opinion surveys in Northern Ireland have consistently shown that people want stronger enforceable rights in this area.

Art. 6 CRC states that "every child has the inherent right to life" and that "state parties shall ensure to the maximum extent possible the survival and development of the child". This recognition of the child's right to life, survival and development (Art. 6) is supplemented by the right to effective health and health care services (Art. 24). Children with disabilities have a specific right to effective health and health care (Art. 23). In pursuance of this, the state must promote the exchange of appropriate health care and medical information on the treatment of children with disabilities. However, provision for children with disabilities in the Convention is acknowledged to be poor and in this area, it is important to look beyond the CRC to documents like the UN Standard Rules on the Equalization of Opportunities for the Disabled in advance of the long-awaited adoption of the UN's treaty on disability.

Art. 24 CRC provides for children's right to the highest attainable standard of health and health care. States must take appropriate measures to diminish infant and child mortality; ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care; combat disease and malnutrition, ensure the provision of

adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution; ensure appropriate pre-natal and post-natal health care for mothers; ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents; develop preventive health care, and guidance for parents and family planning education and services.

Art. 27 recognises the “right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.” The role of parents to take responsibility for the child’s standard of living is recognised “within their abilities and financial capabilities.” State parties are tasked with assisting parents and others to implement this right and “in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing”.

In its Concluding Observations on the UK implementation report in 2002, the Committee on the Rights of the Child welcomed the adoption of new homelessness legislation; noted positive moves towards analysing budgets to reveal expenditure on children; national objectives to halve child poverty by 2010 and to eradicate it within a generation; and strategies and policies tackling child poverty and social exclusion through locally targeted services for children. The Committee was concerned however, that the Convention is not implemented to the “maximum extent of available resources” (UN, 2002: 10-11).

The Committee was also concerned that the principle of non-discrimination is not fully implemented for all children in all parties - particularly noting “unequal enjoyment of economic, social, cultural, civil and political rights for children with disabilities, children from poor families, Irish and Roma Travellers children, asylum and refugee children, children of minority groups, children in the care system, detained children and children aged between 16 and 18 years” (ibid.: 22)

The Committee welcomed the reduction of infant mortality rates and the focus on children in the planning of the national health service. It remained concerned about persisting inequalities in health and access to health services, including mental health services linked to social and economic status and ethnicity (e.g. the high rate of infant mortality among Irish and Roma Travellers). Concern was also expressed at the relatively low rate of breastfeeding; a high level of teenage pregnancies; the rising incidence of sexually transmitted infections (STI’s) among young people; and suicides of young people. The Committee was concerned that gay and trans young people do not have access to appropriate information, support and protection. (ibid.: 41).

The Committee was concerned at the high proportion of children living in poverty and high incidence among poor children of mortality, accidents, teenage pregnancy, poor housing and homelessness, malnutrition, educational failure or suicide. It noted the lack of effective and coordinated poverty eradication strategy and recommended better coordination to address the causes of youth homelessness. The Committee was also concerned at the absence of a minimum wage for young people and a review of legislation and policies concerning welfare benefits was recommended. (ibid.: 53 & 54)

CHILDREN'S HEALTH ISSUES - GENERAL

Non-discrimination (Art. 2) Implementation of Rights (Art. 4) Survival and development (Art. 6) Children with disabilities (Art. 23) Health and health services (Art. 24) Social Security (Art. 26), Standard of Living (Art. 27),

Context

Information and planning

There is an overall lack of information about children's health in Northern Ireland. Although there has been a range of surveys by Boards and Trusts on specific issues, there is no definitive guide to the health of children in Northern Ireland. There is a particular gap in information on young children's health with Departments collecting more information on the older children and teenagers. The NISRA Young People's Behaviour and Attitudes Survey (NISRA, 2004) examined over 7,000 post-primary school (aged 11-16) children's views and experiences including on health related issues. The DHSSPS Health and Social Well-Being Survey includes information on over-16 year olds regarding alcohol, drug use and health behaviour (DHSSPS, 2001). The British Medical Association (BMA) has commented on the need for more information on children's health throughout the UK: "We recommend that an Annual report on the health of children, similar to the Chief Medical Officer's report On the State of the Public Health, should be published by the Departments of Health with a view to monitoring health trends in children so that remedial action can be taken where needed and progress monitored" (BMA website).

There was agreement among interviewees on the need for an overarching approach to children's health reaching across departments. In particular, it was agreed there needs to be more coordination of children's health promotion and health care between the Department of Education and the DHSSPS.

Government has launched a National Service Framework for Children, Young People and Maternity Services which will set standards for children's and young people's services in England: "The standards will outline what support should be available to children and their parents in managing a wide range of conditions and problems. This will emphasise the promotion of evidence-based clinical guidelines and will provide examples of good practice. In addition, the NSF will include a small number of exemplars, which use particular problems to illustrate what the standards mean for children and their families. These will include asthma, autism, chronic fatigue syndrome, and epilepsy in pregnancy" (Answer to PQ, 13 Jan 2004, Hansard Col WA81).

A statistical survey of social and health well being in Northern Ireland (McWhirter, 2002: 20) revealed that: "The Northern Ireland infant mortality rate, which was the worst in the UK, is now among the best, and people are taller and straighter than ever before with better and more teeth. However, there are a few downsides to this story. These include: decreased levels of physical activity, increased obesity; increasing incidences of diabetes and asthma; and perhaps higher levels of (more minor) mental ill health." An NGO health expert interviewed for the current research summarised developments in children's health:

"Overall, children's material well-being is improving compared to 50 years ago - for example many infectious diseases are no longer seen. Nutritional deficiencies are more controlled so for example you don't see rickets. There is better access to nutrition, better housing etc. There have been specific initiatives like immunizations being fairly universal. For the vast majority of children

from their time in the womb on, their health is better than 50 years ago. Fewer babies are dying in child-birth, children are growing up bigger and stronger”.

However, the picture was not universally positive as:

“Bad health is now more or less linked to poverty and disadvantage. Young mothers from poor families are more likely to have unhealthy babies. It’s hard to separate children’s health from family, poor nutrition and physical inactivity” (NGO Representative).

McWhirter comments that “... not only do affluent people live longer, but they also spend a greater proportion of their longer lives in good health” (McWhirter, 2002: 82). Her research confirmed that “children in Northern Ireland ... experience a range of social and economic disadvantage. As a consequence, the impacts of deprivation can be expected to impact disproportionately on the health and well being of future generations of adults in Northern Ireland” (ibid.: 77). Health care professional interviewees agreed that poverty was a major influence on children’s health, citing poverty in rural areas; the impact of poverty on diet; and “poverty of opportunity” and associated low self-esteem as crucial negative contributors.

Breastfeeding

The World Health Organisation recommends that where possible babies should be fed exclusively on breast milk for six months from birth and should continue receiving breast milk as part of their evolving diet for up to two years and beyond. The Committee on the Rights of the Child commenting on low breastfeeding rates in the UK recommended that the state take measures to promote breastfeeding (UN, 2002: 40). DHSSPS published a Breastfeeding Strategy for NI in 1999 aimed at improving breastfeeding rates in Northern Ireland, and recent promotional campaigns have been launched in pursuit of this. However, Northern Ireland continues to have one of the lowest breast-feeding rates not only in Europe but in the world. According to the Health Promotion Agency, in Northern Ireland over half of new mothers start to breastfeed but this falls off rapidly and by six weeks it is down to 25% and by six months to 10%. In comparison, in Norway 99% of new mothers start feeding their baby and after six months 80% are still going strong”(Health Promotion Agency, 2004). Research commissioned by the Health Promotion Agency for Northern Ireland indicates that “a lack of social acceptability for breastfeeding is one of the main reasons that mums here resort to bottle feeding. While over half of mums here do start off breastfeeding, very few continue past the first few weeks. When mums encounter difficulties, quite often they choose to stop breastfeeding because of a lack of support and the sense that breastfeeding is still not considered to be acceptable” (ibid.)

A midwife commented that:

“there has been work done on a strategy to deal with this but change comes slowly. Young teenage mothers are more likely to have premature babies and when they see their baby so ill they may be prepared to express milk, but they feel they stand out if they breastfeed. In terms of facilities out there - shopping centres that do have facilities are model ones but every shopping mall doesn’t have that. There is an argument against that too in that if you make people breastfeeding hide away then nobody sees them. Young teenage mothers may never have seen anyone breastfeeding”.

Breastfeeding is a class related issue as the incidence of breastfeeding is associated with high maternal socio-economic status and educational attainment (DHSSPS, 1999a:2). Research by the Health Promotion Agency found that unemployed women were less likely to breastfeed than women in employment (HPA, 2003a).

Infant Mortality

From 1971 - 1994, Northern Ireland had the highest rate of infant mortality in the UK. However, this has been decreasing over the years, and has fallen from 22.7 (per 1,000 live and still births) in 1971 to 5.7 per thousand births in 2001. The infant mortality rate is higher in rural areas (6.0 in 2001) than non-rural areas (DHSSPS, 2004a). Life expectancy at birth is related to socio-economic status. In Northern Ireland, average life expectancy is 74.5 for men and 79.6 for women, but in the most deprived wards this falls to 71.4 for men and 77.1 for women (McWhirter, 2002: 86). The life expectancy of Travellers however, is almost 20 years less than that of the settled community (ibid.: 84). The Committee on the Rights of the Child commented on the high rate of infant mortality among the Irish and Roma Travellers in the UK (UN, 2002: 39). McWhirter notes "it is poorer people who have borne the brunt of the Northern Ireland 'Troubles' either in their areas or on their lives" (McWhirter, 2002: 83) and this impacts on both physical and mental health (DHSSPS, 2004a: Chapter 3). Government research found that Catholics were more likely than Protestants to report experiencing adverse effects of conflict-related violence on their own lives and that of their families (ibid.: para 3.50). Research found that the consequences of the conflict on young people's psychological well-being is not clear and understanding of the long-term effects of such violence is very poor (ibid.: 3.4). People in high violence areas reported more symptoms of physical illness than those living in low violence areas (ibid.: para 3.13.). A much higher proportion of people living in areas of high intensity violence reported having poor health compared with those living in areas of low violence (ibid.: para 3.23.).

Children's health problems

Key health issues relating to young children's health raised by interviewees were a lack of physical exercise (in part caused by concerns about road safety) and poor diet leading to obesity and potentially to other health problems such as diabetes, and poor dental care; while for older children and teenagers the main issues raised were drug and alcohol related problems, sexual health and mental health.

The HPA has reported that increasing levels of obesity in the population is associated with an increase in Type 2 diabetes in young people (DHSSPS, 2004a: para 5.25). Obesity is attributed to a number of factors including the increased consumption of a high calorie diet, increased time spent watching TV or computer games, the advertising and promotion of an unbalanced diet, the availability of convenience food, the cost of healthy food options, inadequate cooking skills and transport and planning decisions (Cole et al., 2000). The effects of childhood obesity are far reaching and can have both physical and psychological consequences. Obesity can lead to coronary heart disease, cancer, diabetes, high blood pressure and osteoarthritis. In Northern Ireland, there are thought to be 450 deaths per years as a direct result of obesity. Weight problems can also have a detrimental impact on the emotional well being of children with particular impact on their levels of self-esteem, as well as placing children at a greater risk of bullying, and social isolation (House of Commons Health Select Committee, 2004).

Research has found that 16% of 13 and 14 year olds boys and girls in Northern Ireland are overweight (Yarnell et al., 2001 cited in DHSSPS, 2004a: para 5.70) and 4% of boys and 2% of girls at this age were clinically obese. Yarnell (2001) (cited in DHSSPS, 2004a: para 5.70) found that although there was a high correlation between the height of boys and girls to their fathers' social class, the children's BMI (Body Mass Index) showed no such correlation to the social class of their parents. One third of obese girls were dieting compared with one sixth of obese boys.

Obesity in children is monitored through the Child Health System records based on examinations carried out by the School Nurse at the Primary One Health Appraisal. In 2002/03, 19% of boys aged 4-5 years of age were over weight with figures standing at 25% for girls (Investing for Health Northern Ireland, 2004). In response to these figures the Minister with responsibility for Health, announced a new strategy to tackle this health problem in August 2004. The initiative entitled Fit Futures Focus on Food, Activity and Young People has four main objectives;

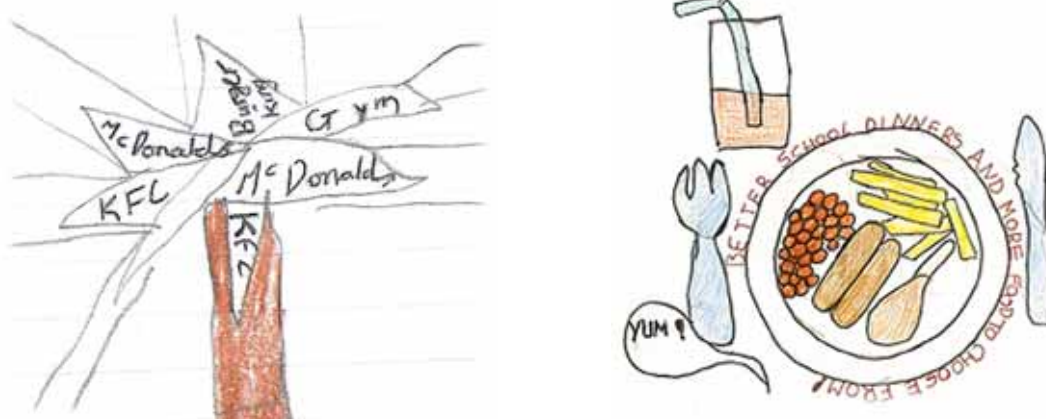
- Review the factors that impact on the levels of overweight and obesity and, in light of best practice, consider and evaluate options for preventing the development of over weight and obesity;
- Consider and assess the extent to which, in tackling over weight and obesity, action needs to be targeted to take account of the needs of specific groups within society and ensure that social need is targeted effectively;
- Engage with stakeholders to stimulate action to tackle over weight and obesity
- Make recommendations to the Ministerial Group on Public Health on priorities for action.

Fit Futures will be focusing on obtaining the views of children and young people to obtain their ideas on how to encourage healthier eating patterns and more physical activity. The Taskforce is expected to report back to the Ministerial Group on Public Health with recommendations before the end of 2004.

Chief Medical Officer, Dr Henrietta Campbell has warned that "currently over half our population have a weight problem and as many as one in five are obese. Obesity in children is increasing at an alarming rate and it is projected that in 15 - 20 years, one in five boys and one in three girls will be obese unless drastic action is taken now" (DHSSPS news release, 23 March 04).

The Office of National Statistics has reported that children in Northern Ireland have a higher risk of tooth decay than their counterparts in England or the Republic of Ireland. Whilst the disease is almost completely preventable through good oral hygiene it was the most common reason cited for children receiving hospital general anaesthetics with almost 8,000 children requiring general anaesthetic for dental treatment in 2003 in Northern Ireland. (DHSSPS, 2004a). In 2000, five year olds living in the Western Board area had the worst dental health in Northern Ireland (McWhirter, 2002: 46). In response to the problem the Minister for Health, Social Services and Public Safety launched a 10-year Oral Health Strategy aimed at preventative measures to combat tooth decay. The strategy aims to improve oral health for the entire population but has acknowledged that levels of tooth decay are higher among people from poor backgrounds, older people, people from ethnic minority communities, Travellers and homeless people. The Minister commented that: "Tooth decay levels among Northern Ireland children are approximately double those in England and the Republic of Ireland. This completely preventable disease is the most common reason for children receiving hospital general anaesthetics. Last year, in Northern Ireland, almost 8,000 children, some as young as 2-years-old, had a general anaesthetic for dental treatment" (21/09/04). The new Oral Health Strategy (DHSSPS, 2004f) sets the context for the forthcoming Primary Care Dental Strategy). It is an aim of the Oral Health Strategy that by 2013 at least 50% of children should be free from dental decay (baseline value 36% in 2002) (DHSSPS, 2004f: 13). The contribution of schools will play an important role in ensuring the success of the strategy in terms of providing healthy option meals for children's lunches and ensuring that all schools are free from vending machines selling sugary snacks and drinks (DHSSPS, 2004f: 5). Other initiatives aimed at tackling tooth decay and improving the health of

children in schools include 'Fresh Fruit in Schools', whereby fresh fruit is provided to P1 and P2 children with in selected schools as a means of encouraging them to sustain healthy eating patterns (Investing for Health Northern Ireland, 2004). Those interviewed emphasised the importance of good diet for children and the roles of the food industry and schools. The availability of healthy food was also a concern raised by children who participated in the NICCY schools research many of whom were critical of the standard and choice of food served in their school canteen and the general availability of junk/take away fast food restaurants as potentially injurious to the health of young children.



"As health professionals we can't do much on our own without the food industry. Sometimes you feel as if you're banging your head against the wall ... unless we have the food industry who are targeting young children and adolescents ... doing something about changing people's behaviours" (Health Care Professional).

Another health care professional noted the Scottish model of making the idea of healthy schools mandatory so that every school has to be a health promoting school. That means it adopts an ethos of encouraging a healthy well being focus - for staff and pupils - much wider than physical health, safety, mental well-being, bullying etc. In Northern Ireland this approach has been voluntary. If we had a much stronger health promoting schools concept - where you're looking to work with schools to develop healthy schools, dept working well with the schools to promote the policy, developing that culture - it would be much better".

The Young Person's Behaviour and Attitudes Survey (NISRA, 2004) found that while 96% of young people said they had been taught about health eating, only 36% said that they ate the recommended five or more portions of fresh fruit or vegetables daily. Although three quarters had engaged in sport or exercises on at least two days of the week prior to the survey, this conversely means that one quarter had not done so.

Asthma, eczema and hay fever are among the most common chronic diseases of childhood (national statistics online). In England and Wales, hospital admission rates for childhood asthma increased substantially during the 1960s, 1970s and early 1980s but declined steadily in the 1990s. Similar figures are reported from GP surgeries (national statistics online). The BMA has called for research into the reason for high rates of asthma in the UK. Healthy Cities Belfast (an inter-agency partnership) noted that "air pollution can have a significant adverse impact upon human health. Some of the main health effects are chronic bronchitis and emphysema; cardio-respiratory death; lung and other cancers; asthma and allergies" (Healthy Cities Belfast, 2003: 20 citing Belfast City Council, 2001).

A BMA representative interviewed strongly made the case for a ban on smoking in public places. BMA has been campaigning for 20 years for legislation to ban smoking in public places (BMA

website). The World Health Organisation states that “second hand smoke causes asthma, respiratory disease and ear infection in children” (WHO, 1999 cited in BMA press statement 15 Sep 04, BMA website). There is strong research evidence to support a link between exposure to smoke (both during pregnancy and within the home) and Sudden Infant Death Syndrome (SIDS or cot death) (Foundation for Study of Infant Deaths website, 2004). In Northern Ireland there were 5 “cot deaths” in 2003 (ibid.) The rate of SIDS has fallen substantially since the 1990s when a campaign to reduce the risks was launched. Health education for young pregnant women is important as research found that women aged 20 or under were more likely to smoke before or during pregnancy than those aged 35 and over (61% and 30% respectively) (DHSSPS, 2004a: 6). The NISRA survey of young people found that 41% lived in households where adults smoke in the house (NISRA, 2004).

For teenagers, drugs and alcohol can pose serious health threats. The Young Person’s Behaviour and Attitudes Survey (NISRA, 2004) of 11-16 yr olds found that 59% of pupils have drunk alcohol of which 42% drink alcohol at least a few times a month (Barometer, 2004). Research on alcohol consumption among young adults found that “in Northern Ireland, drinkers and younger drinkers in particular are concentrating their drinking into a small number of sessions at the weekend. Analysis of consumption revealed that these few sessions were heavy sessions, which would indicate a binge drinking culture” (HPA, 2003: 5). The HPA warns that “heavy drinking over time will increase the risk of chronic health effects such as cirrhosis. However, those who consume relatively small amounts but who occasionally binge drink contribute substantially to acute alcohol problems, such as impaired driving, alcohol-related family trouble or difficulties in employment, in addition to other problems in society” (HPA, 2003: 4). The HPA research found there was significant variation in the incidence of binge drinking between men and women in different socio-economic groups. Those from semi-skilled and unskilled socio-economic groups were more likely to binge drink. Women in the lowest income group, while least likely to drink overall, were most likely to binge when they did drink (HPA, 2003: 5).

An Omnibus survey found that 37% of 16-24 year olds in Northern Ireland reported using drugs, 23% were currently using them and 5% were frequent users (McWhirter, 2002: 61). The use of inhalants by young people was more commonplace among teenagers in NI than in GB (ibid.: 62). More boys (60%) than girls (54%) have ever taken an alcoholic drink (DHSSPS, 2004a: 8). More children in receipt of free school meals are current drug users than those not in receipt of free school meals 12% and 8% respectively (DHSSPS, 2004a). Seventeen percent of children getting free school meals had tried cannabis compared to 12% of other children (ibid.).

Mental health and sexual health of young people were also frequently referred to by interviewees (adult and children) as key issues and these are discussed in separate sections below.

Key issues

- Lack of coordinated collection of information on children’s health, especially young children;
- Established link between poverty and poor health;
- Inequalities in health;
- Low breastfeeding rate;
- Lack of physical exercise and poor diets for children across social classes;
- Growth in obesity among children especially younger children;
- Poor dental health linked with poverty;
- Drug and alcohol related problems;
- Sexual health care and mental health care for adolescents;

CHILD-FRIENDLY SERVICES AND THE RIGHT TO PARTICIPATION

The child's opinion and the right to participation (Art. 12) Access to appropriate information (Art. 17) Protection from abuse and neglect (Art. 19)

Context

The UNCRC should be used as the basis for all health-related decision making involving children and young people. It requires professionals to increase the young person's understanding and encourage their active participation in the decision-making processes that affect them, and, whilst the balance may be difficult on occasions, aims to accomplish this without violating either their rights to protection or their parents' rights to exercise parental guidance. In the context of children and young people with mental health and learning disabilities, looked after children, those from ethnic minority communities and those with complex health needs especially, the implementation of a robust regional advocacy framework is a prerequisite to realising their procedural rights in decision-making processes.

Whilst a child's competence needs to be assessed in developmental terms as a function of four broad categories - chronological age; cognitive level; emotional maturity and socio-cultural factors, the overall summation of which may be described as psychological maturity and competence - fundamentally, the question of a child's competence to make informed decisions about care and treatment should not be viewed in terms of whether and when they should be treated as adults. Rather, it is crucial that young people are treated with respect and that the decision making process is aimed at sensitive and appropriate assessment of their abilities and wishes, for the purpose of trying to serve their best interests. Recent DHSS&PS guidance on seeking consent in working with children has stated that:

"You should never automatically assume that a child with learning disabilities is not competent to take his or her own decisions: many children will be competent if information is presented in an appropriate way and they are supported through the decision-making process... (and) if a child...is not competent to take a particular decision for him/herself...the child should still be involved as much as possible...children should never feel that decisions are being made over their head"(DHSSPS, 2003e).

Interviewees for this research pointed to the importance of 'child-friendly' health care services and for children's participation in decision making about both their own health and health services in general (Art. 12 CRC). BMA policy states that: "Children should be seen as important contributors to our understandings of appropriate care and their views should be taken into consideration when developing NHS Services" (BMA website, 2004). A participant in a focus group of health professionals commented on the lack of play therapy for sick children:

"We're not good on this in NI. It's seen as a luxury rather than essential component. Yet the support of a play therapist to explain difficult issues can be vital ... [what exists] doesn't come from core funding. Staff may be from core funding but the toys etc come from voluntary sources".

Another reaffirmed the importance of talking to children about what services should be like, particularly in terms of health education: "We need to ask young people. As adults we don't know what works best for young people in terms of education. That's why peer education is good".

Article 12 CRC requires professionals to promote the young person's understanding and facilitate their active participation in decision-making processes that affect them, and aims to accomplish this without violating either their rights to protection or their parents' rights to exercise parental guidance. The issue of consent was agreed to be critical by professionals and by young people. Despite the existence of Departmental guidelines on gaining children's consent (including a version for children's use) a health professional wondered how genuine health professionals were in general about listening to children. She gave the example of,

"... children coming from day surgery and the parents haven't prepared the young child adequately for the procedure [in terms of information] and nursing staff are having to prepare them for the procedure but when the child still decides that no they don't want to have this minor op - e.g. tooth extraction - there are occasions where the child would still say no and parents are still maybe pushing that. And I think it's sometimes questionable whether they [medical staff] listen to the parent or the child. We haven't really addressed the issue of what do we do if a child is totally against the procedure".

Another commented that: "a big issue is the language we use with young people. Young people are very vocal about medical staff who have swallowed a dictionary. Young people find it frustrating when a discussion is taking place between parents and medical staff at the end of their bed. You have examples of young people pulling out their records, reading them and changing what has been written".

For children with learning disabilities advocacy is essential to ensure full enjoyment of participation rights. As a submission from an NGO in the disability sector commented: "They [children with disabilities] are people whose participation in the things that affect their lives have been limited both by the attitudes of others and by the difficulties faced by people who have problems with communication and understanding... They are people who have tended to have things, good and bad, done to them, rather than enjoying personal rights and choices". This evidence is supported by Monteith et al.'s, (2002) study. It is essential that there is a commitment to fund and support the development of effective advocacy and self-advocacy services for children with disabilities (see Chapter 1).

The right to appropriate information (Art. 17) was raised by interviewees in the context of the needs of teenagers to health and welfare services. Many young people and those working with and for children supported the recommendation for a "one stop shop" for services for young people - a drop in centre, mobile bus or other place where young people could get advice on health, welfare, education and a range of services. BMA policy also supports the idea of a one stop shop for health, education, social services (BMA website, 2004).

It is also important to consider the need for advocacy services where appropriate to ensure that children's right to participate is met in relation to decisions about their health care. Scottish legislation defines these services thus: 'Advocacy services are services of support and representation made available for the purpose of enabling the person to have as much control of, or capacity to influence [their own] care and welfare as is, in the circumstances, appropriate' (Section 259 (4) Part 17, Ch. 2, Mental Health (Scotland) Act 2003). The meaning of advocacy depends on the context in which it is applied. In the field of health, especially mental health, the concept of advocacy is a wider one encompassing not only 'legal advocacy' but also a spectrum of advocacy models each of which has a particular role in addressing the needs of the individual it serves. The Royal College of Psychiatrists have said that whilst advocacy is commonly

understood as meaning speaking up for someone else, in fact, in relation to people with mental health and learning disabilities, it has the rather different meaning of helping people to be heard, and ensuring what they say influences the decisions of clinical staff (Royal College Psychiatrists, 1999).

In relation to services for life-limited children in Northern Ireland, the case was strongly made by supporters of the Children's Hospice that more public funding is urgently needed for the Hospice and associated services. There is just one Children's Hospice in Northern Ireland, situated just outside Belfast. An assessment of need (Northern Ireland Hospice Children's Service, 2000) highlighted the "large number of children in Northern Ireland with life-limited and life-threatening conditions such as cystic fibrosis, muscle disorders and malignant disease" (ibid.: iii). Approximately 860 such children were identified (ibid.: iii). This number was more than anticipated (circa 500) using accepted formulae (ibid.: 1). Research was carried out in the late 1990's into the mortality rate for children aged 0-19 years from life-limiting conditions in Northern Ireland for the years 1992-96. This found that the average mortality rate for this group was 1.92 per 10,000 compared to the UK rate of 1 per 10,000. It was noted that "there is no scientific evidence as to why Northern Ireland has a higher prevalence of children with life-limiting conditions than the UK as a whole" (ibid.:25) The Hospice aims to provide a service for children and their families which meets their "physical, mental, emotional and spiritual needs" (ibid.: iii). At present it is entirely funded by voluntary contributions.

Key Issues

- Appropriate services and life chances for life-limited children;
- Need for greater participation of children and young people in decision making;
- Recommendation for one stop shop for children's services.

YOUNG PEOPLE'S SEXUAL AND REPRODUCTIVE HEALTH

Best interests (Art. 3), Child's opinion (Art. 12), Right to protection (Art. 19), Right to Health and Healthcare (Art. 24). Right to private and family life (Art. 8 ECHR and Human Rights Act 1998).

Context

In its concluding observations on the UK's report, the CRC stated that "while noting efforts undertaken by the state party to reduce the numbers of teenage pregnancies, the Committee remains concerned at the high rate of teenage pregnancies". The Committee expressed concern that gay and trans young people did not have access to "appropriate information, support and necessary protection to enable them to live their sexual orientation." The Committee was also concerned at the rising incidence of sexually transmitted infections (STI's) among young people (UN, 2002: 41).

To tackle these concerns the Committee made recommendations including further measures to prevent teenage pregnancies such as making health education part of the school curriculum, sex education for all children and the availability of free contraception/protection measures and improved access to confidential and adolescent-sensitive advice, information and support; and provision of adequate information and support for gay and trans young people (ibid. : 42 (a) and (d)).

DHSSPS notes that:

Sexual health in Northern Ireland is generally regarded as poor, with high levels of teenage pregnancy and sexually transmitted infection. In 2001, there were 21,962 live births to women in Northern Ireland, of which 1524 (6.9%) were to teenagers aged 19 and under. In 2001/02, there were 19,765 new outpatient cases presenting to genitourinary medicine (GUM) clinics in Northern Ireland, including 17 new cases of HIV (DHSSPS, 2003f: para 1.5).

Furthermore, "regional surveys show considerable ignorance about issues relating to sex and sexuality, resulting in confusion, unhappiness and the breakdown of relationships" (DHSSPS, 2003f: para 1.6). The links between poverty and teenage pregnancy and poor sexual health are well established in research (DHSSPS, 2003f).

Northern Ireland has one of the highest rates of teenage pregnancy in Europe. Rates are highest in areas of social and economic deprivation (DHSSPS, 2002: 1.3). The rate for 1998-2000 was 19.5 per 1,000 women aged 19 years and under and 4.1 per 1,000 girls aged under 17 years. In answer to a question asked in the Northern Ireland Assembly about the cost resulting from teenage pregnancies in Northern Ireland, the Minister responded that:

"The estimated annual cost of teenage pregnancies is £27 million. This is made up of an estimated £24 million in Social Security Benefits and administration plus tax revenue foregone over 1_ years, together with £2.5 million direct hospital delivery costs, and an estimated £0.5 million on actions aimed at reducing the number of teenage pregnancies" (Response to Parliamentary Question asked by Iris Robinson MLA, 16 March 2004).

The overall rate of STIs in Northern Ireland is lower than in England (FPANI, 2003 Factsheet: 4). However, there has been a recent increase in diagnoses in teenagers and young adults under 25 years of age (FPANI, 2003, Factsheet: 1). Throughout the UK rates of chlamydia among females aged 16-24 have steadily increased between 1993 and 2001 (FPANI, 2003:3). It is difficult to accurately assess the prevalence of chlamydia as the infection often shows no symptoms and remains undiagnosed. Untreated it can lead to infertility in women. A focus group of health professionals agreed that in Northern Ireland chlamydia is a "big issue".

The Executive's Programme for Government gave a commitment to tackling teenage pregnancy. The 'Investing for Health' Strategy identifies teenage pregnancy and sexual health as important areas for action. Teenage parenthood is also identified as an issue to be addressed under the Promoting Social Inclusion initiative. In November 2000, DHSSPS put out for consultation the report of a Working Group on Teenage Pregnancy and Parenthood, 'Myths and Reality'. In November 2002, the Department published its 'Teenage Pregnancy and Parenthood Strategy and Action Plan 2002-2007' following from this consultation. A commitment to implement the strategy is included within the OFMDFM Draft Children's Strategy (OFMDFM, 2004). Success is to be measured through numbers of births to mothers aged under 18 and low birth weight. The DHSSPS notes that:

"Many young people are successful in adapting to the role of parenthood and have happy, health children. For too many, however, unplanned teenage pregnancy and early motherhood is associated with poor educational achievement, poor physical and mental health, social isolation and poverty. For those who are particularly young with little or no family or financial support teenage pregnancy can cause considerable distress, not only for the young persons concerned, but also for their families" (DHSSPS, 2002: para 1.4).

The Teenage Pregnancy and Parenthood Strategy includes the following targets:

- A reduction of 20% in the rate of births to teenage mothers by 2007;
- A reduction of 40% in the rate of 40% in the rate of births to teenage mothers under 17;
- 75% of teenagers should not have experienced sexual intercourse by the age of 16.

There will be a particular focus on areas of socio-economic deprivation and in particular the needs of young people living in rural areas will be taken into account (ibid.: 7).

While it is important to reduce rates of teenage pregnancy and STIs, it is important to stress that young people's sexuality should not be viewed solely as a problem to be solved. The Family Planning Association has described sexual health as "the capacity and freedom to enjoy and express sexuality without exploitation, oppression, physical or emotional harm" (FPA, 1999, cited in FPANI, 2002: 9). Interviewees working in the field of young people's health noted the hostile attitude shown by sections of the media and public in Northern Ireland towards young people's sexuality:

"The media have a massive influence. There is also an issue around how young people are viewed by NI society: 'seen and not heard, have to stay within their place'. If we put our heads in the sand and say we don't want young people to have sex that's fine... but who is dealing with the consequences?" (Health Professional).

The DHSSPS principle that "all young people have the right to be treated in a non-judgemental manner" is welcome in this respect (DHSSPS, 2002: 7).

The most comprehensive survey of young people in Northern Ireland's attitudes to sexual health was carried out by the FPANI in 2002 (FPANI, 2002a & FPANI, 2002b). This provided the first Northern Ireland wide data on young people's sexual attitudes. The report noted that previous attempts to include Northern Ireland in national surveys of sexual attitudes had failed and that prior to the FPA study little information existed on young people's attitudes and sexual behaviour in Northern Ireland (FPANI, 2002a: 9). The study found that in key indicators such as age of first sexual intercourse, number of sexual partners and contraceptive uptake there was little difference between the experience of young people in Northern Ireland and Great Britain. However, young men in Northern Ireland were significantly less likely to use a condom at first sex (ibid.: 65). Over a third of respondents had their first sexual experience before the legal age of consent (17 years) (ibid.: 67).

The study found that 68.5 % of 14 -16 year olds said that they found it easy to access contraception and they were most likely to access contraception over the counter in chemists, shops or in bars. However, the FPANI noted that recent outbreaks of STIs meant that there is "no room for complacency about safer sex messages" (ibid.: 68). No major difference was found between the four health board areas in relation to reported accessibility of contraception although young people living in the Western and the Southern Board areas reported slightly more difficulties. In relation to emergency contraception these differences were significant (ibid.: 63). The Brook Advisory Centre in Belfast received positive feedback especially from female clients (ibid.: 62).

The FPANI found that young gay and lesbian people's rights to equality were being breached and that although guidance from the Department of Education specifically advocates that homosexuality be addressed in the classroom, young people reported that this was not happening.

The FPANI study found that “with regard to sex education ... even schools which operated an otherwise comprehensive and long-term sex and relationships education programme often asked teachers not to discuss homosexuality and bisexuality in the classroom” (FPANI, 2002a: 47)

Loudes’ study of the experiences of young gay, lesbian and bisexual people in Northern Ireland confirmed that the lack of information for these young people was considered a big problem. Young people commented that “Things that are important to us are never explained” and “There isn’t enough information about STDs [sexually transmitted diseases]” (Loudes, 2003: 24). Loudes concludes that LGBT young people are “made invisible” by a system that caters mainly for heterosexual people. Issues specific to young lesbians and bisexual women were often overlooked, for example dental dams were not freely available, whereas young gay men could access condoms easily (Loudes, 2003: 24).

The sectarian divide in Northern Ireland also raises issues relating to the sexual health of young people. The FPANI found that young people were not enabled to establish relationships across the socio-religious divide:

“One of the most depressing findings of the survey was the impact that socio-religious segregation has on the sexual health of young people. Social deprivation and religious segregation impacted on their friendship and relationship patterns. The religious division of the education sector further exacerbated this” (FPANI 2002a: 66).

A priority issue raised in focus groups of those working with young people and young people themselves, was the lack of access to sexual and reproductive health services in Northern Ireland. There are four sexual health clinics (genitourinary medicine - GUM) in Northern Ireland. However, the Brook Advisory Service in Belfast is the only specialist clinic in Northern Ireland for young people and has been picketed by opponents since its inception. The Nucleus Centre in Derry/Londonderry was also picketed when it commenced providing sexual health services to its young clients. A health care professional spoke for many interviewees in bemoaning the lack of services:

“Teenagers need something immediate. In Belfast there is Brook but outside Belfast there is nothing. I live in [town in Co Antrim] and in order for a child to go to the family planning clinic they would have to go to Coleraine [some miles away]. There’s no anonymity there. We need health services so that these youngsters do not start their reproductive lives so early when they have all the odds stacked against them. I feel very sorry for people who live in rural areas of NI. One health centre in Lisnaskea - its miles for anyone to travel to this, same in Strabane”
Professionals and young people recommended in interviews and focus groups that ‘one stop shops’ based on the model of the Door Project would be useful in providing access for young people to sexual and reproductive health services along with other services such as mental health facilities, education on health, welfare benefits, education provision etc. “... even some sort of bus going round that doesn’t say I’m mentally ill, I want contraception - but just has youth services, really is the best way forward” (Health Care Professional).

Difficulties for young people in accessing emergency contraception were raised as a problem by health care professionals: “in Dungannon there was trouble getting even one GP who would prescribe emergency contraception”. The cost (£25) of purchasing emergency contraception from pharmacies and the fact that pharmacists were prohibited from providing the ‘morning after pill’ to under 16’s were barriers in the way of young people accessing this form of contraception. Professionals pointed to schemes in other parts of the UK (such as Manchester) where innovative schemes were being pursued in this area.

Young people in a focus group in Derry/Londonderry commented on the inadequacy of sex education in school. They described how the 'chastity people' (an American pro-abstinence group) had visited the school to give them sex education. Professionals working with young people felt that school children were not all being treated equally in terms of sex education. The situation for gay children in relation to sex education in schools was raised "what happens to their rights?" (Health Care Professional).

Health care professionals felt that maternity services were not necessarily 'adolescent friendly' and that pregnant teenagers sometimes felt out of place attending regular maternity clinics. They commented that there should be a particular service for this age group.

Lack of baseline information was commented on, in particular it was noted that there is no baseline STI screening for young people (the only information available is that coming from sexual health clinics). Therefore, "in Northern Ireland we have no idea, for example, how much chlamydia is around" (Health Professional).

The lack of services for young men was seen as a gap by health professionals and NGO representatives. While some health providers, particularly in the non-statutory sector, had been initiating projects with young men, these were too few in number. Interviewees noted the importance of involving young men in taking responsibility for their own sexual health and fertility. A health professional noted: "There aren't the facilities for young men - there needs a lot more work in promoting male responsibilities". Another interviewee stated that: "We need to encourage our young women to talk to our young men".

A focus group of workers with Travellers raised concerns about sexual health services for young people from that community. It was noted that ante-natal health care was often not utilized by Traveller women and girls and where they did use this service there was often no follow up appointment. Workers commented that they thought that Traveller girls would like more information on sexual health issues and contraception but staff could not provide this because of difficulties in obtaining parental consent. Health professionals in interviews and focus groups raised issues faced by girls and young women in Northern Ireland in relation to the termination of pregnancy.

This has been a controversial issue in Northern Ireland with strongly held views on each side of the debate. Of particular relevance here are the right to appropriate information (Art. 17) and right to health care (Art. 24). The right of non-discrimination (Art. 2) also comes into play as the situation is different for young people in Northern Ireland from that of young people in the rest of the United Kingdom. Currently, abortion is only permissible in Northern Ireland where the mother's life is in danger or there is a serious threat to her mental or physical health (the law is based on the 1861 Offences against the Person Act and the 1945 Criminal Justice (NI) Act). Since the 1967 Abortion Act was passed in England, some 64,000 women from Northern Ireland have had abortions in England or Wales (BBC News website 8 October 2004). The FPANI recently took a judicial review of the DHSSPS for its failure to provide adequate guidelines for medical staff on the law in relation to termination of pregnancy in Northern Ireland and in October 2004 the Court of Appeal in Belfast ordered the Department to draw up guidelines on when abortions can be carried out under existing law.

Issues for young people raised by interviewees for this research included the high cost of getting an abortion if they travelled to England, when if they were from another part of the UK this would be provided free on the NHS; and the situation facing these young women on their return:

"... their rights are contravened. Young people do have terminations. They are coming back into an environment where they may be forced to hear a talk on abortion is murder [in their school]. There should be a right to hear both sides of the coin" (Health Professional).

In 2002 the FPANI saw 578 women for counselling who were considering termination. Of these 2.6% (15) were under 16 and 21% (122) were aged 16-19 (FPANI, 2003). Children under 17 considering a termination are not seen by the FPANI without a 'significant adult' (preferably a parent) accompanying them, so that the young person does not return to Northern Ireland to face isolation.

The attitude of some (but by no means all) GP's to emergency contraception and abortion was a threat to young people's rights in the view of some health professionals. One health professional told of a young woman who had come back from having an abortion in England only to be told by her boyfriend that he had an STI. When she went to her GP she was allegedly told to go elsewhere if she'd had an abortion (Health Professional).

The age of consent for sex was raised by young people and health professionals as discriminatory against young people in Northern Ireland. Since 2001, in the rest of the United Kingdom the age of consent has been 16 years for both gay and straight sex. In Northern Ireland it is 17. It was suggested by one professional that the revisions of the Sexual Offences Bill would provide an opportunity to tackle this, "Young people can be married at 16 but can't have sex until they're 17!" (Health Professional). In the case of Sutherland versus United Kingdom case the European Court ruled that an unequal age of consent is a violation of the European Human Rights Convention (European Commission Human Right, 1997).

Key issues:

- Access to sexual and reproductive health services;
- Need for adolescent-friendly maternity Services for Teenage Mothers;
- Access to emergency contraception;
- Access to services in rural areas;
- Need for more information on young people's sexual health;
- Lack of appropriate information for young gay, lesbian and bisexual people on sexual health services;
- Scarcity of sexual health services aimed at young men;
- Access to termination of pregnancy for young women;
- Need for appropriate sex and relationship education relating to gay, lesbian and bisexual young people's experiences;
- Discrimination in comparison to GB regarding age of consent.

CHILD AND ADOLESCENT MENTAL HEALTH

Highest attainable standard of health (mental health services that are culturally acceptable, medically appropriate, provided in a safe environment (Art. 24)); survival and development (Art. 6) views of the child (Art 12) protection of privacy (Art. 16 & ECHR Art. 8); access to appropriate information (Art. 17) psychological recovery (Art. 39) disabilities, special needs provision and community integration (Art. 23).

Context

Mental health is central to 'promoting the physical, intellectual and social development of babies and young children - particularly those who are disadvantaged - so that they can flourish at home, when they get to school and during later life' (Sure Start, Core Brief, 1 March 2004).

The NHS Health and Advisory Service specifies five indicators of good mental health in children: the capacity to make and sustain mutually satisfying personal relationships; the progression of psychological development; an ability to play and learn at levels appropriate to age and intellect; the development of a moral sense of 'right' and 'wrong'; psychological distress and maladaptive behaviour as expected for the child's age and circumstances.

In October 2002, Government announced a review of policies and services that affect the lives of people with mental health problems and learning disabilities in Northern Ireland (chaired by Professor David Bamford). This review will be complete by mid 2005 and includes a review of child and adolescent mental health services.

In Northern Ireland over 20% of children (under 18 years of age) suffer significant mental health problems (CMO, 99) and comprise the commonest cause of severe disability in childhood. One impact of the conflict on children's lives is that they have experienced, on average, twice as many negative life events and reported much higher stress scores than in the UK (Smyth 1998; see Chapter 6). Rates are disproportionately higher for children with learning disabilities and socio-economic disadvantage in urban and rural areas. Children in Northern Ireland are recorded as enduring higher levels of abuse and suicide (DHSSPS, 1999b). There is a growing problem of substance abuse (see Chapter 6) and medication is recorded as being administered to 7% of 11 to 15 year olds for sleeping difficulties and to 6% for 'nervousness' (HPA, 2001). Despite the evidence of the risk and reality of mental health problems, including the cumulative adverse impact on psychosocial development, child and adolescent mental health has been neglected and under-resourced by policy makers and legislators.

Only approximately 20% of children with significant mental health problems or disorders receive specialist mental health services. Many go unrecognised. In primary care while only 2% of children attended surgeries for perceived mental health problems they were found to be present in 23% of cases. In paediatric outpatient departments 5 to 10% attended for mental ill health reasons but the diagnosed figure was 28%. There is also evidence that childhood mental illness is often defined as conduct disorder behaviour (see Chapter 6) and thus goes unrecorded and untreated. For those children who are referred it is estimated that between 60 and 70% not receive appropriate early intervention. The cost of inaction impacts disproportionately on the most vulnerable and marginalised. The Eastern Board, for example, has for three years experienced increasing referrals of looked after children and other vulnerable children, 58% of whom were assessed as high risk of self harm and in need of a risk management plan. Of the 3% assessed as in need of urgent admission only a few access an emergency bed (YPC Outpatient Project Team, 2003). A health professional interviewed for this research commented:

"In some of the most deprived and fragmented sections of our society, rising levels of emotional and psychological stress among children and young people, manifesting as anxiety, depression, deliberate self-harm and escalating suicide rates, are collateral damage following years of civil strife".

Despite clinical expertise and a management commitment to community-based out-patient services, clinics for children with Attention Deficit Hyperactivity Disorder (ADHD) have been reduced through an unforeseen increase in referrals and under-resourcing of appropriately qualified staff. A health professional commented that there are currently no new patients being

seen and the waiting list is two years. In some trusts community paediatricians are taking the weight of the rapid increase in ADHD referrals.

Mental health professionals interviewed for this research commented:

"Some of the most vulnerable young people in our society, children who have been exposed to indescribable levels of trauma and abuse, are having clinical decisions made based on resource availability rather than need. We have worked with them for years but due to the present crisis in the service we can no longer keep them safe. They may end up on the street or another suicide. There's been a lot of talk and promises, but no-one is really listening. No-one is doing anything".

"The burgeoning of bottle-necks in service provision is a consequence of the regional deficit in planning, co-ordination and accountability. It thwarts innovation and stifles commitment within CAMHS. It is a pattern echoed across Northern Ireland and is symptomatic of a fundamental misunderstanding of the nature of the tiered system upon which the service is predicated".

"Staff are leaving after years of working with these youngsters because they cannot watch them hurt by a system that promised to get them help and provide them with a safe place and is no longer doing that".

"It is like fire fighting with a cup of water".

Obstacles to accurate assessment and diagnosis are compounded by 16 to 18 year olds falling into the gaps within child and adolescent health services which, in some areas, end at 16 years while adult services start at 18 years. Many children aged between 14 and 17 years are inappropriately placed on adult psychiatric wards and managed by staff with minimal or no training in paediatrics or child and adolescent mental health. In 2001-02 130 children were admitted to adult units across Northern Ireland, five times the proportionate figure for England and Wales (O'Rawe, 2003). Yet contemporary practice recognises crucial physiological and psychological differences for treatment between children and adults. There are also serious implications for child protection.

Although children under 18 years represent 25% of Northern Ireland's population the proportion of expenditure on child and adolescent mental health services is less than 5% of the mental health budget. In the context of competing demands on public services and priorities, children are most likely to benefit from early intervention and preventive provision. It is well established that mental ill-health in children can be avoided through preventive and early interventions in children's lives. For convincing outcomes to be achieved interventions need to be sustained long term. Sure Start programmes offer a unique opportunity to progress preventive work in child mental health problems. They can also provide sound research evidence of the effectiveness of early intervention initiatives.

'Probably the most important role in prevention for Sure Start programmes is that they are designed to identify the most vulnerable, such as teenage mothers, unsupported lone parents, mothers with mental illness, babies born prematurely and/or of low birth-weight, children with antisocial behaviour problems, and families where there is domestic violence and/or child maltreatment' (Surestart website, 2004).

Such programmes are focused on relationship building, are embedded within communities, offer a flexible and adaptive approach and support the engagement of hard-to-reach families in

intervention. They also operate early intervention through a multi-agency approach, integrating with mainstream services (Kurtz, 2004).

The present situation in Northern Ireland regarding child and adolescent mental health services is of critical concern reflecting a serious deficit in provision and breaching baseline levels as established in international standards on the health and well-being. Within voluntary and involuntary admission and treatment regimes, the rights and requirements established in international standards are not met. As in other jurisdictions, child and adolescent mental health services require a mandate in legislation. The Mental Health (NI) Order (1986) fails to recognise that the needs of children differ from those of adults. Given the Committee's expression of concern over the high rates of mental health problems experienced by UK youth in general and the Northern Ireland evidence in particular, major investment in fully reviewed and expanded mental health services for children is imperative. This review and provision must meet anti-discrimination requirements (Section 75 NI Act 1998 and CRC. Art 2) concerning age, class, gender, sexuality, ethnicity and disability. It is a matter of priority that a just and principled framework for the reform of regional mental health and learning disability law and policy regarding children, based on international standards and existing best practice, including a legal framework for assessment and treatment of children with mental health problems, is introduced.

Key Issues

- Assuring comprehensive and resourced regional provision for child and adolescent mental health including a service framework, a thorough needs assessment, coherent strategic planning and framework of accountability.
- Identifying, through audit and consultation, best practice at all levels of existing service provision as part of the development of regional provision.
- Keeping pace with demand for specialised services (e.g. Autistic Spectrum Disorder services).
- The development of effective multi-agency initiatives based on prevention and early intervention and planned to sustain long-term care and support.
- Establishing formally-contracted, dedicated day-care facilities for children and young people across Northern Ireland as part of an integrated programme of community-based services for children with mental health problems.
- The expansion and resourcing of in-patient provision.
- Training, recruitment and retention of appropriately qualified staff.
- Section 75 impact assessment on new provision to guarantee equality of access.
- The end of admission of children and young people to adult psychiatric facilities.
- The delivery of mental health care through appropriately trained and PECS checked staff at all levels.
- The establishment of an anti-discriminatory framework for the identification of need and the delivery of services.
- Addressing the issue of gaps in provision for 16 and 17 year olds through auditing existing provision focusing particularly on mental ill health and learning disabilities.

MENTAL HEALTH, CARE AND CUSTODY

Highest attainable standard of health (mental health services that are culturally acceptable, medically appropriate, provided in a safe environment) (Arts. 23 & 24) Survival and development (Art. 6) Views of the child (Art. 12) Protection of privacy (Art. 16) Access to appropriate information (Art. 17) Psychological recovery (Art. 39) Disabilities, special needs provision and community integration (Art. 23); Deprivation of liberty (Art. 37).

Context

While alternative care (see Chapter 2), including secure accommodation, and detention in custodial settings (see Chapter 6), are distinct issues in policy and legislation both concern very vulnerable children. Further, as the discussion of children in custody shows (see Chapter 6), the progression of looked-after children into the criminal justice system is a matter of increasing concern throughout the children's sector, in social services and youth justice. It is a concern echoed in child and adolescent mental health services. Looked-after children have significantly higher rates of physical, emotional and developmental illness when compared to the child population in general. Approximately two-thirds of children and young people in state care suffer from mental health problems, a rate equivalent to those in residential settings. (Mental Health Foundation website, 2004) A series of reports in the UK has called for a significant review of children's mental health services and the Mental Health Foundation records that 25% of looked after young people endure major depressive disorders. Yet their access to services is hindered by: poor communication between health and social care; inadequate health assessments; multiple placements; staff shortages, particularly qualified staff; and lack of appropriate training for staff and foster carers.

Mental health professionals were concerned that adequate legislative frameworks and administrative protocols were not in operation for children detained under mental health legislation. These concerns included: consultation with, and participation of, children in their assessment and treatment; lack of consistent approach to advocacy; weak safeguards regarding privacy and confidentiality; failure to ensure adequate legal representation for detained children; appropriateness of education provision; unacceptable delays in accessing specialist services for serious cases.

As with the adult prison population, there is now a body of research supported by the observations of professionals interviewed for this research that children in conflict with the law who are sentenced to custody often suffer mental ill health. Such children are rarely diagnosed as mentally ill but as personality, conduct or behaviour disordered. In particular, repeat offenders often display a tendency towards more serious mental ill health including depression, anxiety and attachment disorder. A professional working in the criminal justice system commented: "retributive responses to offenders have continued in some jurisdictions with the result that young people who may have been helped have been viewed as simply requiring additional punishment". It is not clear from the available data to what extent young men in custody at Hydebank Wood YOC receive appropriate mental health-care. As Chapter 7 notes, the Visiting Committee has expressed concerns regarding the standard of health care and the continued use of isolation and seclusion within 'punishment cells' as part of the management of often disturbed and distressed young men and children. It also discusses the lack of a gender-specific regime for girl children and young women also held at Hydebank Wood.

Whatever the setting in which children are detained, whether in secure accommodation or custody, there is significant concern regarding the use of physical restraint. With reference to care a professional worker commented, “the existing combination of vague guidance, lack of regional training and accreditation and uncertain techniques does not provide sufficient safeguards”. There is no specific legislation that clearly establishes when restraint can be used on children. Different rules apply in different settings whether residential care or custody. As Hart (2004: 10) states, “A method of restraint thought not to be inhuman or degrading when used on an adult could still breach the rights of a child”.

The best interests principle is absent from mental health legislation regarding the detention of children in a mental health context (see Chapter 1). The paramount consideration must be the acknowledgement and promotion of existing obligations under international standards and domestic law. This should be consistent with the concluding observations made by the Committee in 2002. It is clear that there is a compelling need to evaluate, monitor and address the mental health needs of children on the basis of anti-discriminatory policies and practices. This is particularly the case for the expanding constituency of children looked-after by the state, for those in conflict with the law and for those who experience coexisting learning difficulties. Compliance is necessary with international standards regarding the auditing of regional variation in policies and procedures on the use of restraint and seclusion for managing children with mental ill health. It is also vital to establish training standards and guidance for the assessment of staff competencies based on international standards and best practice.

Key issues

- Review of mental health assessment procedures and the provision of early intervention for looked after children, including those who are adopted.
- The incorporation of the best interests principle (Art. 3 CRC) into mental health legislation.
- Provision for the participation of the child within the legal and policy framework for compulsory assessment and treatment including age-appropriate review and advocacy.
- The treatment of children in separate accommodation to adults and compliance with child protection guidelines.
- Training on international children’s rights standards for all staff involved in the care and custody of children with particular emphasis on physical and mental health (see Chapter 1).
- Ensuring the informed consent of the child to treatment and confidentiality on all matters
- Provision of appropriate and independent legal representation for children detained under mental health legislation (see Chapter 1).
- To make mandatory the framing of and individualised education plan within the context of the care plan.
- Establishing a reliable mechanism for speedy referral to specialist child and adolescent health services when severe mental disorder is suspected.
- The urgent provision of adequate guidance and training on the use of restraint on children in health, care and custody settings.
- Provision of disaggregated data, particularly by region, on the services and programmes provided for identifying and meeting mental health care needs of all children in care and custody.

DISABILITY AND HEALTH

Non-Discrimination (Art. 2) Survival and development (Art. 6) Disability rights (Art. 23) Health and Health Care (24).

Context

The life expectancy of people with learning disabilities has increased markedly over the last 60 years but people with learning disabilities still have higher mortality rates than in the general population (Review of Mental Health and Learning Disability Northern Ireland, 2004: 7.4). They also have a heightened risk of health problems (ibid. : 7.6). A submission to this research from a non-governmental disability rights group confirmed that children and young people with a learning disability are more likely to have weight problems - problems with obesity as well as low weight. They are also more prone to certain medical conditions than the rest of the population, including hypertension, skin disorders, spinal problems, epilepsy, respiratory problems, physical disabilities, visual and hearing impairments and dental problems (Submission to the research). The Equal Lives Review also noted that mental health problems may also be more prevalent among people with learning disabilities (Review of Mental Health and Learning Disability Northern Ireland, 2004:7.17).

In research for Barnardos, Monteith et al. described children and their families' experiences of health and social services provision in Northern Ireland (Monteith et al., 2002). Children talked about their visits to, or stays in, hospital, and their experiences of health professionals. For example, a child talked about a nurse who had hurt him: "one nurse hurt me ... she put my medicine, she put my fingers up my throat ... she just said take the medicine ... mummy had to tell her off ... she said she was sorry, not to me, to my mum ..." (Monteith et al., 2002).

Another child talked about having to travel to Belfast for treatment as her local hospital "doesn't even know what cystic fibrosis means - anything that is wrong with me they don't even have a clue". An issue raised in Monteith's study was that of mobility aids, including wheelchairs, hoists, seats for the bath/shower, and walking aids. One teenage girl said that "kids like to be modern. Lots of kids ask me where I got mine [walking aids] and ask their mums and dads, can I have some too? I wish someone would start up a company and make sticks and calipers that are modern" (Monteith et al., 2002). Parents also commented on the need for lighter wheelchairs and greater access to aids and equipment and the report recommended both greater financial assistance for aids and equipment and also the active involvement of young people in their design (ibid.).

Monteith et al.'s research raised issues relating to the importance of the self-esteem of children with disabilities, one child said that he hated going to the hospital because it was "like I'm weak." Sensitivities regarding personal care needs were also noted as important, particularly as children became adolescent.

A health professional in a focus group for this research described the lack of resources to ensure the effective participation of children with severe disabilities: "Some of the children with complex needs, adolescents in the mid-Ulster direction - didn't have any stimulation, even from the Department of Education. A boy of 16 with difficulty communicating had nothing - this was not seen as an essential service".

A submission from an NGO to this research argued for investment in specialist healthcare and therapy services for children and young people with a learning disability; and equality of access to health promotion initiatives by children and young people with a learning disability. The Equal report on Learning Disability noted that “despite increased emphasis on health promotion issues in government and health service policies there is little evidence of specific targeting of people with a learning disability within Northern Ireland. This contrasts with the position in England where specific guidance and policy has been produced” (Review of Mental Health and Learning Disability Northern Ireland, 2004: 7.15). The report also recommended “specific health promotion initiatives and intervention that focuses on improving the health status of children with a learning disability in key areas such as nutrition, obesity, exercise and dental health” (ibid.: 7.33). The report also notes the social isolation faced by parents of children with a learning disability and challenging behaviours (ibid.: 7.26) (see Chapter 2).

Key issues

- Greater incidence of health problems for children with physical and learning disabilities;
- Inequalities in healthcare for children with physical and learning disabilities;
- Need for greater support for parents;
- Need for more funding of physical aids and equipment;
- Need for greater participation of children and young people with disabilities in making decisions about their own health care;
- Need for government strategies on health to specifically target children and young people with learning disabilities.

ETHNICITY AND HEALTH

Non-discrimination (Art. 2) Preservation of Identity (Art. 8) Freedom of thought, conscience and religion (Art. 14) Access to appropriate information (Art. 17) Rights of Refugee children (Art. 22) Health and health services (Art. 24) Rights of Children of minorities or indigenous populations Art. 30). Committee on the Elimination of Racial Discrimination.

Context

With respect to children from ethnic minorities in general, the CRC requires Government and health professionals alike; (a) to look at resource allocation and organisation of services - to ensure that its principles and standards are promoted in participation with children and families and in collaboration with partners in education and social services: (b) To guarantee equality of access to services, and: (c) for all professionals to advocate for the social, economic and political changes to secure them access to the best possible health.

Ethnicity is a major determinant of longevity and well being (Rawaf and Bahl, 1998). Yet issues of ethnicity in relation to the provision of regional health and social services for all age groups, but especially children, are rarely addressed except in the most peripheral terms (NICEM, 2004). The lack of ethnic monitoring at a regional level has meant that the extent and implications of the growing province-wide cultural diversity are neither well documented, evaluated nor provided for in a regional sub-population where children aged under one to four years comprise the highest numbers of people from ethnic minority backgrounds and young people comprise more than one third of the population (Save the Children and NICEM, 2004). The Committee on the Rights of the Child specifically highlighted current inadequacies in anti-discrimination provisions regarding

children of ethnic minority background, recommending the use of monitoring to inform the development of comprehensive and targeted strategies (UN, 2002).

Preventable diseases and avoidable mortality affect a high proportion of people from all Black and Minority Ethnic (BME) communities across the UK (Skellington, 1996: especially chapters 4-6). The Committee on the Elimination of Racial Discrimination in its Concluding Observations on the UK's 16th and 17th periodic reports, drew specific attention to the discrimination experienced by Black and Minority Ethnic communities in the area of health, which is reflected in their limited access to health services and higher mortality and morbidity rates (CERD, /C/63/CO/11, para 22-23). This includes a higher than national average incidence of disability in ethnic minority communities in Great Britain. In Northern Ireland, there is no existing data on the prevalence of disability in BME communities. In light of the increased prevalence of obesity amongst some BME communities, a major research initiative is targeting adolescents in England, to investigate the basis for the significantly higher morbidity and mortality from diabetes and heart disease amongst the UK's Black and Asian communities (BBC News, 10th March 2003). BME communities are also over-represented in the mental health care system (NICEM, Dec 2003 and NICEM, 2002) and in Great Britain there is mounting pressure to create a national mental health network for minority ethnic communities, to provide regions with expertise and culturally affirmative training (BBC news, 15th Sept 2003).

The 2001 Census provided the first official regional information base on the size and composition of Northern Ireland's Black and minority ethnic communities although low participation rates have however raised significant concerns regarding the accuracy of the data. The Northern Ireland Commission for Ethnic Minorities (NICEM) in 1997 estimated the BME population around 20,000 i.e. approx 1.3% of the population (published in Youth Council for NI, 2001). Although less marked than in the rest of the UK, the regional diversity of the BME population in Northern Ireland is increasing and the population is younger than among the white ethnic majority. BME communities are not of themselves homogenous. Awareness of cultural diversity (CRC Art. 30) and developing the competence to deal with it are essential both in addressing specific health problems and inequalities.

There is currently no available regional data on the health needs of children and young people from ethnic minority communities. Participants at a focus group of health professionals conducted for this research agreed with the statement of one worker that:

"Ethnic minority children are being listened to even less. We haven't got a global picture yet in Northern Ireland of what the overall needs of children from ethnic minority groups are".

It is known however that household income, unemployment and poverty are crucial issues in those areas of Northern Ireland where most BME children live. An NGO representative involved with the Portuguese community confirmed that: "The major health issue would be psychological issues and mental health problems arising from racism, prejudice, poor housing, poor working conditions etc."

Workers with the Traveller community commented that the high child mortality rate for Traveller children is affected by poverty and the living conditions on site as well as by the absence of safe areas for children to play. They said that because Traveller sites are often located at the fringe of a busy road, children are immediately put in danger of being knocked down. There is also danger lurking on the site in which they live and play from the scrap metal which occupies traveller living quarters. The lack of physical space within a caravan can place children in danger

given the small amount of room available to cook on stoves. Low levels of literacy also mean that Travellers who receive prescriptions may not be able to read the instructions as to how and when drugs should be administered.

Poverty and material circumstances are also identified as important factors in the ill health of BME children throughout the UK. Action to tackle poverty and poor family housing in inner city wards would, it is predicted, have a positive impact on the health of these children. The NI Public Health Strategy acknowledges that inequalities in health outcomes are greatest amongst those with highest levels of deprivation. One target for this has been the Traveller community, whose basic health and social care needs have been long neglected. With a history of social exclusion and high morbidity and mortality rates across the age groups, the obligation to guarantee equality rights to the Traveller community is undisputed:

“There are about 1,200 Travellers in Northern Ireland and the Irish Traveller community is classified in law as a racial group. It is generally accepted that Travellers are amongst the most disadvantaged members of society. Many families are living in conditions which contribute to poor health and low educational achievement. Travellers’ life expectancy is considerably below that of the settled community. Historically, there has been an unwillingness among the settled population to accept their nomadic lifestyle and other aspects of their culture; and this has been associated with discrimination and harassment against them” (OFMDFM, 1999).

The PSI working group found that “alarmingly, the mortality rate of Traveller children up to the age of 10 has been found to be 10 times that for the population as a whole. Overall, the life expectancy of Travellers is around 20 per cent lower than the general population. Only 10 per cent of the Traveller population are over 40 years of age and only 1 per cent are aged over 65” (OFMDFM, 2001).

A worker with the Traveller community commented on the double discrimination which Traveller children with physical disabilities face being stigmatised as a Traveller child and because of their disability.

Asylum Seekers and Refugees

Research on asylum seekers and refugees in the Republic of Ireland found malnutrition among pregnant women, diet-related ill health in babies and weight loss among children (Fanning et al., 2001). A health professional working with asylum seekers in Northern Ireland noted that:

“the Health Service that exists here in Northern Ireland (and the UK) is very different to that existing in any of the home countries of the young people. Given many of the young people have travelled extensive distances to arrive here, often in unacceptable conditions with little or no food, water and basic provisions, a primary duty is to arrange medical aid and a thorough medical assessment”.

He continued:

“My own experience with young people seeking asylum has demonstrated a variety of complex physical health needs, from persecution, sexual exploitation, prostitution and sexual abuse, and experiences of severe trauma which have resulted in the need to access mental health and therapeutic services. It might be a help to run a voluntary befriending service to help vulnerable young people through the trauma of asylum seeking”.

The challenge of institutional racism within health and social services is very real (Connolly and Keenan, 2000, 2001a, and 2002). A recent study demonstrated that a significant proportion of ethnic minority adults are not receiving the services they need, including a number who continue to be excluded access to primary care (NICEM, 2004).

Racism

The adverse effect on mental and physical health, of the long-standing isolation and marginalisation experienced by many ethnic minority communities, is reinforced by the escalating occurrence of racist incidents. A recent study of the experiences of BME young people in NI, suggests an underestimate of the scale and impact of racial violence and harassment, with incidents frequently recurrent and recorded against children as young as two years old (NICEM, 2004). The increased incidence of psychiatric outcomes for individuals subject to racial harassment and race hate crimes is similar to that resulting from other violent crimes (Rogers and Pilgrim, 2003) however, victims are more likely to experience additional, deeply rooted concerns about an attack on an immutable element of their identity. This introduces a group aspect to the trauma, with peers of victims traumatised vicariously, an experience very familiar in NI over recent 'troubled' decades.

Within the UK, NI has the most extensive equality duty (under the Northern Ireland Act 1998, section 75) and with the implementation of the Race Directive this extends to social protection including social security and healthcare. The complementary nature of the TSN policy and the s75 duty, invite Trusts to consider a co-ordinated approach to their implementation, both in terms of reporting mechanisms and framework for implementation. This should not only focus Trust resources but should enhance Trusts' commitment to mainstreaming equality and strengthen the capacity of the local framework to combat social need and to promote social inclusion, in line with national and EU wide policy objectives. In NI, the introduction of statutory quality care standards will lay the foundation for a system of entitlement provision (soon to arrive in NI as the HPSS Quality, Improvement and Regulation Order). The system of clinical and social governance that the legislation aims to introduce supports the need to incorporate cultural and linguistic competence within the regional health strategy.

In an increasingly culturally diverse society, safeguards must be in place to ensure that ethnicity does not influence either the assessment of need or the quality of services provided. The challenge is not to treat everyone the same (formal equality) but rather to ensure that greater attention is paid to identifying the particular needs of those who are marginalised and powerless (substantive equality or equality of effect). In the Climbie case for instance, concerns were raised within the Black community at an early stage about the child's safety by an unregistered child minder. However, misplaced cultural assumptions and fear of being accused of racism were acknowledged as having bearing on the way that Victoria Climbie's case was dealt with by the professionals involved. Such tragedies raise critical issues that may have far reaching implications for how we safeguard children belonging to BME communities

Ethnic monitoring and evaluation are fundamental to service provision. To comply with S. 75 of the Northern Ireland Act 1998, collecting data on ethnic group from all patients treated under the NHS should be routine. In the context of competing demands on public priorities, ethnic minorities are one of society's most vulnerable groups. Yet there has been no attempt to define or analyse whether the apportionment of resources for members of ethnic minorities does reflect a realistic balance of comparative need - and the lack of regional data on the demand for services by members of ethnic minorities province-wide, may undermine the magnitude of the corresponding gap in provision.

Issues of equality in accessing services clearly arise in face of the particular difficulties experienced by BME communities. In particular, BME children in rural areas have less access to support and traditionally suffer from greater exclusion within these communities (Countryside Agency in Child Right, Dec 2000, 172: 17-18). For instance, during the PSI working group investigation of the status of NI Travellers it emerged that as a distinct community they may have been disadvantaged by the Sure-Start initiative's criteria, and this led to the recommendation that the DHSSPS should conduct an Equality Impact Assessment (EQIA) on the Initiative. Young people from BME communities locally are reluctant to spontaneously access provisions and services outside their communities (NICEM, 2004).

An NGO representative working with the Portuguese community noted that when children are ill, the language barrier and medical jargon used to diagnose illness may lead to unwillingness to seek medical advice. Children who become ill are often taken to the hospital accident and emergency department rather than to their local GP. A worker with the Traveller community explained that Travellers' nomadic lifestyle can make it hard to build relationships with any particular GP. This means that any medical advice is likely to come from elders already living in the community who have no formal education or training. They stated that with no immediate medical treatment, common illness can become life threatening. This situation is further exacerbated by the poverty levels in Traveller communities and their distrust of modern medical ways of treating and curing illness.

Results of a recent health needs assessment on adults from smaller BME communities in NI, provide a number of useful insights: (a) there is evidence that all BME groups to a greater or lesser degree continue to be under-served by health and social services; (b) language remains a major barrier to access and appropriate use of health services; (c) lack of access to primary care is the single greatest problem confronting BME individuals within the health care system (Bayne-Smyth, 1996) (this results primarily from cultural, linguistic and institutional barriers and in its most extreme form, entails people being turned away by front line staff) and (d) cultural factors play a far more significant role in the recognition of mental disorders than they do for physical illness. Overall, many of the health issues raised by adults from BME communities were not dissimilar to those concerning the 'general population' however, whereas in Great Britain, BME communities are already recognised as having higher rates of ill-health than the majority ethnic community, there are no prevalence rates for NI. There is currently no information on patterns of hospital attendance between different ethnic groups for children or adults, including gender differences. Monitoring the use of NI hospital and community services by ethnic group is essential to define and address the service gaps and to determine whether regional and local service usage reflects the trends already reported in other parts of the UK.

The use of relatives, including children to interpret, remains common, and some providers call on family members including the client's own children to interpret, without making an effort to find trained interpreters. Such substitutions could lead not only to errors and misunderstandings but also to strained family dynamics (e.g. role reversal between parents and children). Trusts have in theory, signed up to ensuring that patients whose first language is not English receive the necessary information and are able to communicate appropriately with health care staff. They have also affirmed that the use of children as interpreters is inappropriate (HPSS, 2003). A health professional working with immigration and asylum applicants explained the importance of effective interpretation services:

"In Northern Ireland we do not have the access to the volume of interpreters that may be available in other parts of the UK and Ireland. However, my experience has been that the

interpreters tend to build personal relationships with young people seeking asylum, often adopting a genuine interest in the well-being of these vulnerable young people. In obtaining reliable interpreters the services of NICEM is essential, as often the contacts social services may have are engaged in employment in other fields and are not always available during working hours".

An NGO representative stated that:

"Language barriers block the information to families especially where there is maybe a young children with an infectious illness this is a problem.... The information has been translated but the issue is when the health visitor visits the home... they challenge her about the baby, 'how good? How bad?' So language can be problematic ... that's why the health visitor needs to bring an interpreter when visiting the family".

This representative argued that while there are sufficient interpreters (particularly through the NGO sector) it is important that the issue is addressed through government departments: "we are still pushing them [Government Departments] to centralise as it would be worthwhile to employ a central group of full time interpreters".

Key Issues

- Link between ethnicity, longevity and well-being;
- Discrimination experienced by BEM communities in relation to health care;
- No available regional data on the health needs of children and young people from ethnic minority communities;
- Link between poor health and poverty among BEM communities;
- Poor health and low life expectancy of Traveller children;
- Health issues relating to asylum seekers;
- Barriers to access to health care for BEM communities;
- Lack of cultural awareness or training of health professionals;
- Need for improvements in provision of interpretation services.

YOUNG LGBT HEALTH

Non-discrimination (Art. 2) Access to appropriate information (Art. 17) Right to privacy (Art. 16 and ECHR Art . 8) Right to health and health care (Art. 24).

Context

International human rights standards stress non-discrimination and the Committee has commented on the need for greater protection for the rights for young lesbian, gay, bisexual and transgendered (LGBT) people (UN, 2002). However, as Loudes notes "it is important to remember that up until a decade ago the World Health Organisation classified homosexuality as a mental health disease" (Loudes, 2003: 22). There is, therefore, much work to be done in improving the rights of children and young people in this area. Loudes study of the attitudes and experiences of young lesbian, gay, bisexual and transgendered people in Northern Ireland found that "whilst a few young LGBT people were very open and confident in their GPs and had positive experiences, several of them recounted that their GPs were judgmental about their sexual orientation" (ibid.: 22). One young woman's doctor had allegedly told her that "Gay people go to hell" and "outed" her to her family (ibid.: 22). Loudes noted a prevalence of mental health

problems among young LBG people “because of the violence, social disapproval, isolation and discrimination they experience...” (ibid.: 23). One young person commented that having to hide one’s sexual orientation “leads to lies and guilt and stress” (ibid.: 23). The Shout report also highlighted that young LGBT people are five times more likely to be medicated for depression, 29% of those involved in this research had attempted suicide and 50% of young people who identified themselves as being transgendered reported having self harmed (Carolan and Redmond, 2003)). A small scale study (unpublished) by Foyle Friend studied the experiences of young people who had been attracted to others of the same sex while at school. The study found experience of social isolation, attempted suicide and psychiatric illness (cited in OFMDFM 2004:11). Research by the Rainbow project found that gay men were more vulnerable to mental health problems and more likely to commit suicide. Both studies identified the need for specialised counselling services (ibid.)

A review for ODMDFM in 2004 of research on LGBT issues in Northern Ireland concluded that a number of issues required urgent research including, suicide, mental health strategy, substance and alcohol abuse, lesbian health needs and gay people with disabilities.

Loudes argues that health service providers send out an ambiguous message to LGBT people for example, in that while they offer non-judgmental advice on sexual health to young LGBT people in GUM clinics, on the other they refuse to take blood from gay men. “Consequently, young LGBT people feel that they are either invisible or stigmatized by health professionals” (ibid.:22). The Terence Higgins Trust, a charity working on education on HIV and AIDS, has called for greater clarity about the grounds for excluding some people from donating blood (Loudes, 2003: 22)

Confidentiality was another key issue in Loudes research with several young people saying that they had been “outed by health professionals”. This is a breach not only of the professional ethic of confidentiality but also of the right to private life protected by Article 8 of the European Convention on Human Rights and Article 16 CRC.

Young LGBT people and workers interviewed for this research confirmed these findings. At a focus group discussion it was noted that class is an issue facing these young people, many of whom do not have the financial resources to move out of their community/area or even home in order to live their lives as they wish. On confidentiality, one worker said that they had encountered a case where a young man had asked his doctor for advice only to find that when he returned home, the doctor had phoned his parents and the local parish priest informing them of the nature of the conversations that had taken place. It was also noted that doctors tend to assume that young people who go for advice or medical check ups are heterosexual and this puts the young person in an awkward position discouraging them from seeking more advice or information about the issue which promoted them to seek help in the first place. Additionally, it was reported that young lesbians not only lack access to good information regarding sexual health but that there is also a great deal of misinformation regarding general health issues. As one NGO worker told us: “The whole thing about smears as well because to me that’s the actual worrying thing, there has been a message around for a while that if you are a lesbian you don’t need smears if you’re not having penetrative sex, that’s crap, absolutely crap ... the wrong messages are going out for lesbians as well”.

Lack of co-ordination between LGBT groups due to inadequate funding was thought to be a problem. Most organisations dealing with these issues are based in Belfast leaving young people from other areas very isolated. These organisations are also poorly funded and this has a detrimental impact on their ability to reach out to the young people needing their services.

Some young people are afraid to travel to Belfast to avail of services. The sectarian geography of Northern Ireland can make finding accommodation for young LGBT people even more difficult. It was agreed among interviewees that there is a lack of support for parents in dealing with the issues.

Difficulties were reported in advertising services for young people. A worker noted that if advertising cards giving information about services are left in schools, youth clubs or church halls they often 'disappear' or are removed because of objections on the basis of homophobia. For example, with regards to circulating information regarding HIV and AIDS to schools and youth clubs (which is a health risk faced by all sexually active young people, irrespective of their sexual orientation), we were told: "When we were doing the red ribbon campaign around schools they didn't put them up they didn't put them out it was too sensitive an issue. And in some centres you'll find that a youth worker will put them up one week and the following week someone comes in and takes them down" (NGO Worker). It was agreed by all professionals and workers in the field of LGBT that there needs to be an awareness of the issues faced by young LGBT people built into youth and social work provision and in teacher training programs. The underlying message was that "Ignorance breeds contempt and fear" (NGO Worker).

Key Issues

- Right to confidentiality;
- Impact of homophobia on health services for young LGBT people;
- Funding needs of groups;
- Training needs for health professional;
- Need for effective sexual health services and sex and relationships education for young LGBT people.

CHILD POVERTY

Right to life, survival and development (Art. 6 CRC). Right to life (Art. 2 ECHR and Human Rights Ac:;) Right to health (Articles 23 & 24).

Context

There is considerable evidence to demonstrate that Northern Ireland has higher levels of children living in poverty than any other region of the UK. Research carried out for the Office of First Minister and Deputy First Minister (OFMDFM) found that 38% of children live in households which are in the bottom 30% of household income after housing costs (McLaughlin and Dignan, 2002: 206-7). That these high rates of child poverty include high rates of material deprivation were confirmed by the Poverty and Social Exclusion Survey for Northern Ireland which found 37.4% of children living in households that had equivalised incomes after housing costs below 60% of the median and were lacking in three or more necessities (Hillyard et al., 2003: 27-34).

Although Northern Ireland has been considered to be one of the most deprived parts of the United Kingdom and for many years was an EU Objective 1 region, poverty measurement and poverty alleviation strategies have however been poorly developed until very recently. The UK government statistics on poverty did not include Northern Ireland for the last decade. Since devolution, there has been considerable research activity aimed at closing this information gap. Most of the information on child poverty in Northern Ireland comes from research commissioned by NISRA through OFMDFM's Equality Unit. The most detailed information on child poverty is contained in the Poverty and Social Exclusion Survey for Northern Ireland (PSE NI), published as

Bare Necessities (Hillyard et al., 2003). The aims of the PSE NI survey were:

- 1 to provide a baseline, early 21st century measurement of poverty and social exclusion which can be updated periodically in the future;
- 2 to provide data on the extent to which poverty and social exclusion vary across the nine dimensions of equality specified in the Section 75 of the Northern Ireland Act 1988; and
- 3 to compare poverty levels in Northern Ireland with results of research on low incomes, poverty and social exclusion in Britain and poverty levels in the Republic of Ireland (Hillyard et al, 2003: 13).

The PSE NI included two surveys carried out between June 2002 and January 2003. A random sample of the NI adult population was asked in the first survey to say which material items and social activities they regarded as necessities of life and these responses were used to establish a 'social consensus' of items and activities in Northern Ireland which people should be able to afford and not have to do without. The second survey used the list of items and activities derived as necessities by more than 50 percent of respondents from the first survey to identify the numbers of households lacking these necessities. The survey evidence on deprivation was then combined with household income to establish a measure of poverty.

The resulting poverty threshold calculated using a "range of sequential statistical procedures to relate the number of necessities lacking in a household to the incomes of households" (Hillyard et al., 2003: 21) was defined for Britain as a household on low income and lacking two or more adult necessities whereas in Northern Ireland the poverty threshold was three or more adult necessities. In terms of severe poverty the survey found that:

- One in five families lacked six or more necessities;
- One in ten lacked 9 or more necessities;
- 7% lacked 12 or more necessities because they couldn't afford them.

Other results were that:

- 28% of children in the survey live in families unable to afford one week's holiday away from home;
- 15% are unable to afford to go to the cinema regularly;
- 15% cannot afford computer games;
- 8% do not have the money to buy new clothes when needed;
- 10% of children never get a family day away; and
- 8% cannot afford sports gear.

This study found that 16% of people said they don't have "fresh fruit and vegetables at least once a day" but only 5% said this was because they could not afford it, with 11% said they don't have them because don't want them. However, other qualitative research has shown that people living in poverty say they rarely buy fresh fruit and vegetables because they are too expensive and don't go far enough - "a loaf or a packet of biscuits will feed more for longer" (NIAPN, 2002). A similar point is made by mothers in a study by North and West Belfast Women against Poverty (1999), with one woman commenting that: "People buy all the cheap stuff. You go by what

looks good on the plate, not whether there's this vitamin in it or that - as long as it looks alright when it's set down. When you go to the supermarket you buy the cheapest loaf, you don't go for the bread that's supposed to be better for you. And fruit is dearer than biscuits, so you don't end up buying much of it" (North and West Belfast Women against Poverty, 1999).

The impact of poverty on children and young people's expectations and self-esteem came through strongly in interviews for this research. A health professional commented that:

"Poverty of opportunity is important. When you go and visit young people in community it seems like they're falling into a pattern of having children early, don't see ahead to educate themselves of getting outside of the home. It's about their own self-esteem. They just feel they might as well get pregnant as do anything else" (Health Professional).

While the PSE NI survey includes a considerable amount of information on child material and social deprivation, this information was gathered entirely from adult members of their households, not from the children themselves.

To some extent, the higher levels of children living in poverty may be explained due to the greater proportion of children in the Northern Ireland population. The 2001 Census reveals that 29.5% of households in England and Wales have children and 11.4% have children aged 0-4. By contrast, 36.5% of households in Northern Ireland have children and 14.4% have children aged 0-4.

Department of Social Development statistics show that 32% of children live in households whose only income derives from benefits (DSD, 2002). This compares with 19% of children in Britain living in families totally dependent on benefits (DWP, 2002).

This third of children totally dependent on benefits are not equally dispersed across the region. In fact, there is a marked concentration of poverty with over half of all children that live in households in receipt of Income Support residing in 16 percent of wards and over three quarters living in just 37 % of wards (McClelland 2003). The level of child poverty in some of those wards, particularly those in the North West periphery of the region, is staggering. One in three wards in the Derry/Londonderry City Council area has a child poverty rate of more than 70 %. The three worst wards for child poverty in Northern Ireland are in Derry City. The Shantallow East ward has 92.4 % of its children living in poverty, the Brandywell 91.4 % and Creggan South 89.4 %. Two thirds of the thirty wards in the Derry/Londonderry City Council area have a child poverty rate of more than 50 %, only three have a child poverty rate of less than 25 %.

The fourth worst ward for child poverty is the Falls (Belfast). Seven of the 56 wards that have the dubious distinction of being the worst 10%of wards for child poverty are in West Belfast: Falls where 88.3% percent of children live in poverty; Whiterock (83.8%); Upper Springfield (83.3%) Ardoyne (82.6%); Clonard (80.7%) St. Annes (80.4%); and Shankill (74.2%). While Derry/Londonderry and West Belfast are notorious for high levels of poverty, some of the worst 10%of wards in terms of child poverty are in areas that are seen as very prosperous, for example, 72% of children in the Old Warren ward of Lisburn live in poverty (Connolly and Keenan, 2001).

The greatest cause of child poverty is unemployment. High levels of unemployment and underemployment remain a problem in Northern Ireland, despite the official figures suggesting an improvement. The Centre for Economic and Social Inclusion (CESI) calculates a 'slack workforce' figure by parliamentary constituency, where the numbers on government training and work schemes, those underemployed and those not registered as unemployed but nonetheless seeking work are taken into account.

Using International Labour Organisation (ILO) and CESI figures, unemployment rates in parts of Northern Ireland are high to alarming. In West Belfast, for example, the 'claimant count' in February 2003 had unemployment at 9.1 % of the workforce. That same month, the ILO estimated it to be 11.9 %, while the CESI 'slack workforce' figure was 25.4 % unemployed. In the Foyle constituency, the claimant count for the same month is 8.4 %, 11 % unemployed by the ILO definition and the CESI estimate 23.8 % unemployed (Centre for Economic and Social Inclusion, 2003). The CESI figure does seem to be confirmed by anecdotal evidence. For example, a recent recruitment campaign in Derry City, the boundaries of which are co-terminous with those of the Foyle constituency, by Debenhams department store drew 6,000 applicants for some 200 jobs (Derry Journal July 1st 2003).

The Labour Force Survey (2003) shows that long term unemployment as a percentage of total unemployed is much worse for NI than any other region of the UK - 43.5% compared to a UK average of 27.5% and 34.2% in the North East of England, which is the next worst.

Larger families are at disproportionate risk of poverty. The DWP estimates that "by 2004 over half of those children in low income will be in large families" (DWP, 2003: 18). Recent research published by the DWP found that "greater hardship was associated with families of three or more children... Couple families with three children were twice as likely to be in hardship compared to families of two children, although the degree of hardship was concentrated at the moderate level. Severe hardship (three or more problems) was substantially greater for families of four or more children" (DWP, 2003: 18). This applied to both lone and two parent families. A study by the Centre for Research in Social Policy, carried out for Save the Children, found that children in families with three or more children were more likely to be in severe and persistent poverty (Adelman et al., 2003). Over a quarter of all families in Northern Ireland have three or more children (NISRA, 2003, Census, 2001), while 43% of all families in low-income households have three or more children; 34 % of these are partnered families, 9% lone parents (Dignan, 2003).

While the fertility rate in NI has dropped considerably in recent years and now stands at 1.9, the region continues to have a higher proportion of children in its population than any other part of the UK, with 36.5% of all households containing dependent children (NISRA, 2003). While there is a greater concentration of larger families in poorer parts of all regions of the UK, there is at least an element of choice for parents in Britain about family size. However, inequality of access across the region to family planning services, particularly emergency contraception, combined with the fact that the 1967 Abortion Act has never been extended to Northern Ireland, results in less choice here over family size.

Part of the Labour Government's 'welfare to work' policy has been targeted at lone parents. In its document *Measuring Child Poverty*, published just before Christmas 2003, the Department of Work and Pensions set a target of getting 70% of lone parents into paid employment by 2010. This target applies also to Northern Ireland. Work carried out in Britain illustrating the difficulties inherent in meeting this target has identified the lack of affordable childcare as the main obstacle to meeting that target (Gregg and Brewer, 2003). Childcare is certainly a huge obstacle in Northern Ireland also. The region never had the benefit of even the relatively small amount of state-funded childcare enjoyed by children in Britain. However, the lack of well-paid work in the region also impacts sharply on lone parents. As a result, even male lone parents are considerably less likely to be in paid employment than their counterparts in England and Wales.

While overall figures for lone parents in paid employment in Northern Ireland are bad, levels of paid employment among lone parents in areas of high unemployment within the region are considerably worse. The 2001 Census revealed that only 9% of female lone parents are in paid employment in West Belfast and just 12.4% in Derry City.

Table 3.1: Lone Parents in Paid Employment

Region	Male Lone Parents		Female Lone Parents	
	% in full-time employment	% in part-time employment	% in full-time employment	% in part-time employment
N. Ireland	45.24	6.82	17.49	20.93
England & Wales	55.93	6.95	21.43	26.37

Source: Census 2001, Key Statistics

Apart from the lack of jobs, the other main obstacle for lone parents who want to be in employment is the lack of childcare. Northern Ireland continues to have one of the lowest provisions of childcare not only within the UK but Europe as a whole (ECNI, 2003). So, in 2002, the number of day nursery places per 1,000 children aged 0-4 was 62.4, compared to 95 in England. Day nurseries, however, play a relatively small part in the range of childcare options used by parents in the region.

Research commissioned by the Equality Commission on the demand for and supply of childcare in Northern Ireland found evidence that affordability and availability were the main problems in relation to childcare for working parents. As a result, relatives and friends play an important role in providing childcare (Gray and Bruegel, 2002). Grandparents were found to be particularly important. Around one in five of the children of working parents, and over one in three of children aged 5-11, are cared for entirely by a relative or friend.

Analysis of the costs of childcare revealed that an important reason for this reliance on informal childcare was cost. The study's authors point to the specific disadvantage faced by lone parents in Northern Ireland as their earnings are about one third lower than the UK average for lone parents.

The research found that the extent to which mothers' employment is supported by formal childcare increases with the mother's earnings. Within the formal childcare arena, childminders are much more likely to be used by lower paid mothers and day nurseries more likely to be used by mothers in professional and managerial occupations. However, it also found that parents who work outside standard office hours have particular difficulty finding childcare.

Lone parents are particularly impacted by this lack of flexible childcare. Women are much more likely than men to have atypical work patterns, such as part-time, short-term or casual employment and working outside normal office hours. 52% of employees in Northern Ireland are atypical workers; 64% are women and 42% are men (ECNI, 2001). In some sectors, this difference is quite marked. For instance, in the hotel and restaurant sector 60% of the female workforce, but only 36% of men were atypical workers. Similarly, in public administration, education and health sectors 72% of the female workforce were atypical employees compared to 52% of males. The

childcare difficulties facing these women are compounded by the fact that those in atypical work are more likely to have poorer terms and conditions of employment than those in permanent full-time positions.

The OPCS studies (1989) on disabled children and families in the UK indicated the level of economic and consequent social disadvantage experienced by disabled children and their families. Parker (2000) concludes that 55% of families with a disabled child are living at or on the margins of poverty and households with a disabled child had a greater likelihood of living in poverty than other disadvantaged social groups such as lone parents or families with disabled adults (Parker et al., 2000). It is also worth noting that the British Medical Association notes that poverty and disadvantage can cause disability and SEN (BMA, 1999).

There are high rates of disability and long-term illness in NI; the 2001 Census revealed that 41.31% of households have one or more people with a limiting long-term illness or disability. This compares with 34.05% of households in England and Wales. Overall, 21.3% of all persons in Northern Ireland have a disability, higher than the UK generally (18.5%). The age structure of Northern Ireland's population, which is the youngest of all countries in the UK, would lead us to expect a lower rate of disability. People over 60 make up just 17.6% of the population compared to 20.8% in England and 22.7% in Wales. The 2001 Census showed 22,036 children under sixteen with a disability. The high level of households with disabled people in Northern Ireland combined with an acknowledged paucity of services for people with disabilities impacts greatly on child poverty. The lack of services means that much of the care and support for disabled people comes from other family members, who therefore cannot take paid employment.

Households with employees in Northern Ireland earn on average 20% less than those in the rest of the UK (HMSO, 2000). Twenty one percent of average household income is derived from social security benefits, compared to 12 % in the UK generally. As a result of lower wages and greater dependence on benefits, average household income is 22% lower than the UK average. At the same time, providing necessities such as fuel, light and food costs everyone more - 26% of average household income in NI compared to a UK average of 20%. (Connolly and Keenan, 2001). Since these form a far higher proportion of household expenditure in poorer families, the higher cost of fuel, light and food in the region greatly increases the severity of poverty.

Unemployment, low pay, a higher cost of living, slightly larger families and a lack of access by poorer women to the means of limiting their family size, together with even greater levels of inequality than in Britain, all contribute to the high levels of child poverty in Northern Ireland.

- Children born to poorer families in Northern Ireland are more likely to be smaller and to die at a higher rate than children born to better-off families (O'Reilly and Gaffney, 2001).
- Children living in poverty are 15 times more likely to die as a result of a house fire. They are five times more likely to die in accidents and four times more likely to die before the age of 20 (DHSSPS, 2000).
- Suicide rates among 15-24 year olds are almost three times higher in the lowest income groups than in the other groups combined (General Consumer Council for Northern Ireland, 2002).
- Death rates for Sudden Infant Death Syndrome (SIDS) and unexplained infant deaths are more than twice as high for those families in poorer social classes than for those in social classes I and II (Ballanda and Wilde, 2001).
- The rate of births with a congenital malformation in NI is over twice the level in England and Wales (DHSSPS, 2004).

- In 2002-2003, 88% of children under 2 years in NI had been immunized against measles, mumps and rubella. This compares with 87% in Scotland (in 2002), 82% in England and 78% in Wales ([DHSSPS, 2004). However, the uptake of vaccination and screening services is lower in poorer areas (Browne, 2001; EHSSB, 1995). This may be because families living in deprived areas are more likely to live further away from their GP's surgery and less likely to have a car to get there (O'Reilly and Browne, 2001).
- The incidence of tooth decay is much higher in poorer areas. Again, research suggests that access to dental care is more difficult for families living in poverty (CHIP, 1997).
- In Northern Ireland, the fifth of the population who are most well off have a life expectancy among the best in Europe. For the poorest fifth, life expectancy is closer to that of people in Eastern European countries (General Consumer Council for Northern Ireland, 2002).
- It has been estimated that about 2,000 lives could be saved each year in Northern Ireland if those living in the District Council areas with the highest death rates (the poorest areas) enjoyed the same level of health as those living in the District Council areas with the lowest death rates (the best-off areas) (DHSSPS, 2000).

The following key initiatives are addressed at reducing child poverty:

- Expansion of childcare provision (to encourage parents into employment)
- Children's Fund
- Pre-school education expansion programme
- SureStart
- BookStart
- Fresh fruit in primary schools initiative
- Neighbourhood Renewal Strategy

Funded mainly through New Opportunities Fund and Peace II - with all the difficulties associated with short-term funding, many of the schemes set up are now in crisis because Peace II ended. Most aim to be eventually self-sustaining through Family Tax Credit. The expansion of childcare provision is a key requirement if Northern Ireland is to have any chance of improving levels of employment among lone parents. Indeed, the DWP target of getting 70% of lone parents into paid employment by 2010 applies also to Northern Ireland.

There are a number of problems associated with this strategy. Most importantly, the lack of well-paid work in the region impacts sharply on lone parents. The other main obstacle for lone parents who want to be in employment is the lack of childcare. Northern Ireland continues to have among the lowest provision of childcare not only within the UK but Europe as a whole (ECNI, 2003).

The Executive Programme Fund, which was set up to provide direct support for children and young people in need, made available £32m over 3-4 years; £9m of this made available to community and voluntary sector, the rest to the statutory sector. The Fund seeks to assist in areas such as "child abuse, homelessness, health and well-being, disability and educational outcomes". However, with ongoing year-on-year 'cost-savings' in health and social services Boards and Trusts and given that children 'in need' interpreted by Trusts as 'at risk', much of the Children's Fund is going to support the statutory duties of Boards and Trusts rather than to alleviate the effects of poverty on children.

The start of 2004 saw a consultation on a Neighbourhood Renewal Strategy for NI. In it, DSD proposes to resource Neighbourhood Renewal work through a number of different methods including redirecting resources currently spent on tackling disadvantage in towns and villages; bidding for additional money from the government's annual budget; and, using other external funding sources. In terms of initiatives to tackle child poverty, the emphasis is on raising educational attainment and tackling 'crime' and 'anti-social behaviour'. Potential Neighbourhood Renewal activities are identified under the Strategy's four strategic priorities of:

- Community Renewal
- Economic Renewal
- Social Renewal
- Physical Renewal

Examples of social renewal activities include:

- Helping schools to raise educational standards;
- Making health promotion initiatives more effective, particularly those that deal with issues such as drug and alcohol misuse or teenage pregnancy;
- Making better use of those facilities that are available in Neighbourhood Renewal Areas, for example, using school facilities for community meetings, sports facilities and leisure classes outside of normal school hours;
- Tackling community divisions and tensions, particularly at interfaces; and,
- Reducing the occurrence and fear of anti-social behaviour, vandalism and crime

There is considerable evidence from evaluation of the neighbourhood renewal strategy in England to suggest that it will have no impact on levels of child poverty (ODPM, 2000).

Some interviewees for this research mentioned the potential impact of water charges on child poverty in Northern Ireland. The General Consumer Council - has called on the Government to have an open and transparent debate on the proposed introduction of water charges here (General Consumer Council website). It is crucial that the plans to introduce water charges be child-impact and health-impact assessed (see Chapter 1 regarding the need for children's rights impact analysis).

Children's Views on the Impact of Poverty on their area

In the NICCY schools research, however, children and young people voiced many concerns about their area. For example, 309 out of the 582 children and young people who raised issues relating to their area/community (53%) criticised the poor state of their area. These respondents criticised the amount of graffiti, sectarian and otherwise, broken bottles on streets, rubbish, and the lack of bins in their communities. These concerns were most likely to be raised by children from working class areas. As suggested in the following quotes, children and young people were particularly likely to comment on the multiple affects living in poverty can have on their lives.

Typical comments included:

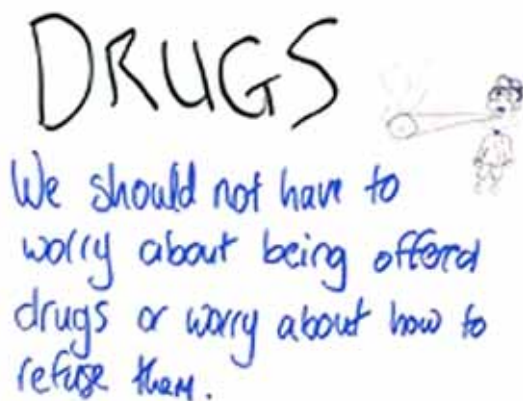


"In my area ... there is always glass everywhere you look and last year my sister fell onto glass and cut herself. The oldish people go round drinking on the streets and the little children don't feel safe. Rubbish is thrown about everywhere. They need more bins and the police need to waken up a bit - they don't do anything" (Girl, aged 11).



"My area is stinkin'. It's full of rubbish. The neighbours are drug dealers, drug takers, scumbags or joy riders and they are not very clean to be honest. In my area you won't go one day without seeing a stolen car and being asked if you want to buy drugs. There is an awful lot of anti-social behaviour and loads of fights. Neighbours fighting over something stupid and being left in hospital. There is graffiti, underage drinking and loads of fights and a lot of burnt out cars. Tell Tony Blair we want more cash now!" (Boy, aged 15).

In addition to voicing concerns about the poor state of their area, 126 children and young people (or one in five respondents who raised issues connected with their area/community) expressed apprehension about feeling safe in their area. Once again issues connected with safety tended to be more pronounced among children living in working, as opposed to middle class areas. Safety issues were most commonly raised alongside fears of crime and anti-social behaviour, including drinking on the streets and drugs in the area. In the schools data, these concerns were more likely to be expressed by boys (41%) than girls (33%) and gained increasing importance as children grew older. These children and young people commented:



"The streets should be made safer. It annoys me because you have to be in early at the weekend due to gangs being intoxicated and doing stupid things so if you make the streets safer, then you and your parents will have no worries about anything harming to you, or getting into trouble. It is all over the news that more people - young adults - are being attacked and stabbed due to alcohol. Drugs are being sold on your street corners and you can't walk anywhere without people doing drugs and abusing aerosols etc. As a kid you would want the best for your kid and that wouldn't be on the agenda" (Boy, aged 14 years)

Bullies

We deserve
Safety on the
Streets!

"Where I live there is a lot of underage drinking. There are some places you feel you cannot go because of these drunken people. Even on the main road in the public toilets you can see young people drinking and the police just drive past and ignore them" (Boy, aged 15 years).

Dislikes of our
Community



The dislike of
Sectorialism as this
may offend people

Rubbish
all over
streets.



People breaking
windows just for
the fun of it.

Jay riding
in cars
maybe
even taking
people lives.



Key issues

- Link between poverty and poor health;
- Link between poverty and children and young people's self-esteem;
- Link between poverty, poor sexual health and higher rates of teenage pregnancy;
- Rural poverty and isolation;
- Link between unemployment and poverty;
- Need for flexible child-care especially for lone parents;
- Material from school children re lack of services/environmental problems;
- Need to child-impact assess and health-impact assess plans to introduce water charges.

HOMELESSNESS

The right to life, survival and development includes the right to decent housing (Art. 6 CRC). Charter of Rights (Council of Europe) and ICESCR contain rights to housing.

Context

Research demonstrates that family and relationship breakdown is one of the most important contributory factors to homelessness, particularly among young people (PRECIS No 145 & McCrum, 2001: 4). This was confirmed by interviews with professionals, NGO representatives and young people at risk of homelessness. Interviewees working with homeless young people explained the circumstances which could lead to that situation:

"... for many young people homelessness comes about as a result of growing up, finding their feet, establishing their independence, leaving home and striking out on their own - for some young people things don't go as expected or to plan, for some young people there's not the back-up or support of family or support of family and for some young people the whole process is too daunting and for one reason or another things go wrong" (NGO written submission).

Circumstances which can lead to homelessness include differences between the young person and their parents, the arrival of a new partner/step parent, lack of opportunities for young people in terms of employment etc and parents being unhappy for the young person to remain at home and/or the young person becoming involved in some form of activity that the parent is not happy with, for example drinking, drugs and sexual activity (NGO submission confirmed by focus group discussion with NGO Workers).

The impact of homelessness on children and young people goes way beyond the simple absence of appropriate housing: it affects their education, job prospects, social life, relationships and self esteem. Being homeless or living in poor housing can adversely affect children and young people's mental health (Shelter, Aug 2000: 1; McCrum, 2001:9). The negative effects of homelessness on children can have long term consequences for their lives as adults, placing an individual at risk for life (McCrum, 2001: 9) Women and girls who have a mental illness and are homeless suffer 'double disadvantage', first because of their gender and their vulnerability to violence and sexual harassment and threats and second because of their mental health problems (Shelter, Aug 2000: 1).

Unpublished research carried out by Queens University/Simon Community with young people at risk of homelessness and living in hostel accommodation noted that the young people felt that homelessness made the following impacts on their lives:

- Often no relationship with GP - many residents have to register with a new GP when they come to stay at the project.
- Often receive anti-depressants on a first 5-minute visit without any past history being known.
- Records too slow to cross Trust boundaries.
- Stigma of homelessness - residents feel that GPs do not treat them seriously.
- Inability to talk openly and honestly with GPs.
- GPs often unwilling to talk to staff who are acting as advocates for residents
- Residents are mainly smokers.
- Alcohol issues - not taken seriously by GPs.
- Poor diet due to money issues.
- Subject to colds, flu, and contagious illnesses.
- Poor nutrition/diet.
- Poor personal hygiene.
- Apathy.
- Depression - again treated by medication.
- Self harm - not taken seriously by services.
- Sexual health issues - STDs.

- Little interest in learning to cook.
- Little interest in healthy eating.
- Insufficient funds to purchase good food and fruit.
- Take away food.
- Quick cook or microwave food.
- Not enough money to purchase winter clothes.
- Not enough money to purchase footwear.

Research in England and Wales found that levels of substance use among young homeless people is considerably higher than that of the general population. Drug use may contribute to and exacerbate their homeless situation therefore, “strong links need to be made between drug services and homeless agencies” (Home Office, 2003:190). However, young people at risk of homelessness warned that assumptions should not be made about them simply because they were homeless, complaining that they were unfairly ‘labelled’ by adults and by other young people because of their homeless status:

“Other kids our age like they can slag us all they like, saying ‘You live in a hostel’ but they would not be able to have, I can guarantee you that after two nights of living away from the house they’d be balling their eyes out, do you know what I mean? They think they’re all hard, they don’t know what it’s like. £40 a week we have to live on, imagine them, £40 a week” (Young person at risk of homelessness).

The Committee included homeless children in its list of vulnerable groups to which the state should pay special attention (UN, 2002: para 15). The Committee was concerned at the incidence of poor housing and homelessness (ibid.: para 43) while welcoming the introduction of new legislation in England and Wales (ibid.: B). Professionals and NGO representatives interviewed for this research criticised legislation in Northern Ireland as falling short of the England and Wales model. The Housing (Northern Ireland) Order 2003 is the key piece of legislation governing housing in Northern Ireland. It places a statutory duty on the Northern Ireland Housing Executive to provide temporary and/or permanent accommodation for certain groups of homeless people. Pregnant women and people with dependent children are assessed as having priority need for accommodation (Art. 5 of the Homelessness Provisions of Part II). Young people (aged 16-21) who are at risk of financial or sexual exploitation also have a priority need (Art. 5 Homelessness Provisions of Part II). In England and Wales all homeless 16 and 17 year olds are considered to be in priority need (Homeless Act 2002). Interviewees working with homeless young people in Northern Ireland argued that our children’s rights are being breached by this difference in treatment, stating that the legislation in Northern Ireland leaves children and young people open to potential harm. The point was made strongly that all homeless young people are vulnerable and that legislation must protect them accordingly.

Under the Children (Northern Ireland) Order, Health and Social Services Boards and Trusts also have a duty to provide accommodation for 16 to 18 year olds whose welfare is likely to be “seriously prejudiced” without accommodation. Health and Social Services Boards also have a duty under the Children (Leaving Care) Act (NI) 2002 to provide advice and assistance to 16 - 21 year olds who have been in care. Research by Pinkerton and McCrea (1999) found that at least one quarter of young people who have been in the care system become homeless within six months of leaving care. An NGO submission argued therefore that “further work and resources should be targeted on these young people, to inform them of their housing options and equip

them with the tools to live independently, thus preventing homelessness" (NGO submission). While children leaving care are a priority group, one young interviewee noted that young people without social services involvement also find it difficult to access accommodation:

"If you're part of the Leaving Aftercare Team or something like that then you're grand 'cos you've got your social workers helping you but if you haven't got anyone, then you're stuffed" (Young person at risk of homelessness).

"There are still a lot of young people turned away and told you're single, and not a priority need ... Young people rarely get priority need" (Housing Support Professional).

When a person or family applies to the NIHE for housing four tests must be met: homelessness; priority need; intentionally (i.e. the person should not have intentionally made themselves homeless) and acceptable behaviour. The latter (a new clause implemented from April 2004) allows the NIHE to take into account the unacceptable behaviour of an applicant, or a member of their household, which would make them unsuitable to be a tenant of the NIHE. NGO interviewees commented negatively on this fourth test which they felt would contribute to increased homelessness and was also unfair to family members including other children:

"Siblings can be penalised for the other's behaviour. Where does that family go? We are getting cases through where people are excluded on the grounds of their children's behaviour: 12 year olds - children with special needs. What is anti-social behaviour? There may be underlying reasons for it. Children may be attending the local school - it is hard to get them into another school" (Housing Worker).

Workers also commented that young people aged 16-18 rarely get priority need status and teenagers at risk of homelessness confirmed that it was difficult for them to accrue points under the NIHE system:

"The most points you get in here like 30 points, that's it, that's the lot like you get from the day you move in [to the hostel] to the day you leave after two years. And that's not enough points to get a house in Derry" (Young person at risk of homelessness).

The extent of homelessness is difficult to establish because Government only systematically collects statistics on those homeless people who have applied to local authorities for help. Young people who, for example, are sleeping on the floor of a friend or relative because they have nowhere else to go would not be included unless they had applied to the NIHE for assistance. Yet the impact of living in this fashion should not be underestimated. A teenage interviewee in Derry/Londonderry explained that sleeping on someone else's sofa on a long-term basis is "fucking crap" and told how at weekends when his host was having guests he had to leave and find somewhere else to stay.

NIHE figures show that in 2003/04 the Executive assessed 17,150 households presenting as homeless. At 31st March 2004, 5287 households registered as homeless on the Housing Executive's waiting list. There were 237 single males aged 16-18 presenting as homeless in 2003-2004 and 328 single females of the same age. In 2003-2004 5,924 families presented as homeless. It is particularly difficult to get an accurate picture of the extent of child homelessness as NIHE statistics refer to families with dependents but do not collect information on the numbers of children involved. NGO interviewees considered that it is important to obtain this information so that the extent of child homelessness is known.

NGO workers agreed that homelessness among 16 and 17 year olds is a key priority which must be tackled head on. They noted the difficulties for young people in getting enough points in the NIHE system to secure accommodation. There was insufficient accessible information for young people on their rights relating to housing. Difficulties in the private rented sector were also noted: conditions here were likely to be worse and more health threatening than in public sector - for example through dampness or faulty wiring - and young people were in danger of signing up to contracts with landlords which they could not meet, therefore risking being evicted. It was noted that housing benefit did not always pay the full amount of the young person's rent and there would be a shortfall to make up. One worker said that "this is the biggest issue for us with the private rented sector. Some people go to loan sharks. They end up being evicted. The Executive find them intentionally homeless." Young people under 25 cannot get single accommodation paid for them in the private rented sector: only a single room. While this may sometimes be preferable, for some young people it may be inappropriate or lead them to being placed in a vulnerable situation. Difficulties for young people who may have had a breakdown in relationship with their family in getting a guarantor for tenancies was also mentioned by several interviewees.

Interviewees also concurred on a lack of suitable hostel or supported accommodation for under 18's, particularly for girls. Young people needing hostel accommodation were often placed with adults, many of whom had mental health, drug and alcohol problems. Concerns were also raised regarding the lack of PECs (child protection) checking for people running bed and breakfast accommodation: "depending on the caseworker, checks may be done on proprietors but there is no requirement" (Health and Social Services Professional.).

Workers involved in homelessness as well as young people were agreed that the particular circumstances of Northern Ireland, with its sectarian geography, makes placing young people in safe accommodation even more difficult. A worker gave a case example to illustrate the point:

"We had a woman recently who was moving out with nowhere to go and had to present as homeless and ended up in a hostel in East Belfast, in an area that she just wasn't safe in - she was catholic - and was absolutely terrified, living in a homeless hostel. She has since been moved but really was quite a dangerous move for her. But it was all the homeless section had that day. They're doing their best but ... there's so much competition for housing that even being classed as homeless and having a baby is not enough to get somewhere reasonable to live. It's a massive issue" (NGO Worker).

Key strategies for tackling homelessness include the NIHE Homelessness Strategy (2001) and the Supporting People Initiative. New TSN and PSI also aim to tackle homelessness. Again, there is disparity between the situation in Northern Ireland and that pertaining in Great Britain. In England and Wales there is a statutory duty on local authorities to produce a homelessness strategy every 5 years (Homeless Act 2002 section 1(4)). In Scotland there is also a statutory requirement on local authorities to produce and submit to Ministers a strategy for prevention and alleviation of homelessness in their areas (Housing (Scotland) Act 2001 Section 1). There is no statutory requirement on the NIHE to produce a homelessness strategy. The PSI working group on homelessness (legislation subgroup) recommended that a statutory duty to produce a homelessness strategy should be placed on the NIHE (PSI Working Group on Homelessness, 2003: para 3.4).

A research review of homelessness for the Northern Ireland Assembly warned that "of concern ... is the position where capital costs associated with new build provision for supported accommodation will have to enter competition over a 3-5 year period for funding." (Northern Ireland Assembly report: 28). The report went on to state that "additional strategy

implementation costs" will be in an annual competition for scarce resources and that as many of these areas of activities are outside the statutory duty of NIHE, (for example information, advice and education), there is a danger that these elements of the homelessness strategy will be marginalised"(NI Assembly, 2002: 28).

In interviews and focus discussions workers and young people were keen to stress that finding someone accommodation is not enough to solve the problems facing young homeless people. Indeed, they saw it as only the start of the journey. Many young homeless people, especially those leaving care, will require support in a range of ways from how to budget, run a home and cook for themselves, through to issues such as health care, relationships, education and drugs and alcohol: "There is no holistic service in Northern Ireland" (NGO Worker). A submission from the Foyer group noted that "what marks foyers out from other solutions to housing need amongst young people is their holistic approach to breaking the no home: no job: no hope cycle experienced by many homeless and marginalised young people. In particular they focus on assisting young people into education, training and/or employment". Interviewees - professionals and young people - were agreed that there should be more emphasis on supporting young people once they are provided with accommodation. The point was made several times that most young people in Northern Ireland are still living with their parents until their early 20s and at 16 and 17 would not be expected to cope by themselves with running a home.

Young people at risk of homelessness expressed concern about aspects of their lives in hostels including the lack of privacy; what they felt to be over-strict rules which would not apply to young people in family homes (such as guests having to leave by a set time); hostel managers passing information about young people from one hostel to another so that if a young person was barred from one hostel they would then find themselves banned from other hostels in the same area; having to leave some hostel accommodation if they found employment or in the case of young women if they had a child. One young person in Derry/Londonderry complained about being "treated like a wain (child)" (young person at risk of homelessness). Another young person at risk of homelessness described the hostel environment as being like "big brother." The young people felt that they were not given enough accessible information about their rights on moving into supported accommodation. One commented that in signing the contract "you're signing away your rights." Those involved in providing hostel accommodation explained in interviews and focus discussions why it was necessary to invoke some of the rules that existed and to check on a young person's status before admitting them to a hostel, nonetheless they shared the young people's concerns that they were unable to enjoy a 'normal private life' in comparison to other young people.

Education on homelessness was considered important by both young people and workers. Education packs for school children such as that devised by Shelter (Shelter, 2002) were thought to be a good idea both in terms of breaking down young people's prejudice against homeless people and also in the prevention of homelessness. Education on homelessness for those working with young people was also considered important.

Immigration & Asylum

Under the Children (NI) Order 1995 it is the duty of every Board to safeguard and promote the welfare of children within the Board's area who are in need (A specialist working in the asylum field noted that "by the fact that a young person presents seeking asylum with no identified parental figure, family member or appropriate adult, that young person is legally deemed to be a child in need"(Health and Social Services Professional). Art. 21 of the Children (NI) Order 1995 places a duty on Health and Social Services Boards to provide accommodation for vulnerable children. The same professional noted that:

“Given previous experience and knowledge and the issues faced by young asylum seekers, I have found semi-supported and supervised accommodation is mutually beneficial as it provides safeguards and security for the young person, with familiar faces and a level of support and advice that can ultimately lead to improved independence in an ‘unfamiliar’ country. It also provides the relevant worker with some feedback in terms of the young person’s social, emotional and physical development, from a more thorough perspective”.

This interviewee raised concerns regarding the severe shortage of placements for children seeking asylum under the age of 16. One child had ended up being placed, inappropriately, in a children’s home “while it attended to his immediate accommodation needs, the young person witnessed behaviours from some young people who had been placed in the Residential Unit for behavioural difficulties and offending behaviours, he was also subjected to racial taunts by some of the other residents”.

Young gay and lesbian people

Research carried out by the National Centre for Social Research found that being lesbian or gay can cause young people to become homeless, although homelessness of young lesbians and gay men could also be entirely unconnected to their sexuality (National Centre for Social Research, 2001:2-3). While young lesbians and gay men face the same problems as all homeless young people, their sexuality could also add to the difficulties experienced. The four main ways in which their experience differed was in terms of the degree of emotional distress; difficulty coming to terms with their sexuality; homophobia perpetuated by staff, service users or other homeless people; and invisibility because of lack of awareness amongst some service providers (ibid.: 4-5). The report recommended monitoring of young gay men and lesbian’s situation, sexuality awareness training for staff and a greater understanding of the needs of this group. A focus group for the NICCY research made up of representatives and workers who work alongside gay, lesbian, bisexual and transgendered people noted that the difficulties for young people in accessing accommodation can be exacerbated by the nature of segregated housing in Northern Ireland.

Traveller children

The right of Traveller children to safe and healthy accommodation was mentioned by many interviewees who condemned the current situation for Traveller children. A worker stressed that this issue “underpins the realisation of Travellers’ other rights” (NGO Worker). Under the Housing Order (NI) 2003, responsibility for serviced sites was transferred from District Councils to the Housing Executive with effect from the 1st December 2003.

The Northern Ireland Housing Executive carried out a needs assessment of Traveller accommodation over an eight month period from January to August 2002. The findings showed 42% of Travellers are living in social housing, 21% in serviced sites and 11% on the road side. When asked about accommodation preference 42% of Travellers expressed a preference for social housing, 14% for Serviced Sites and 38% for Group Housing (NIHE website). An NGO worker described the transfer of responsibility to the Housing Executive as a “success story” however, he



considered that there were three obstacles to progress: “financial resources; problems/delays in identifying sites; planning - the traditional blocking mechanism”. Overcoming these obstacles was a key concern expressed by a group of children from the travelling community who participated in the NICCY research. All of these children highlighted the need for better site facilities, with some asking for travellers to be given the option of living in houses.

In May 2004 Government announced plans to ‘crack down on’ unauthorized camping sites in Northern Ireland. These plans were criticized by the Equality Commission which raised concerns about the introduction of law which criminalises unauthorised camping. “The Commission recognises and understands the issues raised by unauthorised camping sites, but is concerned with the intention to proceed with this law while adequate accommodation for Travellers has not been made available” (Dame Joan Harbinson, Chief Commissioner of the Equality Commission, 2004).

Homelessness through intimidation

Since the early 1970’s thousands of people in Northern Ireland, including children and young people, have been forced from their homes through intimidation, mainly on a sectarian basis but also through inter-community disputes and feuds and paramilitary punishments. Darby and Morris estimated that between 1969 to 1972, between 8,000 and 15,000 families - most of whom were Catholic - were forced to leave their homes (Darby and Morris, 1974). Smyth records that more recent trends have also shown Protestants moving out of certain areas: Belfast, Derry/Londonderry, and parts of Fermanagh and South Down: “Segregation is deepening and internal displacement continues to be a problem for some families, particularly those living on interfaces” (Smyth, 1998: 15). NIHE figures show that in 2003/04 1245 households stated that intimidation was a reason for their homelessness - a fall of 22% on the previous year.

Several NGO workers mentioned the fear that in future young people or families may suffer ‘double punishment’ whereby they could be intimidated from a community by a paramilitary group and also punished by the state either by being given an Anti-Social Behaviour Order or being refused public housing because of their alleged anti-social behaviour. A worker noted with alarm that an adult had recently been deemed ineligible for public housing because he was on a “paramilitary hit list” (NGO Worker). He feared that this may soon also happen to children.

As well as intimidation on a sectarian basis, children and young people in Northern Ireland are also at risk of homelessness through homophobic attacks and racial attacks on them and their families.

The impact of segregated housing was mentioned by many interviewees who work with homeless young people. Sometimes the only accommodation available for a homeless young person would be “in the wrong area” and even if accommodation was in an area of the same religious demography as the young person it could be in an area that they did not know and were nervous about. One housing worker made the point that sending a young person from North Belfast to East Belfast, for example, would be like sending them “to the other side of the world”.

Children with disabilities

A review of research and policy on services for children with disabilities and their families (Kelly and Monteith, 2003) found that accessing appropriate housing was a problem for these families in Northern Ireland. Monteith et al., (2002) found that in 1990, families of disabled children were less likely to afford their own homes than families without disabled children. They noted there is no public finance available for families who need to move to a new home with more

adequate space for their disabled child. Kelly notes that research (McKeever, 2000) shows that the accommodation needs of children with disabilities and their families are complex and change as children get older. Monteith et al. recommend increased disability awareness among those designing new homes (cited in Kelly and Monteith, 2003).

A submission to this research from an NGO stated that “research suggests that families caring for severely disabled children are likely to be living in homes that are unsuitable, with lack of space for those caring for a person with physical disabilities or behaviour disabilities being a key problem”. This NGO which works with children and young people with disabilities and their parents stated that in its experience many parents are faced with having to meet the costs of adapting their home environment from their own financial resources. It recommended an accurate assessment of the housing needs of children and young people with learning disability and their families in Northern Ireland and that design of houses in the private and public sectors should reflect the needs of families who care for children with disabilities.

Key Issues

- Lack of statistics and information on child homelessness;
- Problems for single young people aged 16 and 17 in getting accommodation;
- The definition in the housing legislation of vulnerability - all young homeless people are at risk and legislation must reflect this;
- Shortage of suitable hostel accommodation;
- Unsuitable environment in hostels - young people mixed with adults who may have drug and alcohol problems;
- No female only hostels for under 18's;
- The '4th test' in Housing Legislation regarding anti-social behaviour will create problems for young people and their parents and will simply move the problem of anti-social behaviour on to another community;
- Difficulty for young people in accessing private rented accommodation (eg getting deposit and someone to act as guarantor);
- Shortfall in payments made by NIHE to young people in private rented accommodation;
- House conditions in private rented sector;
- Lack of support e.g. education, emotional support for young people when given the keys to their home;
- Lack of privacy and respect for the rights of young people in hostels including their right to a private and family life;
- Provision of safe and healthy accommodation for Traveller children;
- Provision of suitable housing for young people with disabilities;
- Increased disability awareness among those designing homes;
- Need for increased provision of supported housing;
- Need for education on homelessness for both children, young people and workers.

EMPLOYMENT AND WELFARE

CRC Art. 6 (right to life, survival and development); Art. 12 (Participation rights).

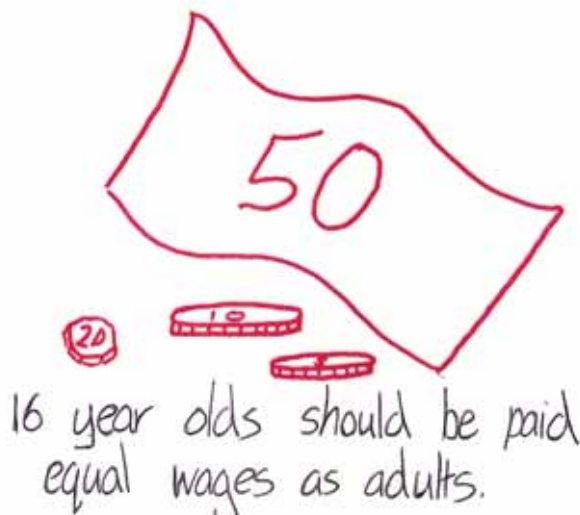
Context

The Committee on the Rights of the Child expressed concern in 2002 that the national minimum wage did not apply to under 18 year olds noting that these young people were at risk of economic exploitation (UN, 2002: para 53). The Committee recommended that the state reconsider its policies regarding the minimum wage. In March 2003 Government announced that from October 04, 16 and 17 year olds would be paid a minimum wage of £3 per hour. The rate for young adults aged 18-21 is £4.10 and for adults £4.85.

However, young people under 19 years of age who are in apprenticeships, for example those on New Deal voluntary programmes, will not be given the protection of the minimum wage.

Dr Paul Dornan of the Child Poverty Action Group welcomed the announcement of the minimum wage for children but said £3 an hour was too low: "It must be increased on a regular basis to make sure that young people continue to get the income protection they deserve" (Cited BBC News Online, 15/03/04). Information for young people on their right to a minimum wage is crucial. British Youth Council research found that none of the 3,000 young people interviewed in a recent study knew how to enforce their right to a minimum wage. Nor did young workers know about their rights to holidays or health and safety protection (Unison website). An advice worker with an NGO in Belfast confirmed that many young people in Northern Ireland would not be aware of their rights in relation to employment law, nor would they always have the confidence to ensure that their rights were not breached. Consequently, children in employment could easily be summarily dismissed from their jobs and they would not make a complaint. The point was also made that there is inadequate regulation of children's employment, particularly by the education and library boards which have responsibilities in this area (an NGO Worker).

A study for the Children's Law Centre found that almost 12% (124) of young people surveyed had issues regarding discrimination in employment. The majority of these issues related to the age of legal employment and unequal payment due to age. A 16 year old complained that, "I am not treated fairly in employment as there are people older than me earning more for doing the same job" (CLC, 2004: section 4.9). The same issue arose in the NICCY schools research where young people rejected lower wages as discriminatory on the basis of their age.



The unadjusted youth unemployment rate in Northern Ireland was 8.5% of those aged 18-24 between February and April 2004. This represents an increase of 1% on the figure one year previously (Barometer, 2004).

- Research carried out with young people at risk of homelessness in Northern Ireland found that the following issues were of concern to the young people relating to the welfare benefits system: Benefits - too low to be able to live on - £40 per week.
- Young people who genuinely want to achieve a career and go on a training course are discriminated against as they only receive the £40 per week training element (if they do two days a week at college and on placement three days per week.). However, others at age 16 who choose to go back and resit exams are able to get the £30 enhancement to stay on at school plus the £40 benefit payment. Therefore, those with a clear career path and motivation are £30 per week worse off.
- Young people coming into hostel accommodation tend to leave full time education soon after admission due to circumstances surrounding their leaving home, peer pressure and apathy
- Young people earning £40 per week (and who often have to leave the project at 7.15am to get to training at 9.30am, returning at 6.30pm) have difficulties paying for work clothes, boots etc?
- Young people who decide to take up employment have difficulties paying their rent of £45+ particularly when they normally have to do a 'lying week' and in some small companies get no holiday pay for the first 6 months.

Young people at risk of homelessness interviewed for this research made similar comments, complaining that £40 per week is not enough to live on "who can live on £8 per day for their breakfast, lunch and dinner?" (Young person, at risk of homelessness). Getting paid on first signing on was a problem for some with it taking some weeks to sort out their benefit arrangements. The support of other young people in the same situation was thought to be vital: "in here if you run out of money your mates will provide you." Crisis loans were hard to get and benefits staff could be unsympathetic. One young woman said that when applying for money a staff member had just laughed at her. Others young people at risk of homelessness commented:

"The Dole tell you nothing"

"You can sign on at 16 and get a crisis loan from 16 but they don't tell you that."

An NGO worker involved in providing benefits advice noted that front line benefits staff were often inadequately trained in dealing with queries from 16 and 17 year olds. While some young people came to the advice centre to query the information they had been given, it was thought that others had probably simply gone away not realising that they were in fact entitled to benefits. Improved training for staff was recommended both in terms of the information being given and in dealing appropriately with young people. Chapter 1 also discusses these issues in relation to right to access information and advocacy services.

Key issues

- Discrimination against children in lower minimum wage;
- Need for more effective monitoring of children's employment;
- Inadequate level of welfare benefits for young people;
- Lack of accessible information for young people regarding benefits and employment rights;
- Need for more effective training of frontline benefits staff;
- Need to ensure that benefits rules do not result in young people having to turn down employment in order to stay in hostel accommodation.

TRANSPORT AND ENVIRONMENTAL RIGHTS

The right to life, survival and development (Art. 6) Right to health (Arts. 23 & 24); Right to participation (Art. 12).

Context

Finding ways to encourage children to travel to school using healthy and sustainable travel methods, as well as ensuring their safety while doing so were key issues raised during consultation on Planning for a Health City (Healthy Cities Belfast, 2003). The BMA notes that: "road traffic presents a major risk for children's health and safety and all relevant government departments should facilitate and promote active play in a safe environment, establish traffic free zones, safe walk to school routes, cycling lanes and play streets" (BMA website, 2004. Safety for children on the roads was raised as a key issue by school children and health professionals and NGO workers in this research.

A recent Barnardo's study on child and road safety (a UK study which included interviews with children in Belfast) found that the UK has one of the worst track records for child pedestrian casualties in Europe (Barnardo's, 2004:3). The research found that the risks of being killed or injured are greatest for children living in areas of high deprivation (ibid.:4). Children living in areas of high deprivation are five times more likely to be killed in a road crash than those in wealthier households (ibid.). Road safety concerns meant that children are increasingly prevented from walking, cycling and playing in safety (ibid.). Yet, 94% of children said that they would rather spend more time outside of their homes (ibid.). Among Barnardo's key recommendations are that legislation should be introduced to make 20mph the default speed limit in residential areas and near schools; increased funding for traffic calming; providing safe routes to school; imposing a planning requirement that all new housing developments include children's play space (ibid.:2).

Government has adopted a 10 year Road Safety Strategy for Northern Ireland (a partnership between the police, the Department of the Environment and the DRD). This has contributed to a reduction in deaths. Last year there were 1,435 people killed or injured on NI's roads - an 18% reduction on the five year average between 1996-2000. The number of child victims fell from 250 to 171 (31% reduction) during the same period. The strategy's eventual target is to cut overall figure by 33 per cent, although campaigners bidding to halve number for children (News Letter 7 October, 2004)

According to a survey carried out in April 2004, 22% of children aged between 10 and 13 years of age, 23% of children aged between five and nine, 12 % of children aged between one and four and two per cent of children under one year, continue to travel without wearing seat belts (information presented in press release from health and public safety Government minister Angela Smith, 28/06/04).

Fears about road safety leading to children being effectively house-bound were also raised by NGO workers. While parents' fears are understandable it was felt that children are being denied their right to independence and play (see Chapter 5). However, as one health professional noted, the problem is not necessarily in attitude but relates to actual risk:

"In Derry I was in a home where a young mother had been in the house for days and I was going to suggest taking the baby out for a walk but then noticed there weren't any pavements. We need pavements and cycling lines to enable us to go out safely".

Two key issues emerged in relation to road safety in the NICCY research namely the dangers that children are placed in when they are forced to play at the side of busy roads and secondly, the lack of adequate facilities to ensure that children are able to cross the road safely. The children and young people commented:

"My area has no playing facilities and nothing to do. There are no places where we can play football or just run about and play something else. It is just all roads and nowhere to play. It could be dangerous for young children who want to play and they would go onto the roads and they could get knocked down and get hurt or even killed! All the facilities are too far away from where we live" (Boy, aged 14).

"I live on a road near a roundabout and I think there should be traffic lights there, so that it is safer to cross the road and easier to get our car onto the road in the morning so that I can get to school on time" (Boy, aged 11).

"In my area there is no grass to play on so sometimes we go down to the local park but the road we have to cross is really dangerous and there is no traffic lights to help us cross the road" (Boy, aged 11).

As well as raising issues connected with road safety, concerns were also expressed about public transport. Issues raised included poor public transport, poor roads and slurry on roads, with the latter being raised by children living in rural areas. Over half of all responses were raised by females (55%) and one in seven of all those who raised this issue were aged between 15 and 16 years, perhaps reflecting the point that once children get older they increasingly desire to spend more leisure time away from their own community. The following comments are typical of the main issues raised:

TRANSPORT



"They should have transport for every town because it is not fair for some towns to have it and not others. So transport should be for everyone" (Girl, aged 15).

"The speed of cars on the road is crucial. The road I live on is really bad. It was dug up and resurfaced last year. People thought it would make the road safer. Yeah right! Cars fly up the road at 100mph, no exaggeration! It's a racing track. It's mostly young boys who do it" (Girl, aged 14).



"I live in the country and there is no transport. There is a bus stop but no bus so if I want to go somewhere I have to get my parents to take me so we need a bus. And there is a village near us, but if you stop in it, you might get beat up because it is a dirty hole and there should be more police in the area because sometimes the people throw eggs at cars and snowballs and they graffiti" (Boy, aged 13).

The need for children to be actively involved in planning decisions for their areas, and for planners to conduct child-impact assessments on any proposed developments was considered crucial. Belfast Healthy Cities provided a positive example from Ballybeen in Belfast where children had been involved in contributing their ideas through building a model, to a project for a development in the area.

Key issues

- Need to continue reducing number of child road deaths through road safety strategy;
- Need to make local areas safer for children to ensure their right to play and right to health;
- Need to involve children in decision making about planning decisions for their area;
- Need to carry out child-impact assessments on any proposed developments/planning decisions.

KEY PRIORITIES

- Statutory agencies must be encouraged to respond to the evidence based link between poverty and poor health in children, young people and their families.
- The rates of benefit and minimum wage for 16 & 17 year olds must be raised and accessible information must be provided on the range of benefits and entitlements available to them.
- Multi-agency approaches must be developed to guarantee appropriate services to meet the physical and mental health needs of children and young people.
- Child and adolescent centred health care services in which children and young people have the opportunity to fully participate in decisions about their health care must be developed.

- Urgent provision of fully resourced and appropriately staffed mental health services for children in care, secure accommodation and custody throughout Northern Ireland must be put in place.
- The serious lack of adequate accommodation and support for 16 and 17 year olds leaving care or who are otherwise homeless must be addressed.
- Regionally based, accessible and comprehensive sexual health services for young people including age appropriate awareness raising should be promoted.
- Inequalities and discrimination in health care policies and practices for children from ethnic minorities, children with disabilities and GLBT young people should be challenged.
- Community safety strategies and initiatives to accommodate and recognise the physical and mental health needs of children and young people should be developed.

CHAPTER:

four

EDUCATION

INTRODUCTION

The rights which children enjoy in the context of education are often categorised in three ways - rights 'to' education; rights 'through' education and rights 'in' education. The right to education is contained in the Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the European Convention on Human Rights (ECHR) and the Convention on the Rights of the Child (CRC). In addition, there is a specific international covenant - the UNESCO Convention Against Discrimination in Education - which prohibits discrimination in access to education. Rights 'through' education (focusing primarily on what should be gained in the educational process) can be inferred from the general right to education but are also explicitly documented in Article 29 of the CRC which provides considerable detail on the aims of education. This has been further amplified by the Committee on the Rights of the Child in its General Comment No. 1 (Committee on the Rights of the Child, 2001). Finally, there are several rights which are not exclusive to education but which are often significant in an educational context. These include children's rights to privacy (Art. 17), protection from abuse (Art. 23) freedom of expression (Art. 13), freedom of conscience (Art. 18) and to have their views given due weight in all matters affecting them (Art. 12).

For the purposes of this chapter, the analysis of children's rights is divided into six categories:

- Access to education
- Equality and non-discrimination
- The aims of education
- Protection from abus
- Participation in decision-making
- Religious segregation and the impact of the conflict.

The education system in NI has many positive features. A recent survey indicates that 77% of pupils like school (NISRA, 2004). Most children consider that it is a place where they learn things that are important to them (93%); that they have learned things which are useful to them (94%); and which will help them in their adult lives (91%) (ibid.). Moreover, the proficiency in reading, mathematical and scientific literacy of young people in NI compares well with young people of the same age in other countries world-wide (Gill et al., 2002). There are very high levels of attainment at secondary level and these have improved significantly in recent years. In 2002/3 59% of pupils achieved five or more good GCSEs (e.g. grade C and above), compared with a figure of 35% in 1986/7. In addition, only 4% of school-leavers achieved no GCSEs in 2002/03. However, there are marked differences in the experience of pupils in the different sectors. The key characteristic of attainment in the system is that pupils in grammar schools generally have high levels of attainment, while the pattern in secondary schools is much more varied, with a long tail of low achieving schools and pupils.

In recent years there have been several major reform initiatives which are aimed at ensuring that the education system is more equitable and that it offers children and young people an education which is relevant to their needs. Two are particularly significant:

- The Post-Primary Review process which has resulted in a decision to end selection on ability as a criterion for entry into post-primary schools.
- The Reviews of the Primary and Post-Primary Curricula.

There are also current consultations/reviews/pilots in the following areas: Special Educational Needs legislation; School Exclusions; School Transport; Pre-School Provision; the Common Funding Formula; Further Education; the Enriched Curriculum for Primary Schools and School Counselling. This research was conducted against this back-drop of review, consultation and pilot. Many interviewees expressed optimism about the proposed changes and satisfaction that children's rights and interests were frequently a driving factor in the reform processes. Equally, the scale of change and, in certain instances, the lack of certainty about the proposals has created a certain amount of anxiety in the sector. Moreover, some interviewees expressed concern about the delays in effecting change, observing that this was unfair to those children who are currently in the system and who have only one bite at the cherry. The following analysis of the state of children's rights in, to and through education must be viewed in this wider context of consultation and proposed change.

SECTION 1: ACCESS TO EDUCATION

States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need (Art.28, CRC).

There is a variety of concerns about children's access to education and/or the ability of schools to deliver effective education in certain sectors. The key issues are as follows:

SCHOOL PROVISION AND FUNDING

The Department of Education (DE) has a statutory obligation to promote the education of the people of Northern Ireland (NI). Education and Library Boards (ELBs) are required to "contribute towards the spiritual, moral, mental and physical development of the community" by securing that "efficient education...is available to meet the needs of its area"¹. DE has responsibility for deciding which schools receive public funding and how that funding shall be allocated (Lundy, 2000: 45-54). The children we spoke to did not raise direct concerns about funding. However, a number of them criticised the state of school buildings and facilities. Some of their comments included:

"Why can we not get a new school and better security? The children from other schools walk through our school grounds and drink and break windows and our school has to pay for them, not the government" (Girl, aged 14).

"Our school is so rundown and really unhygienic but the government won't give us a new school and it's not fair" (Girl, aged 14).

"The heating is never put on in the morning when it is needed, it is put on in the evening when it isn't needed plus the ceiling in the History mobile leaks right above my table and it's been like this for years. The yard is also very dirty and when it rains our shoes and uniform get very dirty" (Boy, aged 14).



The key concerns relating to school provision which emerged in interviews with the key professionals were as follows:

- School finance:** There are currently seven different formulae in operation for recurrent school expenditure under the Local Management of Schools (LMS) system: one in each of the 5 ELBs, one for Grant-Maintained Integrated (GMI) schools and one for voluntary grammar schools. In 2001 DE launched a consultation on the introduction of a Common Funding Formula for all schools. This was positively received for the most part. However, a number of those interviewed as part of this research expressed concern about the ongoing delay in implementing reform. Since the interviews took place, the DE has launched a new consultation on a Common Funding Scheme (DE, 2004b). The objectives of the proposed reforms in the 2004 Consultation include: ensuring that all schools are funded on the same basis; narrowing the funding differential between primary and post-primary schools; and targeting resources in such a way as to mitigate the effects of social deprivation. It is proposed that the New TSN proportion of funding will be based on a combination of (a) a Social Deprivation element determined through Free School Meal entitlement and (b) a Special Educational Needs element determined through pupils' results in Key Stage Assessments. Interviewees expressed concern that providing extra funding to schools with poor Key Stage Assessments created a disincentive for schools to improve. DE has issued an equality impact assessment which indicates how it proposes to address the concerns which were expressed about specific aspects of the 2001 proposals.
- Integrated schools:** DE has a statutory obligation to encourage and facilitate the development of integrated education². The Belfast Agreement, 'A Shared Future' and the Programme for Government all made commitments to increasing the number of integrated schools. However, only around 5% of pupils attend integrated schools. The low level of integration has been the subject of adverse comment by both the Committee on the Rights of the Child (UN, 2002: 12) and the UN Special Rapporteur on the Right to Education (UN, 2003). There is an unmet demand for places. Approximately 800 children are turned away from integrated schools each year and these children are unlikely to find a place in any other integrated schools. There are still areas in NI where children cannot access integrated education or cannot attend an integrated post-primary school. Under current arrangements, the two main routes for the development of the integrated sector lie in the opening of entirely new schools, usually following the initiative of a group of parents, or the transformation of

existing schools following a parental vote. The first option is constrained by falling rolls generally, while the second is limited by the small number of schools that have any significant degree of mixing in their current enrolment (Gallagher, Smith and Montgomery, 2003). A further concern is the fact that when DE is deciding whether or not to recognise a new integrated school, it does not just look at the viability of the proposed school, but will assess the impact on other existing schools in the area. In the Northern Ireland Council on Integrated Education's view, this approach is:

"short-term and denies parental choice to hundreds of pupils every year. We have funded a segregated system for over 80 years and now we need to engage in catch up."

- **Irish medium schools:** The United Kingdom signed the European Charter on Regional and Minority languages as a result of the Belfast Agreement. DE was also placed under a statutory obligation to encourage and facilitate the development of Irish medium education.³ Since then, there has been a significant increase in the number of grant-aided Irish medium schools. In 2001/2002, 2,143 pupils attended Irish medium schools compared to 1,332 in 1998/99. However, there are still areas where there is unmet demand for provision, particularly at secondary level. In Comhairle Na Gaelscolaíochta's view, part of the difficulty is that Irish medium education is viewed as "a luxury rather than a fundamental right". As illustrated in the picture and comments below, children attending Irish medium schools were particularly critical of the limited facilities in their school.

"Tá scoil s'againne maith go leor ach níl a lan haiseanna an agus ta an hait in a bhfuil sé suite thar a bheith faoin tuath mar sin de níl a lan haiseanna thart arainn. Bíonn orainn dul go dtí an scoil Béarla chun aiseanna s'acu a said. Bonn arainn 'mini-bus' a fhail thuas ansin agus glacann se a lan ama. Ba mhaith liom scoil s'againn a bheith níos m_ " - "Our school is good enough but we don't have a lot of resources and the place where it is located is nearly out in the country side so we don't have a lot of facilities around us. We have to go to the English school to use the facilities. We have to take a minibus up there and it takes a lot of time. I would like our school to be bigger" (Girl, aged 14).



*Nil halla spoirt ann -
 "We don't have a sports hall"*

A further specific concern relates to the insufficient number of places for Irish medium specific teacher training which impacts on the sector's capacity to expand and to provide an effective range of subjects for pupils. The 2004 Common Funding Scheme proposes that children attending Irish medium primary schools will attract an additional £100 and children attending Irish medium secondary schools will attract an additional £25 (DE, 2004b). Concern was expressed that this is not index-linked as it is in relation to other weighted pupil factors (e.g. for Traveller children).

- **Small schools:** Conflicting concerns were expressed about small schools. Some interviewees considered that small schools should be rationalised as they are expensive to maintain, 'socially limiting' and are restricted in their capacity to deliver an adequate curriculum. Others consider that there should be more support for these schools to ensure that children attending them are not disadvantaged. For example, it is considered unacceptable for there to be single teacher schools as these can jeopardise pupils' safety. Concern was also expressed about the capacity of smaller secondary schools to meet the range of subjects which would be expected when the Costello proposals in relation to the 'Entitlement Framework' are implemented. The proposed Common Funding Scheme proposes additional weighting for small schools. For example, primary schools with fewer than 100 pupils will receive an additional sum of £36, 343 and secondary schools with fewer than 200 pupils will be allocated an additional £102, 973.

PRE-SCHOOL EDUCATION

In 1998 DE launched the Pre-School Expansion Programme which was aimed at ensuring that every child had access to a year of quality pre-school education (DE, 1998). ELBs entered into partnerships with community play-groups and private day nurseries as well as statutory nursery units. In 2003 there were a total of 20, 971 funded pre-school places. DE indicate that every child whose parents want them to attend pre-school should now have a place and it has launched a new consultation to decide how best to take the issues forward (DE, 2004c). The key concerns which emerged during the research can be summarised as follows:

- The fact that places are not always in the locations or in the type of pre-school programme which parents want.
- The fact that much of pre-school provision is religiously segregated.
- The low participation in pre-school education of Traveller children.
- Only three out of the 37 Irish medium pre-school programmes are in statutory nursery units.
- There is no flexibility once the pre-school places are allocated.
- The fact that there are different adult:child ratios for nurseries and pre-school. The ratio in day nurseries is 1:8 while the ratio in nursery schools is 1:13.
- There are different age criteria for admission to nursery schools and pre-school play groups. Two year olds can be admitted to nursery schools while a child has to be three to get a funded place in the voluntary sector.
- The surplus of places in some areas/units has meant that places are offered to children in the year before pre-school with the result that many two years olds are in pre-school programmes which might not be appropriate for their needs.
- The need for more full-time places. Some places are funded for 2.5 hours while others are funded for 4.5 hours. The latter is preferred by parents and is seen to be significantly better in terms of the children's development.
- The funding difficulties faced by many voluntary sector providers.
- The quality of buildings and facilities in some units. Voluntary sector providers did not receive support for capital expenditure during the life-time of the programme.
- There is a need for further 'rural-proofing' of pre-school provision to ensure that children can access provision.

- The capacity of some programmes to make provision for children with special educational needs and the fact that children attending pre-school programmes do not have additional provision such as classroom assistants.

Many of these issues have been raised in the Consultation which closed on October 15th, 2004. The key issue from a children's rights perspective will be to ensure that all children have equal opportunity to access to high quality pre-school provision.

PRIMARY SCHOOLS

"States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all." (Art. 28, CRC).

In 2003/2004 there were 166, 372 children attending primary schools or pre-school programmes (DE, 2003d). In general terms, a cross-cutting theme in the research was the need to place more emphasis on provision in primary school in general and the early years in particular. The key issues which emerged in relation to primary school education are:

- Compulsory education in NI begins at age four. NI's school starting age is the lowest in Europe in spite of evidence that not all children are ready for formal education at such a young age and that all children do at least as well or better when formal education is delayed (Sharp, 2001). There is, as yet, no proposal to raise the school starting age but the concerns about formal education beginning too early have formed part of the review of the Primary Curriculum (see below).
- The primary curriculum is considered to be focused on knowledge rather than skills and pupils do not find it to be relevant or enjoyable (see below).
- The preoccupation of primary schools with the preparation for the transfer tests distorts the primary curriculum; and some children do not receive equal attention in the final two years of primary school (Gallagher and Smith, 2000).
- There is considered to be a need for further emphasis on tackling problems which develop at primary school level e.g. non-attendance and behavioural difficulties.
- The need for increased funding in primary schools. The consultation on the Common Funding Scheme contains proposals to close the gap between the funding of primary and post-primary schools (DE, 2004).

POST-PRIMARY SCHOOLS

"States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular... Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child..." (Art. 28, CRC)

In 2003/2004, there were 155, 394 children attending secondary schools. Of these, 63, 347 (approximately 40%) attended grammar schools which select pupils primarily on the basis of their performance in the centrally organised Transfer Procedure Tests, while the remaining 92, 047 children attended non-selective secondary schools (DE, 2003d). In 2000, DE published the

findings of a major research project on the operation of the selective system (Gallagher and Smith, 2000). On the basis of the evidence presented in this research, the major concerns about the current system from a children's rights perspective are as follows:

- Children from lower socio-economic groups are less likely to perform well in the transfer tests and therefore gain access to grammar schools.
- There are significant differences in educational attainment between children who received the same result in the Transfer Tests but then go to either grammar or secondary schools. This has been described as the 'grammar school effect' and it results in pupils attending grammar schools gaining on average an additional 16 points at GCSE stage.
- There is a lack of variety in the educational options open to children with differing talents and abilities in terms of access to academic, vocational and technical education.

Other concerns include the following:

- Children have indicated that the test puts them under extreme stress, disrupts the curriculum, has a detrimental effect on their friendships and labels a sizeable portion as 'failures' at age 11 (Leonard and Davey, 2001).
- The present transfer test does not meet international standards in testing (Gardner and Cowan, 2000).
- The admissions criteria employed by some schools may discriminate on the basis of race and disability and disadvantage children from lower socio-economic groups (Lundy, 2001).

In light of this, the Post Primary Review Body (The Burns Report) recommended the abolition of selection at age 11 (Post Primary Review Body, 2001). This was followed by the establishment of a further Post-Primary Review Working Group which resulted in the 2003 Costello Report (Post-Primary Review Working Group, 2003). Like the Burns Report, the Costello Review Group recommended the abolition of selection on ability and the introduction of pupil profiles to inform parents when they are deciding which school their child should attend. The Costello Report also recommended the introduction of an 'Entitlement Framework' which will guarantee children attending post-primary schools access to a range of academic and vocational courses. The recommendations have been accepted by the Minister for Education who has committed the government to the abolition of selection to post-primary schools from 2008. The announcement has been contentious as there are many people (primarily within the grammar sector) who oppose the reforms. Even those who are supportive of the Costello recommendations had concerns about the implementation of the changes. First, doubt was expressed as to whether or not the changes will actually happen since there is ongoing uncertainty resulting from the existing political arrangements. If devolution is restored, responsibility for education will be transferred to the NI Assembly and the indications are that the majority of Unionist politicians oppose the reforms. Secondly, there is a need for clarity on the new admissions arrangements. DE has recently appointed a working group to make recommendations as to how pupils will be selected for admission to oversubscribed schools. This is perceived as a key issue; many are concerned that selection on ability could be replaced by different forms of social selection (e.g. 'selection by post-code'). Thirdly, there is uncertainty about how the new school clusters will operate. And finally, doubt was expressed about whether the resources exist to implement the changes properly, particularly when the change is accompanying the implementation of the curriculum review.

POST-16 EDUCATION

Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need (Art.28, CRC)

Children are of compulsory school age until they are 16⁴. After this, their educational options are: (a) to stay at school to undertake A-levels or (b) to undertake training or further education. In 2002/2003 the participation rate of 16 and 17 year olds in full-time education and training was 72% (67% for males and 77.1% for females) (DEL, 2003). This is significantly higher than the participation rate in England (64.9%). In 2002/2003, 24, 896 16-17 year olds were in school and 14, 259 were enrolled in Further Education courses. There is a difference in the educational experiences of those who stay on at school and those who leave school at 16. Those who stay on at school tend to have very high levels of academic achievement. For example, in 2001/2002 79.2% of grammar school leavers had achieved at least two A-levels or equivalent (DE, 2003).

A significant number of young people receive education in the Further Education (FE) sector. In 2001/2002, 47, 502 students in FE colleges were aged 19 or under. The Department for Employment and Learning (DEL) has just completed a major consultation, Further Education Means Business, which identifies a need to improve the quality of educational provision in Further Education (DEL, 2004). The review describes the FE sector as the 'Cinderella' of the education sector. The objectives of the review include: working more closely with schools to ensure that increasing numbers of school pupils (aged 14-19) have access to vocational experience; and ensuring that 16-19 year olds have the skills, knowledge and understanding to enhance their employability. As part of the new strategy to increase the quality of provision, DEL proposes to employ performance indicators in relation to enrolments, retention and achievement. DE and DEL will also be working in partnership to enhance vocational and training opportunities for young people in the wake of the Costello post-primary reforms.

Key issues include:

- There is lack of clarity as to the legal basis on which secondary schools refuse to allow children to stay at school to undertake A-levels. A number of interviewees expressed concern about the arbitrariness of the criteria which schools use to decide whether a child is allowed to do A levels (normally through a set number of points at GCSE).
- FE colleges are required to have regard to the needs of students over compulsory school age who have learning difficulties⁵. The ETI has identified ongoing problems with the provision for children with learning difficulties in the Further Education sector (ETI, 2004). DE is working with DEL to improve transitional arrangements for young people with special educational needs moving from school to FE.
- Children with significant visual or hearing impairments who want to pursue A-levels have limited educational options within NI and can experience difficulty obtaining support from ELBs to attend specialist schools elsewhere.
- There is a lack of clarity about who has responsibility for the provision of child-care for school-age mothers once they are over 16.

- In recent research, some young people expressed the view that it cost too much to stay on at school after 16 (Youth@CLC, 2004: 26). Since September 2004, 16 year olds who stay on at school or Further Education may be entitled to an Education Maintenance Allowance (a maximum of £30 per week). However, there are restrictions on entitlement (the maximum is paid only when the household income is below £19, 630 per annum). While the allowance is generally considered to be a welcome development in terms of encouraging young people to stay in education or training, young people have questioned its adequacy. Those in households with an income between £24, 031 and £30, 000 per annum receive £10 per week while those in households with an annual income exceeding £30, 000 are not entitled to the allowance.

ATTENDANCE AT SCHOOL

"States Parties shall take steps to encourage regular attendance at school" (Art.28, CRC)

Levels of attendance at school in NI are relatively high overall (for example, children attended on 90% of school days in secondary schools and 95% in grammar schools in 2002/2003). The difficulty is that a small number of children have very high levels of non-attendance, with detrimental effects not just for their education but their general life chances. Parents are under an obligation to ensure that their children attend school regularly.⁶ Schools are required to monitor attendance and will refer a child to the Education Welfare Service when attendance levels fall below 85% of school days. Education Welfare Officers (EWOs) will attempt to work with the family to try to restore a pattern of regular attendance but have a range of enforcement powers if co-operation is not secured. First, they can apply to the court for an Education Supervision Order (ESO) which allows them to give parents and children directions aimed at increasing levels of attendance. In cases of persistent non-attendance, parents can be prosecuted and fined. Some of the current problems in securing school attendance which were identified are as follows:

- Parentally-condoned absences: for example, holidays in term-time and the withdrawal of children in rural communities during farming periods.
- The need for more support for young carers to ensure that their education is not adversely affected.
- Problems in identifying and tracing some children. EWOs considered that there are children who are "lost to the system" i.e. have not been registered at school or have left a school and no one knows where they are. There can also be difficulties tracing Traveller children when the family moves location.
- The legal enforcement mechanisms are considered to be ineffective in the majority of cases. The effort involved in obtaining an ESO is not considered to be worth it in most cases and EWOs are reluctant to institute criminal prosecutions because of the financial impact on the family and the fact that parents are often unable to do anything when faced with a school-refuser.

In general terms, EWOs considered that the key to addressing high levels of non-attendance did not lie in legal enforcement measures. What was required was: (a) a need to be more proactive in identifying children whose attendance is dropping before the non-school attendance becomes embedded and (b) a need to provide an education which children are motivated to go to. In this respect there was praise for the vocational educational pilots (e.g. the Key Stage 4 Flexible Curriculum Initiative and for the proposed focus on life skills and enjoyment in the new

curriculum). In England and Wales, there has been discussion about lowering the age of compulsory education to enable those who do not wish to attend formal education to move to more vocationally relevant programmes.

SCHOOL EXCLUSIONS

Access to effective education; non-discrimination; right to have views given due weight.

All schools are required to have a scheme for the suspension and expulsion of pupils and are under a series of legal requirements in relation to the procedures which must be followed when a pupil is excluded from school.⁷ DE has recently issued a review of the procedures used by schools - Suspension and Expulsion Procedures: Proposals for Change (DE, 2004d). The consultation on these proposals closed in July 2004 and it is hoped to have revised legislation in place by 2006. The Review Group found that there were major variations in the Schemes for Suspensions and Expulsions which schools use. It has proposed that all schools follow a universal scheme for exclusions which should result in greater consistency and equality of treatment across the sector. Concern has been expressed that this could be undermined if schools are able to apply for exemptions from the universal scheme.

Suspensions

Pupils can only be suspended by the Principal.⁸ The initial period for suspension cannot exceed five days and a pupil cannot be expelled for longer than 45 days in any school year.

In 2002/2003, suspensions were officially notified for 5,779 pupils. Pupils who get suspended are most likely to be male and to live in areas of high social deprivation. Other concerns about suspensions from a children's rights perspective are as follows:

- In 2002/2003, 1.8% of the school population were notified as suspended. However, it is generally thought that this is less than the actual figure because of the under-reporting of suspensions (Kilpatrick and Barr, 1999; 2002).
- Between 2000/2001 and 2002/2003 the numbers of recorded suspensions of Key Stage 1 pupils more than doubled.
- A disproportionate number of children with statements of special educational needs (SEN) get suspended (Kilpatrick and Barr, 2002). It was queried whether the suspension of children with statements is appropriate or whether there should be a review of their statement.
- EWOs queried whether suspension was an effective disciplinary technique. One EWO pointed out: "There is more times you go out to a child's house and the parents are mad at the school for suspending them because all the kids wanted was an excuse to stay at home".
- The grounds for suspension vary considerably between schools, with some schools suspending pupil for relatively trivial misbehaviours. One NGO worker recounted a story of a child being suspended indefinitely because his shoes were the wrong colour and asked: "What's more important - the colour of your shoes or education?" (NGO Worker).
- The Review Group identified a range of unlawful practices including: the ongoing use of unofficial suspensions; suspensions being imposed in the first instance for longer than 5 days; and the overall period of suspension lasting longer than 45 days.
- Suspensions are often used to gain time for the investigation of incidents of misbehaviour rather than as a punishment. The Review group has suggested that schools which need time to investigate an incident should consider using a short 'time-out' period of no more than two days within the school setting.

- While case law has established that schools must give the pupil an opportunity to express their views, the legislation does not give children a statutory right to have their views taken into account.
- When a child is suspended, the school is under an obligation to provide the pupil with work but the amount of work and quality of supervision is not specified. One NGO worker described how this could depend on the child's relationship with the teacher and the teacher's perception of what they had done: "If the teacher doesn't give a damn, they mightn't get it for weeks ... rather than thinking "ah, she's awful nice, I'll leave out her homework", it's like "no, hang on that child is suspended for these reasons."
- There can be an adverse impact on children's education when they are suspended for long periods of time. The CLC has recommended a change in the law to the effect that children should not be suspended for periods of over 15 days without the approval of the ELB (CLC, 2004c).
- There is no independent appeal against a suspension. The only option open to children who wish to challenge a suspension is a complaint to the Department or an action for judicial review in the High Court. The Review Group has recommended that there should not be a right of appeal for practical reasons. Instead, it has recommended tightening the guidance for suspensions. While the latter has been welcomed, it is not a substitute for an appeal mechanism, an issue which was highlighted as a matter of concern by the Committee in 2002 (UN, 2002: 12).

The Review has recommended that ETI monitor school practices in relation to suspensions as part of its inspection of pastoral care. The Review has also recommended that DE should issue guidance to schools which clarifies their obligations in relation to the procedure for suspensions and provides advice about the educational provision which should be made for pupils who are suspended. It has recommended that this guidance should indicate that suspensions cannot be extended simply because a parent does not attend a meeting about an initial suspension. However, there is an additional need for guidance which identifies all other unacceptable grounds for suspension.

Expulsions

Pupils can only be expelled when they have first served a period of suspension and there has been a consultation meeting at which their future education has been discussed. The expelling authority is the ELB in Controlled schools and the Board of Governors in all other schools. There are much higher rates of expulsions in schools where the decision is taken by the Board of Governors. In light of this, the Review Group has recommended that there should be either a single regional expelling authority or that independent assessors should be appointed to investigate and represent the child's interests as a means of ensuring greater consistency across the sector.

Other significant concerns about school expulsions include:

- There is evidence that schools are continuing to put pressure on parents to withdraw their child thereby forfeiting their right to a full consideration of the issues and notification of their right to challenge the decision.
- Schools are required to have a pre-exclusion consultation at which the child's future educational provision will be discussed. These discussions are not always considered to be genuine. Some parents have learning difficulties and do not fully understand what is going on.

The Review has proposed that pupils should be given an opportunity to attend the meeting and that DE should issue those involved with guidance as to best practice.

- Pupils who are expelled from special schools and pupils with special educational needs who are expelled from mainstream schools can find it particularly difficult to obtain alternative education. The Review has recommended that pupils with statements of SEN should not be expelled.
- Parents can appeal a decision to expel to an ELB-organised appeal tribunal. The Review has proposed that there should be an independent appeal tribunal. The pupil currently has no right to be heard at the expulsion appeal tribunal, a fact which has been criticised by the Committee (UN, 2002: 12). There is no legal aid available for representation at the tribunal.
- Parents can face major difficulties and delays in getting a child who has been expelled admitted into another school. Some schools use tactical delays (e.g. by leaving it to the next Governor meeting). The Review has recommended that schools should be required to respond within 15 school days and that ELBs should direct admission under Art. 42 of the 1996 Order if the school does not respond within the time limit.
- EWOs indicate that ELBs are reluctant to use their statutory powers to direct the child's admission to a school. The Review has recommended that ELBs should direct admission if a school does not give sufficiently good reasons for not admitting the child.
- A school's decision to refuse to admit a child on the basis that it would prejudice the efficient use of resources or (in the case of grammar schools) the academic ability of the child is not of a standard equivalent to that of other pupils cannot be appealed to the Admissions Appeal Tribunal, leaving the child without an accessible means of challenging a refusal to admit.
- There can be long delays in arranging alternative (Education Otherwise Than At School - 'EOTAS') provision for children who are unable to gain admission to or attend mainstream schools. The Review has recommended that there should be a 15-day 'operational target' for providing suitable alternative educational provision. The Children's Law Centre has recommended that this should be a statutory duty, with the legislation reflecting the 'exceptional circumstances' in which a child cannot be returned to full-time provision within 15 days (CLC, 2004c).

The major children's rights issue in this context is to reduce the numbers of exclusions, particularly suspensions. The widespread use of school exclusions was criticised by the Committee (UN, 2002: 12). The potential long-term harms which are associated with exclusion are well-documented. One EWO queried the value of exclusion as disciplinary strategy in these terms: "Exclusion has been used for generations in schools and it has never worked ... We know that exclusion is harmful yet it is still being used."

A number of interviewees in the education sector expressed concern about the need to balance the rights of the child who is facing exclusion with those of other children in the school. In a significant number of interviews, the need to balance the rights of the child with behavioural difficulties with the rights of other children in the class emerged as a key dilemma. Some observed that it is in all children's interests that there is adequate support and assistance to address the needs of children whose behaviour may be disruptive. This requires early intervention when behavioural difficulties emerge and specialist assistance for those with emotional and behavioural difficulties.

CHILDREN WHO ARE OUT OF SCHOOL

Access to an effective education; non-discrimination.

Children may be out of formal education for a variety of reasons. These include those who have been expelled; non-school attenders; school-refusers; children educated in hospital schools; and school-aged mothers. ELBs make EOTAS provision in several ways, including through home tuition or in Alternative Education Programmes (AEP). Some parents choose to educate their children at home. The law requires parents to ensure that a child receives: “efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have”⁹. The very general wording of this provision has been criticised as has the fact that the legal onus is placed on parents. It is difficult to ensure that children who are out of school are receiving a ‘suitable’ education, particularly when there is no specified minimum entitlement. Moreover, concern was expressed about the fact that many children who are educated out of school have special educational needs and that the reason they are out of school is due to the fact that their needs are not met within schools. One AEP worker observed:

“In my experience, a lot of young people would act up to hide their low educational ability from their peers. So it’s easier to get threw out of the classroom and stand in the corridor than admit you need help ... which they may not get because there’s 35 young people and only one teacher.”

Home Tuition

The amount of home tuition a child receives is generally limited to between six and eight hours a week. It was considered unacceptable: “... that the most vulnerable children are those who receive least provision” (EWO).

The fact that these children have so much unstructured time was also considered to further increase their vulnerability e.g. to sexual exploitation and to substance abuse. There is no statutory minimum number of hours in NI. In England and Wales, children are entitled to receive a minimum of 25 hours per week. Some interviewees expressed concern with this approach on the basis that some children would not be able to cope with that amount of structured tuition. However, there are clear benefits in the establishment of a statutory minimum which could be reduced in exceptional instances in accordance with the child’s needs.

Alternative Education Programmes

Alternative Education Programmes are offered both by ELBs and by community-based groups. It is not known how many children are currently receiving education in AEP programmes. AEP staff are positive about the contribution the programmes make for children for whom school is not suitable. A recurring theme was that formal education did not suit every child and young person. The young people we spoke to were also positive about the programmes in comparison to their experience in mainstream schools. In particular, they valued: the smaller class sizes; the relationships they had with the staff; the reduced hours in the programme and the fact that the curriculum was more relevant. Those working in the formal education sector expressed a range of views. Some were concerned about the limited availability of AEP. Others accepted the need for the service but expressed reservations that AEP could provide a “perverse incentive” for pupils to act up in school so as to get referred on to a programmes. Other key issues include:

- AEP is not accessible throughout NI and existing programmes can be discontinued due to the discontinuance of funding.

- There is a variation in the numbers of hours tuition offered across the various programmes.
- There is a lack of clarity about referral and admissions criteria. AEP workers expressed concern that not all young people are aware that a referral has been made by schools.
- Some programmes may not be capable of delivering high quality education when they are reliant on short-term funding, are poorly resourced and receive little professional support to deliver curricular elements. AEP workers expressed frustration with the time spent trying to secure funding:

"Even in order to get money and to keep the project open and to carry out effective work with young people, the things you have to do to do that apart from work with them is terrible and the distraction cost of doing that and meeting with people" (AEP Worker).

One of the groups of young people we spoke to was very critical of the state of the buildings in which they were receiving their education. When asked for their views on the AEP programme, they invited the interviewer to take a look around on the basis that: "this room's about to fall down round us". AEP workers also expressed concern about the state of the buildings and the impact that had on the young people. One said:

"You only need to look around at this and other centres to say this is how much we value you ... at the end of the day, there's pupils in the likes of [names school] being educated in the lap of luxury and that can't be disputed and why can't our young people?"

Further issues of concern include:

- The lack of breadth of education provided in some programmes.
- Attendance at AEP programmes can be seen as stigmatising and can further alienate young people who are already marginalised.
- The fact that a significant proportion of children in AEP have special educational needs and some programmes do not have the capacity or expertise to make provision for children with special educational needs.
- The difficulties in re-integrating children into mainstream schools. In many cases, integration is not seen as an objective for students. Some consider that this integration is unrealistic and that the focus should be on integrating children into further education and vocational training.
- The fact that AEP is not appropriate for all children who attend them. Some children attending AEP could benefit from full-time education in mainstream schools but are attending because they cannot get admission to a mainstream school for a variety of reasons including poor health. AEP workers also expressed concern that many children were young carers:

"A lot of the young people we've had over the years, the reason why their attendance has been low is caring issues... so through no fault of their own, they've had pretty low attendance, therefore they haven't caught up with their coursework, therefore schools maybe don't offer the support systems they need."

In general terms, it was felt that young people have a right to be educated in a safe, warm resourced environment and, where possible, should be given the same access to opportunities as pupils in mainstream schools. DE, DEL and OFMDFM have commissioned a major research study on Alternative Education which is due to report in February 2006.

Children who are Home-Schooled by Parental Choice

In 2003/2004 there were 132 children known to ELBs to be educated at home. Parents are under an obligation to secure their child's education by "regular school attendance or otherwise".¹⁰ If parents opt to educate a child at home, they must still satisfy the ELB that the child is receiving "efficient full-time education suitable to his age ability and aptitude and to any special educational needs he may have."¹¹ However, the legislation does not specify the procedure which must be followed to determine whether the child is receiving a suitable education. One interviewee who had home-schooled her three children expressed concerns about both the levels of support she received and the fact that the ELB had not actively inspected the standard of education her children were receiving.

SCHOOL TRANSPORT

Access to education; safety; protection from maltreatment

ELBs are required to provide assistance with transport where they consider it necessary to facilitate a child's attendance at school.¹² In practice ELBs will provide assistance to children living outside the statutory walking distances (two miles for primary school children and three miles for children at secondary school) and other children whom it considers it necessary to assist although they live within the designated walking distances. DE Circular 1996/41 provides guidance to ELBs on transport provision. In particular, it restricts assistance to children for whom the school attended is the 'nearest suitable school' in one of a number of categories - maintained, controlled, Irish medium, integrated, denominational and non-denominational grammar. Statements of special educational needs will normally specify the transport assistance which will be provided.

A small number of children in the schools' sample raised issues about school transport, most particularly in relation to the length of the journey to school and the tendency for buses to be overcrowded. However, this issue was raised in almost all of the interviews with professionals in the education sector. The key criticism of the current arrangements is that they are badly targeted and often do not assist those who need it most. The walking distances are considered to be unrealistic and the transport guidance does not take account of the realities of many children's situations. One consequence is that parents of limited means may not be sending their child to school because they don't have bus fares while the parents of children with bus passes are taken to school by car. Other concerns identified in the research include:

- Children in rural areas often have long walks to bus stops which can be followed by extended waits on isolated roads in dark mornings. Services are at fixed times so that children can be left with nowhere to go when the school day starts later or finishes early (e.g. during exams).
- Children attending Irish-medium and integrated schools have particular difficulties with access to suitable transport. The wider spread of schools means that children often have further to travel and, there is a concern that, as newcomers, these sectors lose out to more established schools in transport planning.
- ELBs will generally limit assistance to children living outside walking distances. There is a need to clarify whether the ELB or DHSSPS should make provision for other 'children in need.' EWOs expressed concern about children living in families with low income being unable to afford bus fares: "The child would miss school maybe for two days before the benefit arrives. It was unrealistic because of sectarian areas to expect the child to walk to school" (EWO).

¹⁰ Education and Libraries (NI) Order 1986, article 46.

¹¹ Ibid.

¹² Education and Libraries (NI) Order 1986, article 52, substituted by Education (NI) Order 1997, article 2.

- There can be difficulties ensuring transport for looked after children when there are multiple placements.
- There is a need for a dedicated strategy to protect children from bullying on buses.
- There is a range of safety issues, all of which were highlighted in a Report of the NI Assembly's Environment Committee. These include: the rule which allows three children to share a double seat; the fact that many children have to stand; and the limited availability of seat-belts (NI Assembly, Committee for the Environment, 2001). The nature and effects of such conditions is captured in the words of the following school child: "Our bus is way over the limit. People are standing and falling over each other and people are struggling to get past one another. Has the depot ever thought of people who are sometimes short of breath or nervous? No, it's like a sauna in there. Everyone is jammed together. My uncle has already been to see about this but he has had no results. If only we had another bus ... hint, hint!" (Girl, aged 14).
- When children attend special needs schools in England and Wales, help with costs of transport for family visits are limited.

Additionally a number of children we spoke to who attended special schools in Northern Ireland considered that their journeys are often too long and that the yellow buses are stigmatising. Typical comments included:

"We don't come home at the right time, it's too slow the banana bus... we're embarrassed on that bus. We hide under the seats" (Girl, aged 14).

"Get rid of the yellow custard bus, it's embarrassing" (Boy, aged 15).



- The Assembly's Environment Committee has recommended that ALL school buses should be yellow, clearly marked and have flashing lights so as to warn drivers that children might be embarking or disembarking.
- As more children are educated in mainstream schools, school transport will have to be adapted to make it accessible. There is a concern about the fact that adapting buses reduces their capacity and that the resources do not exist to expand the fleet.

DE has recently commissioned a review of school transport provision. The focus of the review is to address ways of reducing the spiralling costs of this service (just over £57 million per year in 2002/2003). However, it is anticipated that the second stage of the review will be to consider a model which targets assistance at those most in need of help.

SECTION 2: EQUALITY AND NON-DISCRIMINATION

The UNESCO Convention Against Discrimination in Education prohibits; "any distinction, exclusion, limitation or preference which being based on race, colour, sex language, religion, political or other opinion, national or social origin, economic condition or birth which has the purpose or effect of nullifying or impairing equality of treatment in education" Art.2, CRC.

There are various groups of children and young people in NI who experience difficulty in securing equal access to education. Recent research published by the Equality Commission has identified a general need for teachers to receive appropriate training and guidance in addressing equality issues in the classroom (Elwood et al., 2004). Some of the barriers facing particularly vulnerable children and young people are described below.

CHILDREN WITH SPECIAL EDUCATIONAL NEEDS (SEN)

"States should recognize the principle of equal primary, secondary and tertiary educational opportunities for children, youth and adults with disabilities, in integrated settings"¹³.

The Education and Libraries (NI) Order 1996 makes provision for the identification, assessment and provision of education for children with learning difficulties (Lundy, 2000). Schools are required by law to have regard to the Code of Practice on Special Educational Needs (DE, 1998). In 1999, the NI Select Affairs Committee published a very critical report on SEN provision and expenditure (NI Select Affairs Committee, 1999). Since then there has been a wide range of DE-led initiatives in the area, including: Task Forces on Dyslexia and Autism; increased training places for Educational Psychologists; and various cross-border initiatives including the establishment of the Midleton Centre for Autism. In 2004 DE provided ear-marked funding to ELBs for, inter alia, Dyslexia, Emotional and Behavioural Difficulties (EBD), Autistic Spectrum Disorders (ASD), pre-school provision and early intervention. The DE has also recently undertaken a major consultation on proposed new legislation - The Special Educational Needs and Disability Order (SENDO) - which mirrors similar provisions introduced in England and Wales in 2001. The major objectives of the new legislation are: (a) to strengthen the right of children to be educated in mainstream schools and (b) to introduce prohibition on discrimination on the grounds of disability. The DE is in the process of developing supplementary guidance to the existing Code of Practice on SEN and has commissioned the Equality Commission to develop a Code of Practice on Disability Discrimination. Although many of these recent developments have been welcomed, the area of SEN provision emerged as one of the major concerns amongst professionals in the sector. The scope and complexity of the field and the fact that it was a significant focus in many of the interviews conducted as part of this research makes it difficult to do justice to all of the issues which were raised on this topic. However, the most common concerns can be summarised as follows:

Delays in Assessment and Statementing

Those who work with children indicate that there are still unacceptable delays in the statementing process. Particular concerns were expressed about delays in obtaining a statutory assessment and the ways in which waiting lists to see Educational Psychologists are sometimes handled. ELBs are in the process of introducing a new management of information system which will enable them to monitor the time taken to process assessments and statements. DE has provided ELBs with additional funding in 2004/2005 to employ extra Educational Psychologists. ELBs are attempting to reduce their waiting lists in a variety of ways. However, one of the major difficulties is considered to derive from the fact that NI does not have statutory time limits in respect of a number of key stages in the process. The Children's Law Centre and SENAC have both recommended that the legislation should, as a minimum, require the same statutory time-limits for compliance as apply in England and Wales (e.g. ELBs should have six weeks to notify a parent that they are not going to conduct a statutory assessment etc).

Inadequate Levels of Provision

Various agencies working with children who have learning difficulties identified problems in the levels of provision. This was a common theme across all areas of learning difficulty. However, four areas emerged as being of particular concern in the interviews with key professionals:

- **Emotional and Behavioural Difficulties (EBD)** There is a need to get help for children before their behaviour ends up being treated as a matter of discipline and the child is excluded from school. If the child is expelled, the major concern is the limited availability of alternative provision, with the result that many children end up receiving home-based tuition. There was also concern that serious behavioural problems are now emerging earlier and that there is an increasing need for support in the primary sector.
- **Autistic Spectrum Disorders (ASD)** In spite of the various initiatives in this area, including the Task Force, concern was expressed that ASD is still misunderstood and misdiagnosed. Part of the difficulty derives from the fact that ASD is complex and multi-faceted and that children will have an uneven profile of skills. In particular, those children who have Asperger's Syndrome and are high-functioning are often not identified early enough, with the result that the child can experience additional health problems (such as depression). Moreover, it can be difficult to obtain financial assistance from ELBs for some forms of assistance (such as Applied Behaviour Analysis - 'ABA'). It is thought that no more than 10 children in NI receive ELB support for ABA.
- **Speech and Language Therapy (SLT)** This is the responsibility of Health and Social Services Trusts. There are ongoing concerns about shortages of trained professionals. Recent litigation in England and Wales has indicated that education authorities are bound to make this provision and cannot use a defence that there is a shortage of therapists in the health sector. One interviewee indicated that this was a situation of "obligation without control" and argued that responsibility for SLT should be transferred to ELBs to allow them to plan to meet the needs of children. DE has received EPF funding for a pilot project in which Key Stage 1 teachers and classroom assistants are trained to identify speech and language difficulties.
- **Occupational Therapy** There can be major delays in obtaining assessments and therapy. A recent survey of waiting lists for occupational therapy for children with Developmental Coordination Disorder indicated that children in NI can wait up to three years for assessment (Dunford & Richards, 2003). There can also be difficulty ensuring that the provision is made as the child's needs are usually set out under Part 6 (non-educational needs) in the child's statement.

Other general concerns with provision which were raised during interviews were as follows:

- Variations in the types and level of provision in various ELBs. Some ELBs are perceived as having better levels of provision and it was thought that some had become 'victims of their own success'. The percentage of pupils with statements of special educational needs varies from 2.8% in the NEELB to 4.7% in the SEELB. The SEN Regional Strategy Group has been working on Common Criteria for Assessment which are aimed at ensuring a more consistent approach across the ELBs. These are being put in place from September, pending an EQIA.
- There is concern about the shortages of specialised workers. If someone becomes sick or leaves, there may be no back up and the child will not receive help.
- The adequacy of support for children attending Irish Medium schools. There is a pilot Irish-Medium reading scheme. However, the availability of specialist support is considered to be

limited generally. Although research indicates that children in bi-lingual learning environments do not have any additional problems, it is thought that there can be a tendency to blame learning difficulties on the medium rather than to identify the child's underlying problems.

Lack of Support and Advice for Parents

SEN legislation is the most complex area of education law. It is difficult for most parents but completely inaccessible to those who may have learning difficulties themselves. The one agency which provides specialist advice - The Special Education Needs Advice Centre (SENAC) - operates on a part-time basis and does not receive core funding. The proposed SENDO includes provision for information and dispute avoidance and resolution services. When it is introduced, ELBs will receive a budgetary allocation for this service and will have discretion as to how best to spend it.

Limited Participation of Children and Young People in Decision-making

Children with SEN do not have any legal rights to have their views taken into account in the decisions which affect them. The Code of Practice on SEN states that: "all reasonable efforts should be made to ascertain the views of the child or young person about his or her own learning difficulties and education, offering encouragement where necessary" (DE, 1998, para. 2.28). However, this is not legally binding and there is no guidance provided in the Code as to how this should be done (Lundy, 2000). Moreover, children do not have a separate right to be heard when appeals are made to the Special Educational Needs Tribunal. Legal aid is not available for representation at the tribunal. Moreover, the fact that the appeal from the SENT is given to the parent and not the child closes down the possibility of children receiving legal aid in their own name if there is a further appeal from the decision of the Tribunal.

Children Attending Special Schools

In 2003/2004, there were 4,834 children attending special schools. These children will normally all have a statement of special educational needs. Key issues include:

- Research undertaken by young people with experience of the system highlights significant concern with the range and quality of the provision available in special schools (Educable, 2000; Monteith et al., 2002)
- Young people express concern about being socially isolated; that teachers' aspirations for them are limited; and that the teachers often do not respect their views (Educable, 2000).
- Young people at special schools complained about bullying just as much as those attending mainstream schools, noting how it makes "you feel unwanted" and "not want to go to school". The following picture (which was taken from a poster drawn by a boy attending a special school for children with moderate learning difficulties and depicts two boys fighting over the words "Ha ha You are gay") is representative of the concerns many children in SEN schools expressed about bullying:



"What I don't like about school is people who try to tell me what to do. And people who think they can get away with things and they think they are smart and they think they can do better thinks than me. And there is another think people make fun of me and say thinks behind my back watch really a noise me. People who think they are better than me and think they can beat me up and think I can't fight. And another one people who act hard on front of me are in front of smaller people. And think they can do more stuff and me and think I am a loner when I am not. And people who call me gay watch really a noise me and calls me names. And I hate people who push me and they think they can use me for stuff and walk all over me" (Boy, aged 15).

- There is a need for further guidance and training about the appropriate use of restraint in special schools.
- The stigmatising effect of the use of yellow buses in some ELBs (see above).
- Young people in special schools also complained that their uniform was stigmatising. One young person complained that when he went to the shops in his uniform, other children made fun of him.
- When children attend special schools outside NI, there can be difficulties for children settling into schools yet transport assistance for parental visits is limited.

Children Attending Mainstream Schools

The Salamanca Statement and Framework for Action on Special Needs Education provides that "children with disabilities should have access to regular schools which can accommodate them within a child-centred pedagogy capable of meeting their needs".¹⁴

An increasing number of children with special educational needs attend mainstream schools. Boards of Governors are under an obligation to "use their best endeavours" to ensure that the child's needs are met. However, in practice, there are concerns about the extent to which schools are able to meet children's needs. The Chief Inspector has identified the need to address the variations in the quality and nature of provision for children with learning difficulties in most mainstream schools (ETI, 2003b).

Other key concerns include:

- There is widespread bullying of children with SEN in mainstream schools because they are different. For example, in research conducted for Barnardo's, one young person gave this account of his or her experience: "I am an ugly, fat and short geek. That's what the boys call me. I try to make friends and they push me away. Sometimes they run after me and hit me" (Monteith et al., 2002).
- Mainstream schools often do not have the training, resources or capacity to protect and safeguard the welfare of children with special educational needs.
- The need for further guidance and support for mainstream schools in relation to the administration of medicines and provision of health-related assistance for pupils.
- The Annual School Census for 2003 indicates that there were 35, 579 pupils at stages 1 to 4 of the Code of Practice (i.e. children who have SEN but are not statemented). These children have very limited rights in terms of educational provision and do not have a specific right to appeal to the SENT about the extent or quality of SEN provision (Lundy, 1998). The major difficulty for most children will be in relation to the allocation of resources in the school. Each school receives an allocation for SEN which is based on the proportion of children receiving

free school meals. However, this money is not ring-fenced and there is concern that it can end up being used for other things when school budgets are under pressure. The NI Affairs Committee recommended that this money should be kept in a separate budget and that schools should be required to account for the expenditure (NI Affairs Committee, 1999).

The proposed SENDO will give parents a right to have their children educated in mainstream schools provided that this is not incompatible with the efficient education of the other children at the school. Resource considerations will no longer be permitted reasons to deny a child a place in a mainstream school. This emphasis on children receiving education in mainstream schools is very positive from a children's rights perspective. However, while an increased emphasis on inclusion was positively welcomed by many interviewees, problems were foreseen in relation to the capacity of mainstream schools to cope with increasing numbers of children with learning difficulties. Specific concerns were raised in relation to schools' ability to cope with issues of bullying and child protection and to undertake meaningful consultation with children who have special educational needs. Many interviewees also referred to the resource implications of the proposed changes and expressed dismay that the reforms were thought to be 'resource neutral'. In one organisation's view:

"Without additional funding for this Order it is difficult to see how progress can ever be made from devising a strategy to the delivery of an adequate service. It is disingenuous to raise the possibility of meeting real needs of children and never provide the resources to see these needs are ever met" (Educational organisation, submission to SENDO consultation).

Four broad themes emerged in the interviews with key professionals in relation to special educational needs. The first was the inadequacy of resources at both ELB and school level and the fact that the limitations make it very difficult for provision to be 'needs-led', never mind 'rights-led'. Secondly, concern was expressed about access to education for children from socially-disadvantaged backgrounds. The view was expressed that the current limits on resources favour educated and affluent parents who are in a better position to seek advice, to negotiate with schools and ELBs and to challenge decisions. The third was the pressing need for early intervention. Many justified this on a resource basis, arguing that it would be more cost-effective in the long run to get assistance to children as early as possible. Finally, concern was expressed that the statementing process was "long, cumbersome, clinical and legalistic", and ultimately led to a document which: (a) could be so generally worded as to be meaningless and/or (b) often identified what experienced teachers already knew. A number of interviewees called for "blue-skies" thinking in this area which would direct resources to schools with appropriate external support.

MINORITY ETHNIC CHILDREN

Non-discrimination; respect for the child's cultural identity.

The Race Relations (NI) Order 1997 prohibits discrimination on the grounds of race in education. OFMDFM is in the process of producing a Draft Race Strategy which will include specific objectives in relation to education. DE does not have a specific policy on ethnic minority children, although some of the needs of ethnic minority children are addressed in other policy documents and circulars. Concerns expressed include:

- The insufficient emphasis within the statutory curriculum on issues of cultural diversity and also on increasing pupils' awareness of the nature and negative effects of racism. These are issues that need to be addressed appropriately through the proposed new curriculum. In teaching about cultural diversity, however, it is important that it is done carefully to ensure that it does not simply encourage and reinforce the stereotypical portrayals of particular minority ethnic communities (Connolly and Keenan, 2000).
- The existence of relatively high levels of racial prejudice within the NI population (Brewer and Dowds, 1996; Irwin and Dunn, 1996; Mann-Kler, 1997; Connolly and Keenan, 2000a, 2001) and the fact that these prejudices can be found emerging among children as young as three (Connolly, 2004). This would suggest the need for any initiative on cultural diversity to begin in the early years where evidence exists from pilot programmes that such work can have a positive effect (Connolly, 2004).
- Schools are not required to have an anti-racist bullying strategy. Concern was expressed about the existence of racist bullying in school and also the racist harassment of minority ethnic pupils as they travel to and from school (Connolly and Keenan, 2000b, 2001, 2002b; Radford, 2004). In the NICCY schools research, the issue of racial harassment was of particular concern to children from the Portuguese community. Typical comments from these children included:



"Algumas pessoas charmou-nos mames. Quando nos estamos a falare portugeeses, algumas pessoas ri-em de nos" - "Some people call us bad names. When we are talking in Portuguese, some people laugh at us" (Girl, aged 9).

- The lack of sufficient training for teachers aimed at increasing their awareness of the needs of minority ethnic children and also how they can effectively and successfully teach about issues of 'race' and cultural diversity in the classroom (Gallagher and Leitch, 1998; Elwood et al., 2004).
- The exclusive focus on Christianity within the Core Syllabus for Religion which is compulsory in all grant-aided schools in NI. The DE-commissioned review of the Core Syllabus for Religion in 2003 included proposals for extending the syllabus to include other world religions.

However, the group which drafted the revised proposals did not include representatives of the non-Christian churches in spite of the fact that, by law, membership is to be drawn from those with "an interest in religious education in Northern Ireland" and that a key focus of the review was to include other world religions.

- Parents have an absolute right to withdraw their children from religious education and collective worship at school. However, children who are withdrawn do not have any specific entitlement to receive any other type of religious instruction. Moreover, what happens to a child who is withdrawn during the exempted period is at the complete discretion of the school.
- School policies do not normally take account of non-Christian religions. As a child in another research study said, "In my school you never get off school for festivals without being marked sick or absent, and that's really bad for your records" (Radford, 2004). Moreover, examinations can be set during important non-Christian religious festivals.

- DE is developing a policy on the teaching of English as a second language. The Common Funding Formula contains a proposal to provide additional support to children for whom English is an additional language for two years with the possibility of extension if the child continues to have difficulty. Additional resources will also be given to children born in an English-speaking country but of non-English Speaking parents (DE, 2004: 37). Those working with refugees and asylum seekers identified particular problems for adolescents who may be poorly educated in their first language. One NGO worker highlighted a difficulty in getting placements for older children and said: "These kids don't have a clue what is going on because they can't understand the teacher or other children".
- The limited opportunities for children to study minority ethnic languages (Radford, 2004).
- The limited statistical information available on the participation and attainment levels of minority ethnic children (Connolly and Keenan, 2002a). While information on minority ethnic children is monitored, Traveller children (whose educational needs are often distinctive) are included within the general category of minority ethnic children. The lack of specific data for other ethnic minority groups is perceived to be one of the most pressing issues from NICEM's perspective since: "without it, we don't know how to improve".
- The need for a comprehensive and co-ordinated approach to dealing with instances where minority ethnic families experience racist harassment. Such an approach should include detailed arrangements for how the police, housing executive and social services work together to support such families. They should also include ways in which schools can help to ensure that minority ethnic children within these families are given appropriate support to ensure that their education remains stable, especially when the family is forced to move because of harassment (Connolly and Keenan, 2001, 2002a; Jarman and Monaghan, 2004).
- The limited availability of interpreters and thus the fact that some minority ethnic parents find it difficult to liaise effectively with their children's school and hence to play a full and proper role in their children's education (Mann-Kler, 1997; Connolly and Keenan, 2000b; Radford, 2004).

TRAVELLER CHILDREN

Right to an effective education; non-discrimination; respect for the child's cultural identity (Arts.28, 29, 2, 20 CRC)

Traveller children are amongst the most excluded children within society (Connolly, 2002). This is evident in education where the majority of 16-24 year olds (59%) leave school with no qualifications compared with 17% of those within this age group in the population as a whole (Census, 2001). The Promoting Social Inclusion Working Group Report on Travellers made a series of recommendations in relation to education (OFMDFM, 1999). All but one of these recommendations were accepted by the Department of Education. Since then, responsibility for taking the issues forward has been delegated to a thematic sub-group of OFMDFM's Race Strategy. However, those working in the area consider that there is little evidence of any significant change on the ground.

Traveller children constitute a minority ethnic group and so many of the points made in the previous section concerning the problems of racist harassment, the lack of sufficient emphasis on cultural diversity in the statutory curriculum and the need for teacher training are also as relevant to these children. Other areas where Traveller children's rights are being ignored or underplayed in education can be summarised as follows:

- The lack of effective mechanisms for collecting and monitoring data on applications for admission and selection, school suspensions and exclusions, school attendance and educational achievement (including levels of attainment at formal Key Stages) for Traveller children (Connolly and Keenan, 2002a). This was identified as a key issue in the PSI Report. The Forum on Traveller Education was asked to compile statistics for 2001. However, these have not yet been published and there appears to be problems in accessing the data at school level. This may be due to the fact that information on Traveller children is collated within a general 'minority ethnic' category.
- The lack of appropriate mechanisms to ensure continuity of educational provision for children of Traveller families who uphold a nomadic way of life (Connolly and Keenan, 2000b).
- The significant proportions of Traveller children who do not continue on into secondary education or who drop-out of school early.
- The existence of a de-facto segregated primary school for Traveller children in Belfast (St Mary's). The Committee expressed concern about the segregation of Travellers in education (UN, 2002:14) and the PSI Working Group on Travellers recommended that St Mary's school be phased out with a strategy aimed at ensuring the effective integration of Traveller children into mainstream schools. However, the government did not accept this recommendation on the basis of parental choice. The issues here are complex and there are a variety of views within the sector and amongst Travellers. There has not been comprehensive research which compares the attainment and general experiences of Traveller children educated in segregated and integrated settings.
- The difficulties experienced by some Traveller parents attempting to send their children to mainstream schools. Some of the admissions criteria used by schools could result in children being denied access, for example, those which prioritise on the basis of school attendance (Lundy, 2001). Moreover, there is a perception that these children are not welcome in schools (Connolly and Keenan, 2000). One possible reason for this could be the perception among some schools that the extra funding they receive for admitting Traveller children is not sufficient to deal with the extra educational difficulties Traveller children might face. The Proposed Common Funding Scheme contains a proposal to provide additional funding to Traveller children (at a current rate of £783.06) (DE, 2004b: 37).
- The fact that Travellers experience racially-motivated bullying and social isolation in mainstream schools (McVeigh, 1998; Mongan, 1999). In this research, one young girl from the Travelling community described the following experience:

"There's a girl inside our school and when I play with her she tells me, X comes and she says "why are you playing with Travellers. She's a Knacker. You're not a Traveller. You're a boffer [settler]" ... she doesn't want me and her to play together and she just keeps coming over and is pushing us and all this. We end up having to fight back with her and we get shouted at and she tells her side and we don't get to tell our side" (Girl, aged 11 - Travelling community).

- The inappropriateness of the statutory curriculum for those Traveller children who wish to develop a trade and/or work within the Traveller economy (McVeigh, 1998; Mongan, 1999; Connolly and Keenan, 2000, 2002c).

LOOKED AFTER CHILDREN

Research in NI indicates that care experienced children and young people are less likely to succeed academically in school when compared to other school children (SHSSB, 2000, SHSSB, 2001, NHSSB, 2001, McLaughlin, 2002, DE, 2003). Since 2002 Health and Social Services Trusts in NI are required to complete Form OC1 for each young person aged over 16 who have ceased to be looked after (DHSSPS, 2003). This data is used to generate the 'OC1 Collection' marking the academic educational achievements of young people leaving care. There has also been an OC2 Data Collection, which are the outcome indicators for children who have been in care continuously for 12 months or more at 30th September 2002.

Issues of particular concern are as follows:

- Educational attainment is measured in academic terms. Looked after children may have positive educational experiences in both in-school and extra-curricular activities. There exists no method by which to measure non-academic participation and achievement in education.
- Standards expected from looked after children retain a narrow focus, that is, academic attainment and a level of attainment equivalent to that of other school children, "School I found was really hard to cope with. Hard to cope with the teachers and the education standards", (VOYPIC Consultation Aftercare, 2002).
- Young people in residential care tend to fare worse in their experiences of education than children and young people in other care settings (ibid. :15);
- Studies would suggest that a higher proportion of looked after children experience special education needs and/or are statemented than would be the case amongst other school children and that relevant intervention is occurring too late in their education career (Pinkerton & McCrea, 1996, Sachdev & Taylor, 1996, Kilpatrick & Barr, 1999);
- ELB boundaries in NI do not correspond with those of the four Health and Social Services Boards. Young people moving placement within a HSSB may find themselves under a different ELB. As a result equivalent educational provision might not be available and information can become lost in the system.
- There is an issue around confidentiality for looked after children in school. Young people have little or no control over the extent of personal information provided about them and who this is communicated to within the school setting (McLaughlin 2002).
- Though it is beneficial for certain school staff to be kept informed and even to attend LAC Reviews young people are often not consulted on which member of school staff should be informed, who should attend their LAC Review and for what purpose (ibid. : 72).
- Young people note that being in care holds a certain stigma; they are seen as "bad" or different and this can result in bullying within school (McAlister, 2002).
- Looked after children experience difficulty in attending school trips and extra-curricular activities due to the various consents that must be gained from social services. Young people have described this process as embarrassing. This can contribute to a decision on the part of the young person not to attend (ibid.:5).
- There are particular issues for young people in secure care ranging from inadequate or inappropriate range of subjects; insufficient classrooms in terms of number and space; lack of private space to do homework; inadequate provision of teaching staff; and a lack of equipment, "We need bigger rooms and more equipment so we don't miss out and come out dumb", (VOYPIC, Consultation Secure Care, 2003).

- The development of interagency protocols and the piloting of Personal Education Plans (PEPs) to improve the education outcomes of looked after children are progressing at different rates across the Trusts and ELB's (McLaughlin, 2002). This results in a 'postcode lottery' for accessing services and leads to inequality of opportunity.
- There is a need for joint guidance from the Department of Education and the DHSS&PS directing development of a long-term strategic framework in which the statutory and voluntary sectors can develop coherent services across NI as a whole (DE, 2003.: 12.11).

The Looked After Children in Education (LACE) project, which is a partnership between Include Youth, Save the Children and Voice of Young People in Care (VOYPIC), is currently working with the DE and the DHSS&PS and the Children's Services Planning committees to progress a regional strategy to improve the educational outcomes for looked after children and young people. This includes: disseminating information on practice and policy; the publication of an audit report of services and initiatives supporting the education of looked after children across NI; and designing awareness raising resources and education programmes for young people and professionals.

LESBIAN, GAY, BISEXUAL AND TRANSGENDERED (LGBT) YOUNG PEOPLE

Right to an effective education; non-discrimination; protection from abuse.

Section 75 of the Northern Ireland Act requires DE, the ELBs, CCMS and CCEA to have regard to the need to promote equality of opportunity for persons with different sexual orientations. There is no specific statutory prohibition on discrimination against young lesbian, gay, bisexual and transgendered pupils in schools. Nor is there any specific DE guidance for schools which addresses the issues these pupils may face while in education. The key issues are:

- The influence of the churches within schools can make it difficult for schools and teachers to address issues related to sexual orientation (Feenan et al., 2001). Key professionals working in the field of LGBT in Jarman & Tennant's (2003: 73) study of homophobic harassment and violence in NI expressed the belief that little would be done in schools to address homophobic bullying or recognising sexual orientation in/through the curriculum while boards of governors made most decisions regarding policies and practices in schools. Teachers often do not feel able to discuss issues related to sexual orientation. One NGO worker involved in the NICCY research observed: "Someone needs to come into schools to talk to children. Teachers can't do this because these issues place teachers in a vulnerable position..."
- Teachers need training and guidance in addressing issues related to the sexual orientation of pupils. Research indicates that teachers can act insensitively when they realise that a young person is gay or lesbian. In the Shout research, one young person recounted the following experience:

"Teachers had more of a problem than pupils. Teachers would talk/gossip about it, even in corridors, and allowed verbal abuse directed towards me by other pupils, even in front of them. The school also made it clear to me that my sexual orientation was abnormal and not to be talked about in school" (Carolan and Redmond, 2003: 10).

- Teachers do not always respect the child's right to privacy. One young lesbian in research conducted by Quiery (2002: 19) recounted the following experience:

"When I came out to a friend she told the year head who took me aside and said if I didn't tell my parents that night she would contact them herself. I said they (and I) weren't ready for it but she went ahead anyway and phoned them".

- There is widespread homophobic bullying in schools (Feenan et al., 2001). A DE study on bullying in schools (Collins et al., 2002), found that school bullying often involves name-calling or gestures with sexual meaning. 82% of teachers were aware of this type of bullying/intimidation but only 6% of 120 schools surveyed made specific reference to homophobic bullying in their anti-bullying campaigns (cited in Breitenbach, 2004; Jarman & Tennant, 2003). DE's child protection circular states that bullying may take the form of homophobic name-calling (DE, 1999b). However, schools are not under a statutory requirement to include homophobic bullying in their anti-bullying strategies.
- Research suggests that it is less likely that a young person who is being bullied because of a different sexual orientation will report it at school as a result of concern about the consequences of outing themselves and being "victimised twice, firstly by the bully and then potentially by the adult responsible for their welfare" (Carolan and Redmond, 2003: 11).
- The Committee has expressed concern about the fact that homosexual and transsexual young people do not have access to adequate information on sexuality (UN, 2002: 11) There is inadequate attention paid to issues of sexual orientation in sex education (Feenan et al., 2001) - See further Chapters 1 & 3. In the Shout research, 86% of the young people involved said that they were aware of their sexual orientation while at school, yet there is very little, if any, recognition of this in the school curriculum and in sex education. Only 4% of these young people had gotten any support or information from their school (Carolan and Redmond, 2003). Lesbian/gay issues can be 'taboo' in sex education in schools. One young lesbian (aged 17) involved in this research commented: "If I asked anything about lesbians or alternative families, I was told to be quiet" (ibid.: 5).

SCHOOL-AGE PARENTS

Right to an effective education; non-discrimination

The Committee has expressed its concern about poor levels of educational achievement of school age mothers and recommended that the government should develop educational programmes for teenage mothers to facilitate and encourage their education (UN, 2002: 12-13). Until recently schools regularly suspended or expelled pupils who became pregnant. However, in 2003 the Equality Commission obtained a settlement in a case where a pupil had been suspended from school on the basis that the school's actions constituted a breach of the Sex Discrimination (NI) Order 1976. There is, however, no specific statutory obligation on DE, ELBs or schools to make provision for pupils who are parents or for their children. Moreover, DE Circular 1999/10 provides limited guidance to schools on provision for school age mothers. A joint DE/DEL/DHSSPS 'Teenage Pregnancy and Parenthood' Strategy was agreed in 2002 and will run until 2007. Its objectives include: ensuring that education arrangements are flexible so that pregnant pupils and pupils who are parents can continue their education; the need for DE to issue guidance on Pastoral Care for school age parents; and the need for childcare for parents who want to remain in education. DE provides funding to Barnardo's School Age Mothers (SAMs) project. The SAMs project provides individualised support to young mothers who want to remain in education. These projects have been received very positively by young mothers and educational professionals (Fullerton and Hayes, 2001). Each ELB has a designated SAMs officer;

there is a SAMs regional development worker; and a Regional Strategy Group which includes representatives from DE, DHSSPS, HSSBs, CCMS, the ELBs and Barnardo's.

Key issues include:

- The need for DE to issue detailed guidance to schools to ensure that they are sensitive to the needs of school-age parents before, during and after the birth of their child (on issues such as attendance at ante-natal care and flexibility in dress codes).
- The need for schools to have specific policies to ensure that the pupils' educational needs are met during any absence from school (e.g. through individual education plans) and that schools adopt a flexible approach for pupils who are parents.
- Research indicates that the majority of young women considered that they were treated as well or better at school when it was known that they were pregnant. However, one fifth of young women had experienced negativity from staff and other pupils (SC, 1996: 13-14).
- The need for accessible child-care provision to ensure that pupils who are parents can continue their education.
- Young mothers often end up exhausted in their efforts to combine school work with parenting with the result that they are more inclined to drop out of school (Horgan, 2001).
- The fact that young mothers often feel pressure (from peers, parents, the schools or themselves) to return to school and to do exams. One EWO who participated in our research commented:

"Young women of this age don't have maternity rights. If they decide they want a year out of school, coming back to school or college is hugely problematic for them in terms of getting childcare or places. These girls go home, have babies and three weeks later come back into school. It's horrendous".

- The fact that existing help (including the SAMs project) only applies to the end of Year 12 and that there is a lack of clarity as to who has responsibility for ensuring the pupil's education post-16.
- The fact that not all Children's Services Plans identify school age parents and/or their children as a 'child in need' in relation to Articles 18 and 19 of the Children (NI) Order 1995.

GENDER

Non-discrimination (Art.2, CRC); equal opportunities in education (Art. 10, CEDAW)

In the NICCY schools research, when children were asked for their views about school, the boys' and girls' responses were remarkably consistent. However, the key issues which emerged in relation to gender and education are:

- Boys' levels of educational attainment is lower than girls on average. These differences are already emerging in Key Stage One. While the differences are marginal in mathematics and science, they are more evident in English (Connolly, 2004). For example, in the 2002/2003 Key Stage 2 assessments, 70.1% of boys achieved level 4 in English compared to 81.3% of girls.
- There is evidence that boys' and girls' subject choices and future career plans remain limited by traditional gender stereotypes (Connolly and Healy, 2004, forthcoming; Davey, 2004).

- Schools continue to have discriminatory uniform rules e.g. that girls cannot wear trousers or that boys cannot have long hair or wear earrings. This was raised by a number of children in our schools sample.
- Male violence, homophobia and sexual harassment are common aspects of peer-group relations in some schools (Connolly, 2004).
- Within this research, girls considered it to be unfair that they do not have the opportunity to participate in sports such as soccer at school. Girls complained that they had a more limited choice of sporting activities than boys, that their sporting facilities were in poor condition and that their schools did not place a particularly high value on girls' involvement in sports.



Recent research has concluded that, at the root of any initiative aimed at addressing the issues raised above, there needs to be a focus on breaking down traditional gender roles and stereotypes and thus creating an environment where boys and girls have much greater freedom from the constraints that these pose (Connolly, 2004). Moreover, the existing focus on gender is often too narrow (e.g. on gender as a statistical variable) and there needs to be further consideration of the various ways in which gender issues impact on the classroom in general (Elwood et al., 2004)

SECTION 3: AIMS OF EDUCATION

States Parties agree that the education of the child shall be directed to: (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential; (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living; the country from which he or she may originate, and for civilizations different from his or her own; (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin (Art.29, CRC)

NI has had a statutory curriculum since 1989. The common curriculum was introduced in an attempt to ensure greater consistency and quality across the schools sector. However, it has been widely criticised for its over-emphasis on knowledge and because of the lack of flexibility given to teachers to meet the needs of individual children. A major research project commissioned by CCEA identified a number of significant criticisms of the operation of KS3 of the curriculum in relation to uniformity, breadth, balance, coherence, relevance and enjoyment (Harland et al.,

2002). In recent research conducted by Youth@CLC (2004: 25-26) the pressure of school work and of examinations was identified as a major problem in school. In this research, pupils across the Key Stages indicated that:

- Their school work didn't interest them:



- Much of what they did at school wasn't relevant or useful:

"I think at the minute schools aren't really paying enough attention to the things that matter in real life such as sexual education and information on drugs and are putting the emphasis on pointless topics that people won't use in real life ... especially I think that the only reason we learn most stuff in maths is because it is going to be in our GCSE's and once they're over, we'll never use it again ... We should be more prepared for the things we face when we leave home" (Girl, aged 14).

- There was an imbalance in time given for work and time given over to play. In the NICCY schools research, 210 out of 776 (27%) of responses relating to unfairness in school were complaints that academic study took precedence over time for play and recreation. Typical comments included:

"Our school doesn't have enough sports. We have too much work and not enough playing time" (Boy, aged 10).

- Pupils in Key Stage 3 and 4 complained about the levels of work and emphasis on examinations:



"I think there are far too many tests that take place. There shouldn't have to be so many. A lot of test put too much pressure on pupils. The work that has to be done throughout the year should be taken into account and not just the test that has been taken place that day" (Girl, aged 15).

"I work really hard in school and when I get home I would just love to go out and play. But I have to sit inside and do my homework. It really isn't fair because the hard work should be done in school. I don't mind the reading and spelling but I think instead of writing, all we would do is look, cover and then spell (not on paper but just saying the work). I also think we should be allowed to play with the toys" (Girl, aged 10)

"I hate the way that teachers put so much pressure on us. When it comes to exams they are always putting so much pressure on us. My parents put pressure on me as well to do well which makes it even harder to cope with. I don't think we should get as much homework especially when the exams are on. We need to revise, never mind do our homework. It is hard to do everything. We need our own free time as well to relax and not worry about anything" (Boy, aged 14).

In 1998 CCEA initiated a process of consultation on curriculum review for both the Primary and Post-Primary sectors. There are currently detailed proposals for reviews of both the Primary and Post-Primary Curricula.

The Primary Curriculum

The key changes proposed for the Primary Curriculum are as follows: the introduction of a strand on personal development; increased emphasis on the skills and capabilities for life-long learning; the use of approaches to teaching and learning which are interactive, practical and enjoyable; and an emphasis on greater coherence and progression (CCEA, 2002). One of the most significant changes is the introduction of Foundation Stage for years 1 and 2 in which the emphasis is on play and the development of social skills and formal education is delayed. There has also been a pilot of the 'Enriched Curriculum' which is currently being evaluated. Many interviewees spoke in positive terms about the potential of this innovative approach but expressed concerns about the need for it to be properly resourced to be fully effective. A final decision on the implementation of the review of the Primary Curriculum is now waiting the outcome of the evaluations of the Enriched Curriculum pilots, most particularly the evidence on the literacy outcomes.

The Post-Primary Curriculum

The Review of the Post-Primary Curriculum has been accepted for implementation on a rolling basis from 2006 (CCEA, 2003). The intention is that the implementation of the new Key Stage 3 curriculum will coincide with the implementation of the Costello reforms in 2008. Of particular relevance is the proposal that there will be an Entitlement Framework which will guarantee every pupil access to a minimum of 24 subjects, a third of which must be academic and a third of which must be vocational.

The Revised Curriculum for KS3 is divided into eight areas: one general learning area (Learning for Life and Work) and seven subject areas. There is also a number of compulsory key skills which include personal and inter-personal skills and critical and creative thinking skills. At KS4 only the Learning for Life and Work and the Key Skills will be compulsory. The area of 'Learning for Life and Work' includes three key strands: Education for Employability, Local and Global Citizenship and Personal Development.

The proposed changes are widely regarded as being very positive from a children's rights perspective. The key elements of the proposed curriculum are consistent with the aims of education as defined in Article 29 of the CRC (above) and elaborated upon in the Committee's General Comment No.1, in particular that: "Essential life skills are learnt by every child and that no child leaves school without being equipped to face the challenges that he or she can expect to be confronted with in life and that Education should be child-friendly, inspiring and motivating for the individual child" (Committee on the Rights of the Child, 2001). Moreover, there are ongoing efforts to ensure that the curriculum is accessible to all children. For example, CCEA are in the process of developing guidance and materials to assist teachers in adapting the curriculum for children with special educational needs etc.

Other positive features from a children's rights perspective are: the inclusion of personal and social development within the statutory curriculum; the inclusion of a strand on 'local and global citizenship' which includes the following key concepts: diversity and inclusion, human rights and social responsibility, equality and social justice and democracy and active participation; the emphasis on pupil choice and participation in both content and assessment; the general focus on ensuring that the curriculum is relevant and enjoyable; and the pilot Flexibility Initiatives at KS4 which enable schools to discontinue aspects of the statutory curriculum and allow pupils to participate in work-related learning.

Key issues are as follows:

- **Implementation:** Concern was expressed about the implementation of the revised curriculum and in particular the need to get schools and teachers ready to deal with what is a fundamental shift in approach. An implementation strategy is being developed by a cross-sector implementation group. CCEA has placed an emphasis on teacher training as it recognises that this involves a major culture shift. Moreover, DE is funding various pilots (e.g. on citizenship) and it is expected that these should provide templates and methodologies for some of the general skills.
- **Minimum statutory entitlement:** There is a lack of certainty about what is meant by 'minimum statutory entitlement'. The Review document highlights statutory elements of the curriculum in bold. However, it is unclear how this will be translated into a rights framework. The danger is that the emphasis on flexibility could result in key issues not being covered in all schools or by all children. A further danger in a flexible approach is that there is more scope for differential patterns of provision to arise in relation to social class, gender and ethnicity. Moreover, the proposals do not address issues around potential 'disapplication'. There needs to be further clarity as to when a pupil might be lawfully withdrawn from elements of the curriculum by schools, parents and by pupils themselves.
- **Sex Education** The adequacy of sex education in schools is considered in Chapter 1 & 3. However, sex education provides a good example of the uncertainty about what is meant by 'minimum statutory entitlement'. Sex education is currently not part of the statutory curriculum (with the exception of the biological elements of reproduction). It is proposed that it will now be part of the Personal Development Strand of the statutory curriculum. CCEA have developed teaching materials which are very comprehensive and which explicitly address many of the issues which have been contentious. However, schools appear to have considerable discretion as to what they include in sex education classes. Moreover, there is, as yet, no indication as to whether parents will be able to withdraw their children from sex education classes. The Committee has previously criticised the law in England and Wales which gives parents an absolute right to withdraw their child and does not take account of the views of the pupil him- or herself (UN, 1995).
- **Irish Medium Schools** Concern was expressed that the curriculum review is being developed from the perspective of English-speaking schools. For example, some of the examples of exercises (e.g. those using newspapers) would be difficult to carry out in Irish Medium schools. There was also a concern that bilingualism had not been identified as a key skill.

SECTION 4: PROTECTION FROM ABUSE

... protection from physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parents(s), legal guardian(s) or any other person who has the care of the child (Art.23, CRC).

Schools are required by law to “safeguard and promote the welfare of registered pupils”¹⁵. There is no legal requirement on schools to ensure that children’s best interests are a primary consideration in decisions affecting pupils. Specific issues of concern which emerged during the research were in relation to: bullying, child protection and access to counselling services.

BULLYING

The right to be protected from physical and mental abuse; non-discrimination; freedom from torture, inhuman and degrading treatment (Art. 23, CRC; Art. 3, ECHR).

Since 2003 all schools have been required to have anti-bullying policies and to consult pupils when they are drawing up these policies.¹⁶ Guidance for schools is contained in Pastoral Care in Schools: Promoting Positive Behaviour (DENI, 1999). Save the Children (2002) has produced guidance for post-primary schools, and is in the process of producing guidance for primary schools. The Parents Advice Centre have also prepared information leaflets for parents. A number of agencies in the statutory and voluntary sectors have established an Anti-Bullying Forum.

In spite of these initiatives, bullying remains a major concern for children and young people in NI. In research commissioned by the DE, 40% of primary and 30% of post-primary children reported that they had recently been bullied (DE, 2002). In the NICCY schools research, the issue of bullying was raised by 14% of children who raised the issue of schooling/education. The following picture (where the bully demands “I want your dinner money”), and quote, were typical of the concerns children expressed towards the issue of bullying:



“At school I get very annoyed and I get treated badly and unfairly when I come into school no one likes me and I get blamed and people call me names and I do not have any friends” (Boy, aged 10).

While all schools should have anti-bullying policies, there is no guarantee that they are implemented in practice. As one child pointed out:

“I think that it is unfair when you’re bullied and there is nothing done about it. The school has put up signs like “Stop the Bully” and “Say No to Bullies” but they don’t do anything to stop them” (Girl, aged 10).

Some of the key concerns and underlying problems are as follows:

- The lack of a generally agreed definition of bullying. There is a perception that bullying is inevitable; that some children are over-sensitive; and that some children even 'invite it'.
- The difficulties teachers face in addressing the issue and the need for appropriate training in the identification and management of bullying for all staff (including playground and bus supervisors).
- The need for the curriculum to specifically address issues of diversity and tolerance.
- The vulnerability of certain groups of children and young people, in particular: LGBT; Travellers; ethnic minorities; and young people with disabilities.
- Schools are not required to address racial harassment or homophobic bullying in their anti-bullying policies.
- The need for innovative strategies for dealing with bullying such as peer mediation.
- Particular difficulties in identifying and addressing bullying in playgrounds and school transport.
- The need for proper strategies for monitoring the incidence of bullying.
- The need for designated officers in both schools and ELBs to co-ordinate services for both victim and perpetrators.
- The fact that school culture (in particular the lack of respect which teachers afford pupils) can provide an atmosphere where bullying thrives. One EWO involved in this research commented: "Teachers are surprised when there is a bully in the classroom or a bully in the playground but the culture of the school often generates that".
- Much less attention (particularly in the UK), has focused on the school as a potential site of child emotional abuse by teachers (Tomison & Tucci, 1997). Emotional abuse and neglect, it is argued, can take a number of forms in the school setting (Hart et al., 1987; Hyman & Snook, 1999; Hyman, Zelikoff & Clarke, 1988; Paulson, 1983). This includes: verbally assaulting, threatening and bullying children; rejecting, neglecting or isolating some pupils in favour of others; failing to intervene when pupils are being bullied by peers; having inappropriate academic expectations (either above or well below the child's developmental level) and providing an unstimulating learning environment (either in terms of teaching style, teaching aids or the curriculum). Bullying by teachers emerged as a key issue across a range of focus groups and among children themselves, although the children did not tend to describe this as 'bullying' but rather as certain teachers 'picking on them', 'shouting at them' or 'putting them down'. The following extracts are reflective of some of the comments made by those who discussed this issue:



"Sometimes teachers put you down and make a full of you and if you even attempt to do the same to them we would be punished and the teacher sitting with a smirk in their face. Something should be down" (Girl, aged 13).



In the words of one NGO worker, who reflects the views a number of professionals :

"Some teachers' attitudes to some children are disadvantaging those children and I'm putting that in polite terms. At the other end, they are abusive to children; they are putting them down, they're reducing their self esteem".

In general terms, it was considered that the resources to tackle the issue exist but that more work needs to be done in terms of: educating pupils for tolerance; training teachers and support staff to identify, monitor and address it; and co-ordinating support services for all involved. In 2002, the Committee expressed its concern about widespread bullying in schools in the UK and recommended that the government should: "take measures and set up adequate mechanisms and structures to prevent bullying and other forms of violence in schools and include children in the development and implementation of these strategies" (UN, 2002: 13). In England and Wales, the DFES has recently provided almost £0.5 million to the Anti-Bullying Alliance to develop a co-ordinated national strategy on bullying and to ensure the effective distribution of the existing materials through regional networks.

CHILD PROTECTION IN SCHOOLS

Schools are required by law to determine the measures to be taken at the school "with a view to protecting pupils from abuse, whether at school or elsewhere"¹⁷. DE guidance on child protection is contained in Pastoral Care in Schools; Child Protection (DE, 1999b). Concerns about the current guidance include:

- There is inadequate advice for schools on how to handle allegations of peer abuse. DE has initiated a review to examine the management of young people who engage in sexually inappropriate behaviour.
- There is a need for further guidance for schools on the use of photographs and images of children.
- The codes of conduct need to be more age-appropriate.
- Further guidance is needed on the protection of children with disabilities and special educational needs in mainstream settings.

DE is in the process of preparing a revised guide for schools which will be able to be accessed online so as to facilitate up-dates. The Inspectorate has been very positive about the implementation of pastoral care and child protection policies, although it identified a minority of schools where practices could be improved (ETI, 2000a). The Committee has identified a need to strengthen the training for teachers in the identification, reporting and management of cases of ill-

treatment (UN, 2002: 10). This requires monitoring to ensure that policies are implemented; that they are up-to date; and that all staff have received adequate training in child protection issues. There is also considered to be a need for Independent Listening Services to take forward the issues raised by children in relation to their safety and welfare.

Other concerns include:

- The Social Services response is seen to be 'less than robust' on occasions. What has happened after their referral was made may not be communicated back to the school who continue to work with the child on a daily basis.
- EWOs expressed concern that children can "disappear" i.e. move house and no-one can trace them. One EWO pointed out: "You should be able to tell where children are - especially in terms of sexual exploitation".
- Schools are not in a position to address many of the emotional issues which arise and that children need to be able to access and prefer to access independent and confidential support from people other than parents and teachers i.e. professional counselling.

ACCESS TO COUNSELLING SERVICES

Schools and ELBs are not required by law to provide pupils with access to counselling services. The need for specialist counselling services in schools was identified in a DE Scoping Study (DE, 2002) and in previous research (Leitch and Kilpatrick, 1999). Children who have experienced the conflict have a particular need to access confidential counselling support (Smyth et al., 2004). Children often do not feel comfortable raising issues with their teachers and teachers often feel ill-equipped to deal with the issues raised.

In 2001/2002 DE provided £400 000 pilot funding for counselling services divided between each of the five ELBs. Prior to this in 2000, NSPCC had developed and were funding a three-year pilot of school's counselling services in approximately 45 schools across three ELB areas. Some ELBs used this designated DE funding to contribute to the cost of the NSPCC pilot while others developed services in-house or contracted services from Contact Youth. Initial indications are that that these services are highly valued by children and young people and by educational professionals. The major difficulty with existing provision is the fact that it is not accessible to all children. There is also concern that other counselling services (such as that provided in 14 schools in North Belfast by the BELB which received designated DE funding following unrest in the area) will be axed following a major cut in that funding. While there are different options as to how these services might be delivered, it is apparent that there is a pressing need for professionally-delivered counselling services to be accessible to all children in schools. The potential benefits for children's education and mental well-being are apparent: In NSPCC's view, "Supporting the emotional and mental health needs of children and young people in school facilitates their focus on academic attainment and significantly their preparation for adult life".

The DE Scoping Study highlighted the need for impact evaluation and recommended that evidence on the outcomes for children and young people should be collated prior to DE developing a policy on the provision of schools' counselling services. In July 2004, DE agreed to partner fund NSPCC in the conduct of an impact evaluation. This evaluation will be carried out by NSPCC in conjunction with the Modelling, Measurement and Evaluation Unit within the University of Ulster at Magee over the 2004/2005 academic year and the final report is scheduled for March 2006. It is anticipated this will inform a DE policy for developing a universal service.

SECTION 5: PARTICIPATION IN DECISION-MAKING

The state has a duty " ... to assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child" (Art.12, CRC)

The Committee has expressed its concern that: "schoolchildren are not systematically consulted in matters that affect them" (UN, 2002: 7) (See Chapter 1). When children and young people in this research were asked to identify things which they felt were unfair about school, the number one issue to emerge, directly or indirectly, was the fact that they did not have a say in many of the issues which affected their school. A total of 398 out of 776 (51%) responses relating to unfairness at school were complaints by children and young people that they had no say in a range of issues which affected their daily educational experiences. One of the pressing concerns expressed by these children concerned the poor communication and/or relationships with teachers. Typical comments included:

"Sometimes school can get on my nerves cause I don't think children get enough respect from teachers and caretakers and I think some children are scarred about speaking their mind in case they get shouted at" (Girl, aged 11).

"Some teachers get on to you without listening to what you are saying" (Young Person in Focus Group).

These concerns are echoed by children with different educational and life experiences:

- Young people with disabilities consider that the lack of respect for their views was 'poisoning' their school days (Educable, 2000).
- Young people who are in care often vote with their feet and fail to attend review meetings to discuss their education as they are not convinced that their input will make a difference (Mc Laughlin, 2002).
- Young people in AEP programmes are particularly critical of the way in which they were treated by their teachers in mainstream schools. When we asked them about the most important thing they had learnt in school, one response was: "Keep your mouth shut when the teachers did annoy you 'cos it just gets you into more trouble" (Young male, aged 16 - AEP). Similar concerns were also expressed in a number of the interviews with key professionals. One EWO commented:

"Sometimes children feel that they don't have the right to question children's behaviour. If they question something, they are said to be cheeky or emotionally difficult. They are not sure how to present themselves or how they should ask questions without being cheeky or whatever".

Similarly, in a focus group of NGO workers, the issue of teacher/pupil relationships and communication emerged as a key concern. One interviewee commented (in relation to some teachers): "They do not listen to them. They do not hear them. They do not value them the way children and young people should be valued. It's heartbreaking to hear some of the stories".

Concerns were raised in relation to the lack of involvement of children in all the decisions which are made which will ultimately impact on the child in the classroom: (i) when decisions are being made which impact on individual pupils; (ii) when school policies are drafted.

Decisions affecting individual children

The vast raft of education reform legislation in the 1990s was explicitly geared towards enhancing parental rights and children's autonomous rights were largely ignored (Lundy, 2000). So, for example, children do not have a specific right to have their views taken into account in relation to any of the following key decisions:

- the choice of school which they will attend.
- the subjects which they study at school or the exams which they enter.
- when decisions are being taken to suspend or expel them or if there is an appeal to an expulsions appeal tribunal.
- when special educational provision is being determined for them or when there is an appeal to the SENT, although guidance in the Code of Practice on SEN recommends that their views are sought and taken into account.
- Whether they attend religious or sex education. Children cannot withdraw themselves from religion classes. Nor can they insist on receiving it if their parents have withdrawn them from it. This may, in certain instances, also contravene the child's autonomous right to freedom of conscience.

Involvement in school decision-making

Governing bodies are required by law to include elected teachers and parents but there is no provision for representation by pupils. Theoretically, pupils could be co-opted onto the Board of Governors. However, there appears to be only one school in NI in which pupils are represented on the Board of Governors. When school principals were asked their views about pupils participating in the Board of Governors, the majority of responses were sceptical about pupil involvement (Mitchell, 2004). Some of the reactions represented in Mitchell (2004) were as follows:

"The business of the board is at a high level, too high for students".

"Their advice and their ideas ... (have to be passed) through a filter of experience and breadth and so on that they, simply by reason of their age, don't have".

"If there were students on our board of governors...a number of governors would be inhibited, rightly or wrongly, (they) would be much less open in some of the things they say and I think that the benefit that we have from a lot of well-qualified ... experienced and senior members of this community who bring a huge amount to the board of governors might be lessened in that way".

The Committee has identified a need for further steps to ensure the systematic, meaningful and effective participation of all groups of children in society, for example through school councils (UN, 2002: 8). While it can be assumed that a significant number of schools have student councils, there is no recent evidence as to the full extent or indeed efficacy of these. Where they do operate, children sometimes cast doubt on their credibility. Comments in this research included: "You got handed minutes from the last meeting and you had to talk about this and this. And it was mainly the canteen and stuff and you didn't really get the opportunity to bring anything up" (Young female, aged 17 - Youth Group).

Other concerns focus on the fact that the membership is in some cases chosen by the teachers rather than elected by the pupils themselves; that the decisions of the council can be ignored or overturned; and that the existence of the council is contingent upon teacher approval (Educable, 2000).

In 1998 young people reported that they were rarely asked for their views in school on a whole range of issues relating to education, including: the curriculum, detention, uniforms and school facilities (NI Youth Life and Times Survey, 1998). In the NICCY schools data, the lack of say in school decision making processes emerged as the number one issue which children and young people considered most unfair about school. As illustrated below, children identify a range of issues which affected them as school pupils.

School's unfair!! ☹️

Streamin'
 it's unfair to make
 people split from their
 friends coz of their IQ.



Fitness

It's unfair that
 some people have
 more fitness
 than others

School trips.

We should have more
 trips at the end of the
 year. Low budget because
 there are limited places
 for trips abroad and cost
 a lot.

Uniform

Individuality is important
 because people get
 Critizised for what school
 they go to because of
 their uniform



Homework/Exams

There are too many
 homeworks being given
 out too close to exams
 so there is no time to
 revise.

Cantine/foods.

The cantine should have
 more choices of food in it.
 Sometimes, when you go to
 the cantine there will be
 no food left.
 The cantine should have
 healthier food & should
 not be too limited



We should have
 a say in what religion
 we're taught in
 school.

Many of the issues identified by children and young people (summarized in the Table 4.1 below) raise concern about breaches of children's rights in addition to Article 12 of the CRC. For example:

- Some of the school uniform rules may breach children's rights to freedom of expression and to be protected from discrimination. In particular, requirements that girls wear skirts and boys do not have long hair or earrings may discriminate on the grounds of sex.
- The poor educational, recreational and toilet facilities in some schools may contravene pupils' right to health and to be safe.
- The lack of space to store books (with the result that they have to carry heavy bags) may contravene their right to health.
- Restrictions placed by schools on the subjects pupils study or their access to examinations may constitute a denial of their right to an effective education.
- The requirement to study religious education may breach their independent right to freedom of conscience.
- The lack of lockers or fact that lockers might be searched by teachers may interfere with their right to privacy.

Moreover, all of the issues raised by children and young people who participated in the NICCY research (which are displayed in Table 1) provide direct or indirect evidence of the fact that children and young people's views are not given due weight in the matters which affect them. The Education and Libraries (NI) Order 2003 requires schools to consult with pupils in developing school discipline and bullying policies. This is the only specific requirement for pupil involvement in the entire Education Orders. An obvious gap in the law is a specific obligation to take pupils' views into account generally. In Scotland, schools are under a specific statutory obligation to have due regard to pupils' views (albeit that this applies only 'so far as is reasonably practicable').¹⁸

Table 4.1: Issues Raised Regarding Unfairness And No Say In School*

Issues	N	%
No say in sports/recreation (lack of and no say of in sports, music, after school clubs, school trips)	182	21%
Uniform (no say in design/style, have to have top button done up etc., girls not being allowed to wear trousers, lack of individuality, want to wear own clothes)	147	17%
Teachers (shouting, favouritism, teacher ignore your view/lack of respect, have no patience, treat you like children, one rule for teachers - another for pupils, expectations too high, absent sub teachers, spend too much time on 'bad boys')	118	13%
School Dinners (too expensive, little choice, no say in menus)	91	10%
Lack of facilities (lockers, computers, games room, bike shed, school minibuss, fizzy drinks machine, comfortable chairs, school nurse)	89	10%
Rules (no running in the playground, no jewellery, no make-up, no mobile phones, no water bottles)	78	9%
Subject Choice (not enough choice of subjects, not allowed to choose own subjects until a certain stage, no say in how a subject is taught)	60	7%
Structure of School (state of repair of school buildings, litter, graffiti, lack of heating, security cameras/grills, playground too small)	60	6%
Toilets (dirty/vandalised/locked and have to get key to use them, have to ask to go/not being allowed to go)	24	3%
Broken Promises	21	2%
Want off School Grounds at Lunch Time	17	2%
Total	887	100%

*The figures (numbers and percentages) presented here refer to numbers of responses rather than numbers of pupils. Pupils often raised more than one of these issues. For this reason, the figures presented are relative rather than absolute.

Young people are quick to see the wider benefits of greater participation in decision-making:

"We need to be able to leave our books in school, have longer lunches and breaks and better sporting equipment ... By applying some of the above points to school, it would make school more enjoyable and maybe would encourage kids to stay in school and not go on the beak and they would get on better with the teachers" (Boy, aged 15).

Various interviewees referred to the need for a change in the culture in schools in NI so that they are more democratic. This emerged as a key theme in focus groups with key professionals working with children. A child-rights based approach in schools would need not only a change in the law but also a change in institutional approaches. One interviewee commented on the need for schools to develop a "culture of rights":

"Messages are given to children in all sorts of ways ... you know not dealing in terms of the text books in formal education but messages that children are given about themselves and how much of a role they can play in their own lives no matter what age they are" (NGO Worker).

This would require a strategic training programme for all school staff which highlights models of good practice in pupil participation; demonstrates practical ways in which these can be integrated into school life; and highlights the educational and other benefits of involving pupils. The WELB pilot on school councils is a positive development in this direction. However, there needs to be further direction on a Northern Ireland-wide basis.

SECTION 6: SEGREGATION, SECTARIANISM AND THE IMPACT OF THE CONFLICT

"The values embodied in Article 29(1) are relevant to children living in zones of peace but they are even more important for those living in situations of conflict or emergency... it is important in the context of education systems affected by conflict... that educational programmes be conducted in ways that promote mutual understanding, peace and tolerance, and that help to prevent violence and conflict". (Committee on the Rights of the Child, General Comment No. 1 on the Aims of Education.)

One of the most distinctive characteristics of the NI education system is the high level of religious segregation. At present about five per cent of pupils in NI attend planned integrated schools. Apart from these schools, the vast majority of pupils in NI receive their education in schools which are, for all practical purposes, homogeneously Protestant or Catholic. The other distinctive factor is that schools are educating young people who are growing up in a conflict-affected society. This has implications for children's education in a number of key respects. Some of the key issues - religious segregation, sectarianism and the implications of the conflict - are summarised below.

RELIGIOUS SEGREGATION

There is a surprising lack of consensus on the impact of segregation in education on young people and on the wider society. Three main views are expressed: first, separate schools fuel antagonism by teaching different curricula; second, the mere fact of separation, allied with the hidden curriculum, fuels a sense of difference; and third, separate schools are largely irrelevant to a political conflict which is rooted in inequality and injustice, rather than ignorance (Darby and Dunn, 1987). Despite the lack of consensus, a range of initiatives in education have been pursued over the past 30 years all of which are aimed, implicitly or explicitly, at softening the edges of institutional segregation: these included curriculum initiatives, contact programmes and the development of integrated schools.

Key issues

- The low percentage of pupils educated in integrated settings. This has been criticised by the Committee who have recommended that the government “increase the budget for and take appropriate measures and incentives to facilitate the establishment of additional integrated schools in NI to meet the demand of a significant number of parents” (UN, 2002: 13). There is particular concern about some of the restrictions involved in establishing integrated schools.
- The Costello Post Primary Review proposed that schools should collaborate in order to ensure that children will have access to a wide range of subjects. However, there is as yet little detail on how this will work and whether it will have an active cross-community dimension. Some interviewees expressed concern about the practicalities and whether it was feasible at all in communities with high levels of mistrust.
- There are no direct forms of co-operation between the controlled and maintained sector in terms of the management of schools. It is possible that newer forms of shared management or ownership of schools might develop in the future as, for example, is seen with shared Anglican/Catholic schools in England, Australia or Canada.
- Whilst students from Catholic and predominantly Protestant schools attain similar levels of qualifications, Catholic boys are more likely to leave school with no GCSEs or lower GCSE results than boys educated in predominantly Protestant schools (Osborne, 2004). The gap is, however, small and has decreased significantly in recent years. Catholic children are still less likely to study A-level science than their Protestant counterparts (Davey, 2004).

SECTARIANISM

“... The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin” (Art.29, CRC)



Research has shown that the continuing divisions that exist within NI impact upon children at a very early age (Cairns, 1987). By the age of three, children are already beginning to internalise the cultural and political preferences of their own community. By the age of six it is estimated that one third of children in NI as a whole see themselves as Protestant or Catholic and one in six have expressed sectarian comments (Connolly, Smith and Kelly, 2002; Connolly and Healy, 2003). Children’s experiences of the divisions that exist vary considerably (Smyth, 1998). For those living in areas characterised by sectarian tensions and violence, many children tend to have already developed hardened identities and negative attitudes towards the other community

by the ages of 7-8. They are also likely to have witnessed and/or been involved in name-calling and fighting with children from the other community at this age. By the ages of 10-11 they also tend to have a significant awareness of broader political issues and historical events associated with their own (but often not the other) community (Connolly and Healy, 2004). Children living in areas relatively free from such tensions and violence only tend to develop a consistent awareness of the divisions that exist at an older age (at about 10-11 years). However, such children can demonstrate considerable ignorance of key local events and have expressed a desire to be able to learn more about these (Connolly and Healy, 2004).

Key issues:

- Despite the fact that Education for Mutual Understanding and Cultural Heritage have been cross-cutting themes on the statutory curriculum for over a decade, research suggests that their impact has been limited (Smith and Robinson, 1996; Leitch and Kilpatrick, 1999).
- There needs to be a further appreciation for, and respect of, cultural diversity and of reducing negative attitudes towards those who are 'different' to themselves (in religion but also 'race', disability, sexual orientation and gender). This should begin in the early years (Connolly, 2004). It is important that the fullest opportunities provided by the new Local and Global Citizenship Programme in the revised curriculum are realized.
- Educational initiatives aimed at increasing children's awareness and understanding of key historical and political events associated with NI should begin in primary school, from the ages of about seven or eight.

Schools can receive support from ELBs for inter-school activity as part of the Schools Community Relations Programme (SCRCP). Not all schools participate in this programme. Schools and young people can be reluctant to participate in the areas most affected by the conflict. Moreover, recent research on pupils' perceptions of the scheme has indicated a number of concerns, including the fact that: the programmes are often influenced by curricular objectives; the opportunity for follow-up and discussion and un-packing of the issues can be limited; and schools often select the pupils who participate in order to promote a positive image of the school (O' Connor et al., 2003). It is generally considered that cross-community contact schemes are to be encouraged but they need to be meaningful and sustained and require very careful planning. Ill-planned contact schemes can cause more harm than good (Connolly and Maginn, 1999; Connolly, 2000). DE issued a consultation on a review of the SCRCP in 2002 and is currently considering options for change (O' Connor et al., 2002).

THE IMPACT OF THE CONFLICT

Right to an effective education (Art. 28, CRC); protection from abuse and maltreatment (Art. 23, CRC); protection from inhuman and degrading treatment (Art. 3, ECHR).

Research conducted by the Institute for Conflict Research has shown that children's education can be affected by violence in a number of significant ways and that: "it is difficult to sustain the idea that NI schools have been havens of peace in an otherwise stormy and conflict-affected society" (Smyth et al., 2004: 103). Specific concerns include:

- The need for more support, guidance and training for teachers and access to counselling services for children who have experienced the conflict (Smyth, 2004). OFMDFM's Victims Unit has recently commissioned a research and development project ('Enabling Voices') which is aimed at developing an inter-agency approach to the educational support of post-primary school pupils who identify as victims of the violence.

- Children are regularly harassed on their way to school, their religion readily identifiable from their school uniforms (Smyth et al., 2004; Leonard, 2004). Young people in a number of focus groups expressed concern that wearing their school uniform made them vulnerable to verbal abuse and attack. For example, one young person complained that they “can’t wear their uniform up the town”. Another two pupils commented:



*"I was crossing the bridge and they were all shouting at me and I was in my uniform as well. It didn't really register until afterwards to me."
 (Young female - Youth Group).*

- Some schools in interface areas restrict pupils' access to recreation areas in order to protect them from external attacks (Leonard, 2004: 71).
- Children whose parents are in the security forces can experience significant stress as a result of extra security measures, worry about their parents' safety and the need to conceal their parents' occupation in school (Leitch and Kilpatrick, 1999; Smyth et al., 2004).
- Some of the feuds which have occurred recently in loyalist areas have spilled over into the playground.
- In areas experiencing high levels of sectarian tensions and violence, targeted conflict resolution work should be undertaken with young children. The need to work towards conflict resolution was a desire shared by many children and young people who participated in the NICCY schools research, a group of whom wrote the following message:



- It can be difficult to ensure the educational stability of children who have to move home because of intimidation.
- There is a need to ensure that school-children are not seen to be the legitimate objects of violent protest. The incidents at Holy Cross Primary School have been described in a recent High Court judgment as “one of the most shameful and disgraceful episodes in the recent history of Northern Ireland”. The case was initiated by the mother of one of the Holy Cross children on the basis that the policing strategy breached her daughter’s rights under the ECHR

and CRC. The court did not find that there had been a breach of the children's right to education because of the 'sterling' efforts of the staff and parents. He indicated that he was not prepared to conclude that "the indignities, threats and naked intimidation to which the applicant was subject did not amount to inhuman and degrading treatment". However, he considered that the PSNI had not breached Article 3 of the ECHR (which prohibits torture, inhuman and degrading treatment) because their efforts to contain the protest had been reasonable. Nor did the Judge consider that the children's best interests were not a paramount consideration in the policing strategy. Leave has been granted for an appeal. However, the current decision leaves open the possibility that a similar incident at a school in the future could be policed in the same way.

Schools have to deal with the impact on their pupils of the wider divisions in society and at the same time are expected to improve community relations through the education process. In spite of this, there is no specific strategy for addressing this or many of the other concerns outlined above. Following the Belfast Agreement, in 1999 the Minister of Education set up the Culture of Tolerance Group which had representatives of all the key education sectors. Its initial purpose was to consider ways of extending integrated education. However, at the first meeting the terms of reference were extended to consider ways in which all types of schools could contribute to the development of a culture of tolerance. Two reports issued from the process: the first was an initial commentary on the issues that needed to be considered; the second was a report on EMU arising from a larger group which was specifically convened for this purpose (DE, 1999a). This was followed by various changes in Ministers and, in a changing political climate, the priority attached to the process seems to have reduced. No final report or strategy was ever issued.

CONCLUSIONS AND SUMMARY OF MAIN PRIORITIES IN EDUCATION.

The major areas where children's rights 'in', 'to' and 'through' education are currently being ignored or underplayed and which should, therefore, be priorities in the context of education are as follows:

- Children with special educational needs should have learning their educational needs assessed promptly and appropriate educational provision made for them.
- All staff should be adequately trained in identifying and managing bullying behaviour; incidents should be properly monitored and recorded; and appropriate support should be put in place for all children involved.
- Children educated outside mainstream schools must have access to high quality, full-time education.
- Children's views must be given due weight in all educational decisions affecting them, through (a) the enactment of a statutory obligation on schools and other professionals working in education to take pupils' views into account and (b) training and support for all staff in relation to the implementation of Article 12 of the CRC.
- There must be a strategy to secure equal access to effective education for Traveller children.
- There should be a concerted strategy to address issues relating to the impact of the conflict and religious segregation in schools.

There are several other areas where there are serious concerns about existing educational provision from a children's rights perspective but which are currently under review, consultation and pilot. Specific criticisms of these proposed reforms were highlighted earlier in the Chapter. For the most part, however, these reviews should result in significant improvements in terms of children's rights and welfare. The Commissioner may wish to keep these areas under review to ensure that the changes which emerge are implemented effectively and are compatible with the human rights standards in the CRC and elsewhere. Finally, there were several cross-cutting concerns, many of which are common to other areas of provision. These include: deficiencies in data; the inadequacy of resources (an issue which is of increasing concern in the wake of the highly-publicized funding crises in two of the five ELBs); the need for better co-ordination of services; and the need for both early intervention and a greater emphasis on early years. In addition, there were two other recurring themes which emerged in education: (a) the need for further measures to address child poverty because of the significant detrimental effect it has on a child's capacity to enjoy the right to education; and (b) the need to review teacher education and training to ensure that teachers have the knowledge and skills to protect, promote and fulfil children's rights in education.

CHAPTER:

five

LEISURE, PLAY, RECREATION,
CULTURE AND THE ARTS

INTRODUCTION

States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts... States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity (Art. 31, CRC).

Article 31 of the CRC refers to the child's right to leisure, play, recreation, culture and the arts. Some of these concepts are problematic from the point of view of the established definitions of children's and youth activity in Northern Ireland. For instance, the term 'leisure' is not generally used to describe activities such as youth provision or organised sport. That said, howsoever these matters are defined, it is clear that the right covers all of the various types of activity which children and young people want to engage in during their free time. For the purposes of the analysis, the findings have been categorised as follows:

- General issues
- Play
- Youth Service
- Sport
- Culture and the Arts

GENERAL ISSUES

Out of the 620 submissions from children and young people in the NICCY schools research relating to play and leisure, 412 (68%) of these related to being unable to access appropriate 'play', 'leisure', 'sport' and/or 'youth club' facilities where children and young people could have fun and meet friends. One young girl addressed her comments to the Commissioner directly:

"Mr Williams, could you please give us money for the park? The swings we play on, are rusty and dirty and breaking down. There are big holes in the grass and dog's dirt, and on the ground there's glass and stones and rubbish. Every day the bigger ones are on the swings and when they leave, the swings are flipped over and spat on. What we need now is swings, new slides and monkey bars. Please give us money for our Park" (Girl, aged 10).

Other typical comments included:

"We need more sports facilities in our area. We have only a youth club and two football pitches but we are too old to go to the youth club. We need more pastimes in our area. We have a play park but it is mostly aimed at younger children" (Girl, aged 14).

"The facilities in my area are terrible. There is nothing for teenagers at all. There could be a few decent shops put up because my nearest town for shopping is [name of town] and I can't always get there. Things for teenagers should be put up because since there is nothing to do, teenagers generally cause trouble" (Girl, aged 14).

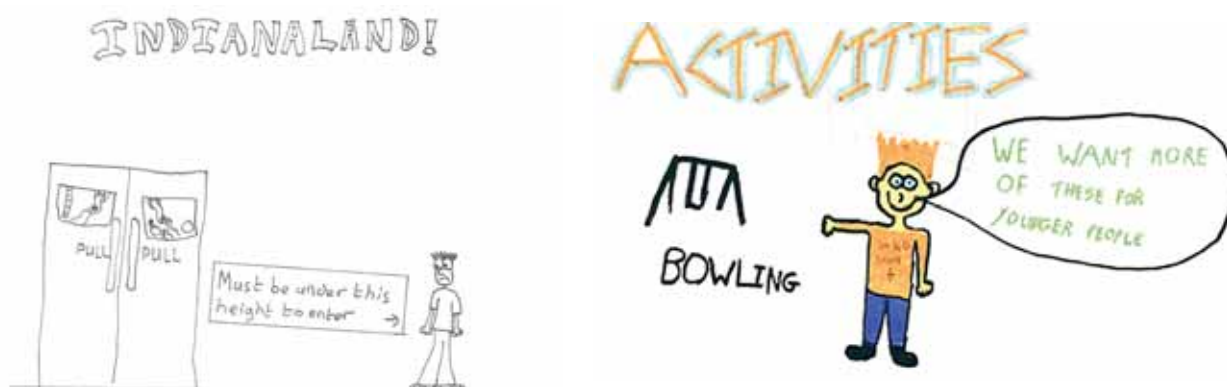


The major themes which emerged across all the various types of activity can be summarised as follows:

The Need for Age Appropriate Activity

Children and young people want access to activities which are appropriate for their age (Youth@CLC, 2004:17). In the NICCY research, many children referred to the age inappropriateness of the activities on offer. For example, younger children often complained about the arbitrary nature of decisions about who should gain access to use facilities:

"Children are denied loads of things because they are under age. Like in swimming you have to be 12 to go swimming on your own. I think we should have some sort of license to let us do it if we are capable" (Girl, aged 11).



Older children, however, raised issues regarding the availability of age appropriate youth facilities for teenagers. In their comments, young people often made reference to the implications that can arise from having inadequate facilities to occupy their time. One young person remarked:

"There's not enough youth clubs that I would be interested in. Nor is there enough sports facilities, for example, football teams for young boys. There's also no youth clubs on at the weekend to get young people off the streets who are drinking" (Girl, aged 15).

Rural Isolation

Rural isolation was identified as a problem across all activities. The major difficulty relates to the lack of and/or cost of transport facilities to take the child to and from leisure activities. Several interviewees referred to the need for changes to funding policies for play and leisure providers to reflect the additional costs involved in ensuring access to activities in rural areas. As illustrated in

the picture and comments below, the lack of appropriate play/leisure facilities affected children of all different ages. Typical submissions received from children living in rural areas included:



"I love the place that I live, it's a small town and everyone knows everyone, but there is absolutely nothing to do for us teenagers. We have nothing to do for fun. We have to travel outside of our town for fun and it costs money. Money that not all teenagers have" (Girl, aged 14).

"There's no leisure here as it's out in the country. The only leisure we go to is the cinema and swimming pool in the nearest big town. A bus does come some nights of the week to go to the cinema but it has set times when leaving. It leaves at 10pm and so we can't see a long film or the bus will leave. The bus doesn't even leave us home to our houses. We end up being left at our village and then having to get our parents to get in their cars and lift us" (Girl, aged 15).

Access for children and young people with disabilities

Children with disabilities can be particularly socially isolated. If a child or young person attends a special school, it can be difficult to meet up with their school friends as pupils at special schools are often drawn from a wide area (McConkey and Smyth, 2000; Kilpatrick & Mc Clinton, 2004). Research with children with disabilities indicates that some children find it very difficult to maintain friendships. One young person commented:

'Nothing to do, only play football but that's boring because I have no-one to play with' (Monteith et al., 2002).

In the NICCY research, teachers working with children raised the issue of children's isolation adding that their attempts to encourage children to meet over the holidays had often been in vain. It was suggested that one of the reasons for this might be the over-protective nature of some parents. Moreover, access to out of school activities can be made difficult by the inaccessibility of buildings; the lack of specialist equipment; and the fact that adult workers may not be trained to deal with the needs of children and young people with disabilities. As illustrated in the picture and quote below, young wheelchair users often found it difficult to access play and leisure facilities:



"Just because you are in a wheelchair doesn't mean you shouldn't be allowed to do things" (Boy, aged 16 - Special school).

Another child drew a very detailed picture of all the play and leisure facilities in his area, yet he indicated on his drawing that he could not use any of them. Beside a picture of a sports club, he wrote:

"This is the sports club and there are bullies in it so my mummy doesn't want me in it" (Boy, aged 11 - Special school).

The quality and safety of leisure/play space

Research suggests that many children and young people are concerned about lack of safety in the places where they socialise (Youth@CLC, 2004:20). In the NICCY schools research there were a series of criticisms directed at the quality of play/leisure space. The issue of safety was raised by one in three respondents who identified the issue of play/leisure as a priority concern. Of the 196 children and young people who raised the issue of safety, girls were more likely to voice this concern than boys, with 59% of girls remarking that they did not feel safe when accessing play/leisure facilities. As illustrated in the picture below, younger aged children were particularly likely to refer to vandalised play equipment, joy-riding, needles and broken glass in the grass as the main obstacles jeopardising their right to safe play space.



In addition to these issues, older children remarked that they were often reluctant to access play/leisure facilities in their area because they were frightened of older youths who 'hung' about their streets and their play area. Typical comments included:

"The streets should be safer. It annoys me because you have to be in early at the weekend due to gangs being intoxicated and doing stupid things, so if you make the streets safer then both you and your parents will have no worries about anything happening to you or you getting into trouble. It is all over the news that there are more people (young adults) being attacked (stabbed) due to alcohol. Drugs are being sold at your own street corners, you can't walk anywhere without people doing drugs, abusing aerosols etc. As a kid you would want the best for your kid, and that wouldn't be on the agenda" (Boy, aged 14).

"This is my wish, for a park to be built [in my community] and for the hoods to stop burning things and stop leaving their needles around the park" (Girl, aged 12 - Travelling community).

"Where I live there are quite a few parks nearby, but there's just one problem. Every time I go to one, it's full of people screaming, swearing and drinking. I think it is appalling. And to make it worse they leave beer cans and bottles lying around and it is just so dangerous. They smash them up against the wall and don't clean it up. And they write very rude things all over the playing equipment" (Girl, aged 11).

In addition to these cross-cutting concerns, a number of other issues emerged under the following specific areas of provision: play, youth services, sports and the arts.

PLAY

Right to play (Art.31, CRC); right to be safe (Art.23, CRC); right to health; right to an effective education (Art.28, CRC); right to participate in decision-making (Art.12, CRC).

The evidence which supports the need for children to be able to play freely and safely is overwhelming. Research, for example, suggests that access to play and leisure is important for young people in terms of psycho-social development (Eubanks-Owen, 1999). Moreover, these skills and capacities are considered to be of even more significance in societies which are emerging from conflict. In spite of this, children and young people in NI consider that they are not able to fully enjoy this right. As illustrated in the picture and comments below, the lack of access to safe play space was a major issue which emerged in the NICCY schools research with children and young people.

"Where I play the swings are broken and you can't even go on them and there's glass lying everywhere. Like when you're going to play football you can't kick the ball or you will bust it" (Girl, aged 9).

"Tá duine ann agus bíonn se ag oí an t-am ar fad agus cuireann se eagla orm. Tá an páirc sugradha salach. Bíonn daoine ag oí agus ag caitheamh toitíní ansin. Bíonn daoine ag deanamh graffiti. Tá an páirc sugradha salach" (There are people who drink all the time and they frighten me. The play park is dirty. People drink and smoke there. People write graffiti) (Girl, aged 10).

Part of the difficulty in the implementation of this right lies in the fact that it struggles to maintain an identity amongst other related children's services, in particular, formal education and leisure. In NI, play is the responsibility of DE. The issue is further complicated by the fact that many play and leisure facilities are operated by District Councils or by the Forestry Service who are located within DARD. The lack of a single locus of responsibility (or an effective inter-departmental working group) has meant that policy and planning in relation to play is fragmented.

In Playboard's view:

"Play is related through its outcomes to many Departments, so it is essential to create effective inter-departmental structures to ensure and safeguard the right to play".

Key issues

- Many play facilities are funded on a temporary basis, raising concerns about the quality of both the physical estate and supervision. Much of the play sector was reliant on New Opportunities and Lottery Funding which is now finished.
- The absence of an NI Play Strategy. Moreover, few providers have play policies (e.g. very few of NI's district councils have play policies).
- The general lack of facilities in school playgrounds.
- The lack of attention given to play in the school curriculum. The pilot Enriched Curriculum in primary schools is seen to be a very positive development because of the emphasis on play through learning.
- School playgrounds are not open after school. Good school playgrounds could increase access to quality play if they were available for community use.
- Play and leisure space is often religiously segregated (Leonard, 2004: 66-67). There is concern that even play areas which are in supposedly "neutral" space can become aligned with one section of the community or fall into disuse because of parents' reluctance to let their children play there. Related to this issue was a concern raised by some young people who participated in the NICCY research that a lack of appropriate play and leisure facilities can lead to youth getting into trouble with local paramilitary organisations. These young people complained that they were regularly being moved off street corners yet had no alternative place to go because of the lack of facilities available for teenagers in their area. Typical comments included:

"In my area, there are not many facilities like clubs. There is a very small club which has a disco every Friday for under 18s and all kids go to it. There is also a very small park which no-one is ever allowed into. At the weekend you cannot stand without getting told to move by the RA - even if you are not doing anything, just drinking. If you disagree they chase you and try and beat you although this usually only happens with the boys.... I don't see why we always get told to move on by the RA when there is no-where else for us to go" (Girl, aged 14).

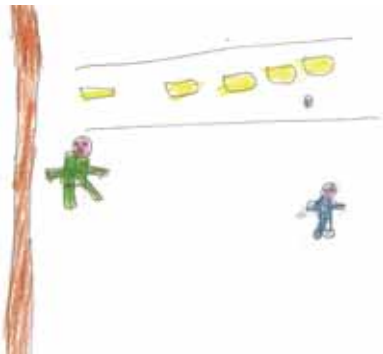
"In my area there is nothing for the kids to do. It is crap and full of graffiti. There is lots of rubbish and stolen cars. The burn marks make the area look stinking. There can be plenty of fights at the weekend when the kids round my age are drunk. There is community watch and they are a bunch of wankers. They don't let us do anything. We are not even allowed to stand on the street corners without getting told to move on even when we are not drinking or making noise" (Boy, aged 15).

- The children we spoke to regularly raised concerns about the safety and quality of public play space. These included: broken equipment, litter, graffiti as well as concerns about 'bad boys' - youths drinking and swearing in their play parks. Moreover, children's play space is often not recognised as such and children and young people are often seen as a nuisance when they play or socialise in public areas. In their submissions to the NICCY research, children and young people remarked:

"Every time we go to play in the park, the park wardens have taken away something else. They told us they were going to bring the equipment back but they didn't. When we try to play on the football pitch we can't because there's glass everywhere and the cleaners won't touch it. And at night at Christmas time when it gets dark early, you can't play in the park. I think there should be lights because you can't see. I also think the park fence should be larger.

It's small and easy to break. We always get hurt and it's a really bad play park. No wee children can play, it's a real shame because they all want to play and we can't and we end up having to play on the street where we get shouted at. We can't play no-where" (Girl, aged 11).

- There were also a range of concerns expressed about road danger. These were linked to the lack of space where children could play. Comments included:



"Outside my house there is a grassy area. Me and the other boys who live near it always play football on it. But there's a man who tells us not to play on it or to play beside the road which is quite busy and the ball always goes on the road" (Boy, aged 11).

"My area has no playing facilities or anything to do. There are no places where we can play football or just run about and play something else. It is just all roads and nowhere to play. It could be dangerous for young children who want to play and they would go onto the roads and get knocked down and get hurt or even killed! All the facilities are too far away from where we live" (Boy, aged 14).

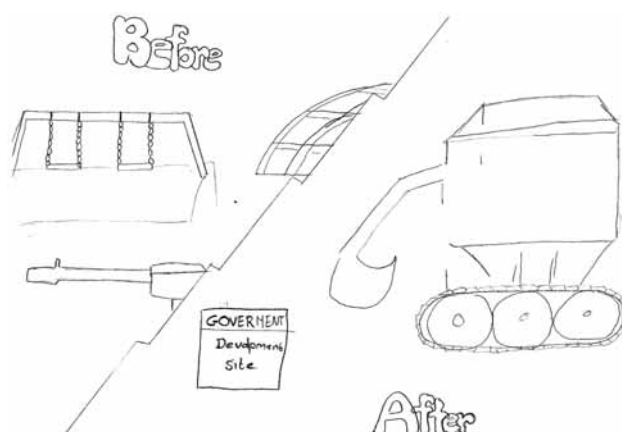
"The road is very busy, isn't it? And sometimes the cars speed up and down it" (Girl, aged 12 - Travelling community).

- Children have limited opportunities for participation in decision-making about play space. Children are rarely consulted about their play space. For example, they often have no involvement in the consultation processes which accompany the decisions about school playgrounds or play areas in new housing developments. The reactions of children who had been promised improvements to their play space suggested that they were sceptical as to the weight accorded to their views. These children commented:

"I told everybody yesterday that I was going to do this today [participate in this research] and there was about 20 of us who said, "Say to them about a park, we need a decent park" and I said okay. Like this is fucking ridiculous. We were promised a park 7 years ago and we were let down. I know this time it's going to be the same, we will get let down the same way. Our estate is shit, there is nothing to do. All we do is sit in the house because there is nothing to do. I really want something exciting in my area" (Boy, aged 13).

"When I was in P5 the architects came in and asked us what we wanted and we wrote down that we wanted a football pitch with lots of nets and astro turf and we were promised a big nature trail with a tree hut and a pond with fish and a climbing frame and a better football equipment. But as usual they didn't build it" (Boy, aged 13).

The importance attached to play in NI can be contrasted with a number of other jurisdictions. For example, the Republic of Ireland has a National Play Strategy and The Welsh Assembly has a Play Policy.



YOUTH SERVICE

Right to recreational activities (Art. 31, CRC); education (Art.28, CRC); safety and well-being (Art.23, CRC); non-discrimination (Art. 2, CRC); involvement in decision-making (Art.12, CRC).

Youth service provision is delivered by both statutory (ELB) and voluntary agencies, and includes over 3000 local youth groups in addition to outdoor education centres, specialist projects, detached youth work initiatives and a range of other services such as Youth Information, counselling projects, international schemes etc.

The target age range for youth services is 4-25. However, the majority of young people who attend provision are in the under 16 age range: over a third of all 4-9 year olds currently attend youth provision, increasing to just over half of all 10-15 year olds, followed by around one quarter of all 16-18 year olds (YCNI, 2004). Research has shown that by the age of 25, over 3 out of every 4 people will have attended youth provision (YCNI, 2004).

The Youth Council is currently using geographic information software to provide information to ELBs which will enable them to identify areas which are underserved in terms of youth service provision. A recent survey found that under a quarter of young people under the age of 25 feel that there is sufficient youth service provision in their area (YCNI, 2004). Young people we spoke to also complained about the lack of youth facilities in their areas. When we asked a group of marginalised young people: "In terms of things to do for people your age, what sort of things would you want, to make it better for you?", one response was:

"Somewhere to go, just to sit.... Yeah, somethin' in the area, somewhere to go like a youth club or somethin'. Open up one of the boarded up houses, knock it into two, make it into a youth club or something. Stop us from breaking into the houses then" (Boy, aged 16 - AEP).

Many children and young people who participated in the NICCY schools research suggested that a lack of things for young people to do in their free time led to them either becoming involved in anti-social behaviour, or being viewed as being involved in this, even if it was not the case. Although children and young people have as much right as adults to make use of public space, their high visibility on the streets, mainly 'hanging about', has resulted in "young people being blamed for being a nuisance and seen as a problem to be solved, not as a group of people who need somewhere to meet" (Dibben, 1999: 6).



Other problems in terms of access to youth services include:

- Children in rural communities find it difficult to access youth provision because of the difficulties in transport. It is intended that the revised common funding formula for the youth service will place greater emphasis on the greater costs associated with rurality.
- Many youth services have been targeted at areas of high deprivation or groups of vulnerable young people. However, there are ongoing problems in terms of access for children from ethnic minority communities (Radford, 2004) and children with disabilities (Mc Conkey and Smyth, 2000). It is widely recognised that access for the disabled is not merely an issue of ensuring that buildings are physically accessible, but extends to capacity building and training for staff. DE established a Working Group on Disability. Disability Action has recently completed research on access to youth services which will be used by the Working Group to identify priority actions.
- There is a need for age-appropriate services for children and young people, The Youth Service Liaison Group has a sub-group which is currently reviewing provision for the under 10s. Similarly there is a current review of how youth services can be made more relevant and attractive to those in the 16+ age range. One young person expressed her concerns as follows:

"My local areas have good facilities for younger people but not for anyone over 10 years old. The GAA club is the only exciting thing in this town and you have to walk 3 miles to it. We just got a new play park and it's brilliant. Unfortunately, I'm 15 years old and would look like an idiot if I tried to go on it. Why couldn't they have got this 10 years ago?" (Girl, aged 15).

Key issues

- Young people are critical of the quality of youth service provision. In a recent survey over 54% of young people under the age of 25 disagreed with the statement: "There is good quality youth provision in my area" (YCNI, 2004).
- The Inspectorate has stated that there is a need to improve "significantly the quality and availability of personal safety programmes on topics such as drugs education and bullying" (ETI, 2000a). One specific gap in the context of bullying is that there does not appear to be a procedure for communication with the formal education sector, in spite of the fact that problems which arise in one venue can carry through to the other.

- All youth organisations which receive statutory support (e.g. from ELBs, the Youth Council or Department of Education) are required to register and to comply with a range of safeguards including child protection legislation. Concern has been expressed, however, about the position of non-registered youth groups. Currently the DE has no authority to demand that such groups register, and therefore no control over their child protection compliance. There is some ambiguity as to which statutory body has the authority to identify and inspect such groups. DHSS&PS is introducing a voluntary scheme for unregulated organisations to ensure a level of accreditation for meeting certain basic minimum standards.
- The participation of young people has been a core value of youth service provision for many years and the service has a number of structural mechanisms to facilitate this (such as the NI Youth Forum and local youth councils, as well as the inclusion of young people on decision-making groups such as the Youth Service Liaison Forum). However, at grass-roots level, the quality of participation is variable, and research has found a degree of dissonance between adult youth workers' perception of young people's involvement and the extent to which young people agreed with this (Benefits of the Youth Service).
- Young gay and lesbians can become isolated from youth activity. Concern was expressed that much community based activity for young people was church-based and that "coming out could alienate young people from all types of social life events" (NGO Representative).
- The Youth Service has an agreed curriculum which places emphasis on citizenship. However, the curriculum does not specifically require youth workers to raise awareness among young people of the CRC.
- As a consequence of the segregated nature of housing in NI and the fact that many youth services are organised by local church organisations, much of youth service provision is religiously segregated. One young person commented:

"And you know many church groups, you know, say that everyone is welcome but they're not really ... I had a past experience where I was best friends with someone and she was like "Oh yeah, we're going to this youth club thing this weekend' and then she stopped and then went "Oh! you can't really go." Even though it was open to everyone and that was coming from someone who was really my friend" (Young female, aged 18 - Youth group).

There is a number of initiatives in the sector. The JEDI (Joined in Equity, Diversity and Interdependence) is a partnership of key youth service bodies. JEDI addresses the impact of segregation at an institutional level in the sector, as well as piloting new approaches in terms of policy and practice. Youth services also receive funding for cross-community contact projects from the Community Relations Youth Service Support Scheme. However, the value of some of these activities was questioned on the basis that the contact is not always meaningful and/or sustained. The Inspectorate have identified a number of concerns with cross-community provision, including: the need for better planning to ensure breadth and progression of young people; the need to improve the skills and confidence of staff; and a "clearer focus on key objectives such as understanding conflict and cultural understanding" (ETI, 2001).

In general terms, there is widespread concern in the sector about its capacity to deliver a full range of services to all young people as a result of resource difficulties, in particular the perceived inadequacy of core funding (around 1.6 % of DE budget) and the fact that much of the voluntary sector relies on short-term project funding. This is considered to have adverse consequences for planning, the physical condition of buildings, the quality of the service offered and the retention of staff. One interviewee observed that the youth sector has expanded to include all those aged

from 4 to 25, without proportionate increases in funding. DE Youth Service is in the process of revising the common funding formula in an attempt to ensure a more equitable distribution of the available core funding.

There is a current consultation document on a proposed Youth Work Strategy (YWS) (Youth Service Liaison Forum, 2004). It is anticipated that this will be in place by April 2005 and it is intended to coincide with the Children's and Young People's Strategy. The CRC is explicitly mentioned in the draft YWS and rights to participation, protection and provision are looked at under separate headings. The YWS identifies many of the key challenges facing the sector which are described above. However, a number of interviewees expressed concern about who will take key issues in the strategy forward and the time scale for doing so. Discussions are ongoing between Youth Service Liaison Forum members to clarify roles and responsibilities.

SPORT

Right to engage in recreational activities (Art.31, CRC); to physical development (Art. 28, CRC); to health; safety and well being (Art.23, CRC); non-discrimination (Art.2, CRC); involvement in decision-making (Art.12, CRC).

The Sports Council NI is the lead statutory agency in this area. The current Strategy for Sport was produced by the Sports Council in 1997 and will end in 2005 (SCNI, 1997). A new strategy is currently being prepared by an inter-departmental group which includes representatives of DCAL, DE and DHSS&PS. Recent statistics suggest that 4 out of 5 children participate in sports activity apart from time-tabled lessons on a regular basis (NISRA, 2004). However, in the NICCY research, the major issue to emerge was the lack of access to appropriate sporting facilities.

Typical comments include:

"Our town has been telling us for years that they are going to build us a leisure centre and they still haven't built us one and it is sooo annoying. We are eating too many sweets and there are not enough sports and things to do and we are all putting on lots of weight. Donaghadee has a tennis court and some playing grounds but it needs things where people can just go and play and not have to join a club to actually play" (Girl, aged 12).



"It annoys me when you go to a leisure centre of some kind and you are not allowed to do something because you are not old enough or tall enough or you don't have an adult with you. It's not fair! These things were made for us anyway so why can't we use them" (Girl, aged 11).

The Sports Council is in the process of trying to map the availability of sports facilities throughout NI to identify locations where there are limited facilities. There are particular problems accessing sporting facilities in rural communities. While there are various initiatives to try to encourage local schools to open their doors to the community, schools can be reluctant to do so for practical reasons such as the need for extra insurance.

KEY ISSUES

Sport at School

A recent ETI report concluded that 36% of schools inspected had inadequate sports facilities with the result that those schools were not in a position to deliver the full programme of study in the curriculum (ETI, 2001a). In the NICCY research, 112 of the 958 responses relating to unfairness in school were direct criticisms of the lack of sporting facilities available. Two thirds of these pupils were boys, the majority of whom made comments such as:

"In school there aren't enough sports and games. The clubs aren't very good either. We would need a proper football club" (Boy, aged 9).

Children in the NICCY research also indicated that their sports facilities were often of poor quality. Typical comments included:

"The facilities here are very poor. The football pitches are easily flooded. The nets have no netting and there are no cricket fields. The facilities for football, cricket and hockey are very poor. The cricket bats are like old, old things" (Boy, aged 13).

The picture below which recommended that children should "Learn a wider variety of sports from a younger age at school" was typical of the criticism made by children that there was not enough time given to sport.



In England, there is a requirement that pupils will do a minimum of 2 hours physical education per week. However, even this was felt to be inadequate as it does not allow for changing time and/or getting to facilities. Moreover, there is concern that physical activity can get squeezed to facilitate other parts of the curriculum. For example, physical education classes will be often be the first to be cancelled during examination times.

Safety

Concern was expressed about the fact that many volunteers will not have been vetted or have received child protection training. The Sports Council NI has produced a Code of Ethics on Children's Sport. Moreover, the Child Protection in Sport Unit assists Sports Governing Bodies in the development of policies and procedures and develops training resources. Individual Sports Governing bodies produce guidance on best practice for coaches but the sector relies heavily on volunteers. There are various initiatives in this area (e.g. DCAL and SCNI have funded a Child Protection in Sport Advisory Officer and supported the delivery of child protection awareness workshops to over 8000 volunteers in the last three years). Concern was also expressed about the difficulties in getting children to activities safely. The Sports Council is working on a "Safe Routes to Sport Policy".

Involvement in Decision Making

Children indicated that rather than doing the sports they wanted to do, they often ended up doing those sports the school or local clubs wanted to promote:

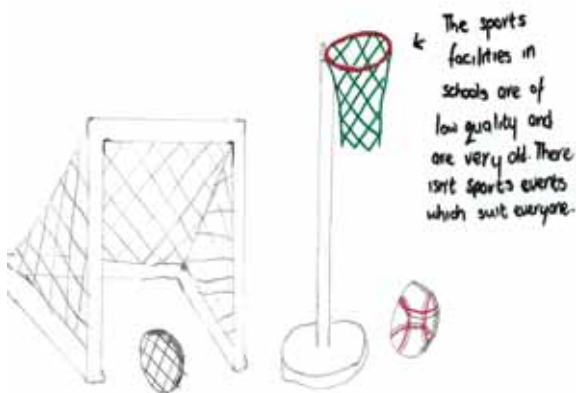
"There is absolutely nothing to do except for Gaelic football which I love. But in Gaelic football it doesn't matter if you are good or not, it's all about who you are and who you are related to. I would love for netball, or basketball or camogie to be started in my local area because when football's off there is nothing for us to do - that's why we get in trouble" (Girl, aged 14).

"There aren't many sports or leisure facilities in my area. There are no faculties for other sports like basketball, ice-hockey and skateboarding. There are leisure centres, but these are hard to get into and they're expensive" (Girl, aged 15).

Gender

"The same opportunities to participate actively in sports and physical education." (CEDAW, Art. 10);

There are various initiatives aimed at encouraging greater participation in sport by girls. The key to success is seen to lie in engaging girls in sports they want to do. For example, girls often want to do things like hip/hop dance and boxer-cise where they can wear their own clothes. Involving girls in sport may also involve challenging gendered perceptions of sport by providing opportunities for girls to engage in the same activities as boys. Girls who participated in this research said:



"In school I don't think it's fair that there is a boys football team and no girls team. Also, we are not allowed to play rugby on the pitches. It would also be nice to have a girl's school rugby team" (Girl, aged 11).



"The girls should be in more tournaments for sports. We only get one tournament in hockey and cricket but the boys get loads... The boys also get to go to a golf club and play golf. The girls should get more opportunities like this" (Girl, aged 14).

Promoting Tolerance

Participation in sport in NI reflects the community divisions in a number of significant respects. This is also the case in schools since Catholic schools are more likely to offer Gaelic games while schools attended by mainly Protestant pupils are more likely to offer Rugby and Hockey. There is a lot of school-based EMU activity in this area but there can be difficulties maintaining links beyond the organised events. Moreover, some parents object to their children engaging in sports connected with the other community. This is a particular issue in cross-community summer schemes. Staff try to get round the issue by focusing on “kicking skills” rather than Rugby and Gaelic. Individual Sports Bodies are working on issues related to sectarianism (e.g. the Irish Football Association’s involvement in the “Stamp It Out” campaign). The lack of attention to the significance of play in the school curriculum. SCNI places a requirement on all funded organizations to make a commitment to equity training and to developing an equity policy. However, there does not appear to be a sector wide strategy aimed at addressing communal divisions and promoting tolerance through shared activity. While the Sports Strategy for 1997-2005 mentioned concerns about “enduring prejudice, tolerance and sectarianism”, it did not set specific objectives or targets for addressing it.

CULTURE AND THE ARTS

States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity (Art. 31, CRC).

Research indicates that the majority of children’s art-based activity takes place in school. In a recent survey, children aged 11-16 were asked about extra-curricular activity in creative and artistic pursuits in the last twelve months (Young Persons’ Behaviour and Attitude Survey, 2003). Their responses were as follows:

Table 5.1: Extra-Curricular activity

Activity	% in School	% outside School
Drama/dance	22	13
Creative writing	34	3
Photography/film-making	4	8
Painting/drawing	49	7
Craft	22	9
Other art activity	16	11

Source: Young Persons’ Behaviour and Attitude Survey, 2003

School-based arts activity

Most children's experience with the arts takes place in school. Children and young people who participated in the NICCY research raised concerns about the lack of time and/or equipment for arts in school. Related to this point was the negative effect strike action could have on the availability of after school arts based clubs and societies. Many children and young people specifically used the opportunity provided by the research to request a greater variety of arts-based subjects to be made available at school. They raised issues such as:

"I think our school should get a drama club as I think a lot of children would be interested in that" (Girl, aged 13).

"We need more facilities for school and more instruments for music and more equipment for other classes" (Girl, aged 15).

"There are no clubs in school which is a shame because I would like to go to acting classes" (Boy, aged 11).

The following picture aptly captures the dissatisfaction pupils generally expressed about the low value placed on art at school.



The reviews of the primary and post-primary curricula have identified a need for increased attention to be given to children's creative development in school (see Chapter Four). The emphasis on diversity and social inclusion within the area of Local and Global Citizenship also offers potential for increased attention to culture.

Key issues

- The broader educational value of arts-based activity is not always recognized and the arts can be squeezed as a result.
- Schools do not always have the resources to pursue a broad range of arts activity. The majority of schools will have a music suite but not all will have a decent stage, dance hall, photography or art equipment. A recent ETI report on post-primary schools concluded that while 75% of work was of good quality, there were serious deficiencies in accommodation and equipment (ETI, 2003a).

- Schools tend to restrict themselves to certain arts such as music or drama as young people can do examinations in those.
- ELBs provide curricular support for music but not for other arts.

Community-based arts activity

A 2001 Survey of Creative Arts in the Youth Service indicated that there is need for further training of youth leaders and greater availability of specialist tutors in the Youth Service so as to ensure greater accessibility of the arts (ETI, 2002). A recent evaluation of Creative Youth Partnerships (Annabel Jackson Associates, 2003), which included a base-line survey of arts activity in NI, identified the following issues in relation to community-based arts activity:

- Community arts activity is not sufficiently linked to the NI School Curriculum.
- The need to develop partnerships with youth clubs and non-traditional venues.
- The need to ensure that youth arts activity is provided across district council areas in NI. While every district council area has some youth arts activity, more than two thirds of respondents to the survey worked in Belfast.
- The need to broaden participation across the various age groups of children and young people. Most activity is directed at children over the age of 7. The base-line survey found that only 24% of those surveyed worked with pre-school children and only 46% worked with those in Key Stage 1.

The evaluation document highlights some of the difficulties involved in estimating the actual levels of participation by young people in arts activity. However, on the basis of the available information, it concluded that: "there is a reasonable level of youth arts activity in Northern Ireland" (Annabel Jackson Associates, 2003:48). The base-line survey also indicated that a significant amount of work is targeted at marginalized groups of children and young people. Although 80% of those surveyed indicated that they worked with the generality of young people, many respondents also worked with marginalized children and young people, including: socially and economically deprived groups (59%); rural groups (35%); ethnic minorities (22%); young offenders (11%); children and young people with disabilities (33%) (Annabel Jackson Associates, 2003: 46).

The Arts Council (NI) is the lead organisation in this area. Its strategic plan for 2001-2006 locates its key objectives within a human rights framework (Arts Council NI, 2001). However, there is no specific mention in the strategic plan of the CRC or children's rights, in particular children's rights to have their views given due weight and/ or the right to cultural and artistic development. However, increasing access to the arts for children and young people is identified as one of the Council's nine strategic objectives. The strategy indicates that the Arts Council, in conjunction with other partners, will work to: increase the number of primary and secondary school students working with artists on creative projects in school; develop the range and quality of early years arts provision; increase the number of youth workers using the arts; increase employment for artists in the education and youth sectors; increase the number of artists with appropriate training to work in education; and increase the creative participation in and attendance at the arts by 16-24 year olds.

CONCLUSIONS

There is a wide range of initiatives within NI which are aimed at giving children enjoyable play, leisure, recreational, cultural and artistic experiences. Nonetheless, there is little doubt that the issue of play and leisure is the one which most children feel strongly about. The most pressing issues are as follows:

- The right to play must be given a higher profile through the implementation of a Northern Ireland Strategy on Play.
- The various types of provision across NI should be mapped in order to identify particular locations where children's access to various forms of play, leisure, recreation and the arts is limited.
- There must be a greater emphasis on providing inclusive social opportunities for marginalised children and young people, particularly those who have disabilities and those living in rural communities.
- There is a need to create safe space for children and young people in the areas where they live and in play, youth and leisure facilities.
- Children and young people should be involved in planning decisions about play, leisure, recreation and the arts.
- There is a need for a more concerted effort to tackle the problems of community segregation in play, youth, sport, recreational and arts activity and to harness the potential of each of the various sectors in promoting tolerance.

One general theme which emerged in discussions with key professionals working across the services mentioned above was that much of the provision which is made for children is financed through short term project funds with adverse implications for the scope and quality of provision and the sector's capacity to retain staff. A second cross-cutting theme concerned the need to give children more freedom in their so-called 'free-time'. There were two dimensions to this. The first was ensuring that they are safe in the areas where they live and where they play. Various initiatives (such as the introduction of Play Wardens in Parks or the NSPCC's Leisure Watch programme) were mentioned as examples of community-based initiatives which could be extended to ensure that children are safe in play and leisure space. The second was that children should be both allowed and encouraged to take risks. Several interviewees expressed concern about the negative impact of a "litigation culture". It was felt that adults who work with children are forced to be over cautious about the children's safety with the result that children can be denied valuable opportunities for development.

CHAPTER:

six

**YOUTH JUSTICE
AND POLICING**

INTRODUCTION

In addition to the CRC other complementary international standards for law, policy and practice regarding youth justice and policing are: UN Rules for the Protection of Juveniles Deprived of their Liberty, 1990; UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules); UN Guidelines for the Prevention of Juvenile Delinquency, 1990 (the Riyadh Guidelines); UN Standard Minimum Rules for Non-custodial Measures, 1990 (the Tokyo Rules).

While articles and guidelines have specific application to youth justice, and these are outlined below under topic headings, several generic CRC articles are relevant to the administration of youth justice. These are: protection against discrimination (Article 2.1); consideration of best interests of the child and institutional care and protection of children (Article 3.1 and 3.3); survival and development (Article 6.2); protection and support (Article 19.1 and 19.2); freedom of expression and the right to consultation (Article 12.1 and 12.2).

More broadly, the CRC requires member states to “seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law” (Article 40.3). They should establish “a minimum age below which children shall be presumed not to have the capacity to infringe the penal law” (Article 40.3a). While international instruments do not provide precise guidance in establishing an “appropriate age of criminal responsibility”, the Beijing Rules suggest that it should “not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity” (Rule 4). The important consideration is “whether a child by virtue of his or her individual discernment and understanding, can be held responsible for essentially anti-social behaviour”. Contextually, the Rule recognises the “close relationship between the notion of responsibility for delinquent or criminal behaviour and other social rights and responsibilities (such as marital status, civil majority)”.

In 1998, following the removal of the presumption of *doli incapax*, the age of criminal responsibility was consolidated at 10 for England, Wales and Northern Ireland (NI). Courts were also allowed to draw inferences from the failure of an accused child to give evidence or answer questions at trial. In its report to the Committee, the UK Government (1999: 180) defended both measures on the basis of “putting all juveniles on the same footing as far as courts are concerned” thus “contribut[ing] to the right of children appearing there to develop responsibility for themselves”. Abolishing the protections of *doli incapax* and the right to silence were presented as securing children’s opportunities and rights. In response, the Committee (2002: 15) noted “with serious concern that the situation of children in conflict with the law has worsened since the consideration of the initial report”. Of particular concern was “the age at which children enter the criminal justice system”. The expansion of custody for children was criticised and the Committee recommended that the minimum age of criminal responsibility be raised considerably (*ibid.*: 16).

The Committee welcomed “the State party initiatives to introduce restorative justice and other constructive community based disposals for juvenile offenders; the almost complete inclusion of 17-year-olds in the juvenile justice system and the creation of multi-disciplinary teams to respond to child offenders’ behaviours”. Yet it expressed profound concern regarding the conditions experienced by detained children, the lack of protection against bullying in young offenders’ institutions, the high levels of violence, self-harm and suicide and the use of solitary confinement. It recommended that detention “is used as a measure of last resort and for the shortest appropriate period of time and that children are separated from adults in detention”.

It encouraged the use of alternatives to custody. Every child in custody should “have access to independent advocacy services” and be protected by an “independent child sensitive and accessible complaint procedure”. The Committee called for an urgent review of the conditions of detention, focusing particularly on the “equal statutory right to education, health and child protection”. It also recommended a review of the orders introduced by the 1998 Crime and Disorder Act, extended in 2004 to the jurisdictions of Scotland and NI, to “make them compatible with the principle and provision of the Convention”. The State should also take measures to protect the privacy of children in conflict with the law.

In making its observations the Committee does not always address separately the distinct UK jurisdictions. Commenting on children in armed conflict, however, the Committee “remain[ed] concerned at the negative impact of the conflict situation in Northern Ireland on children, including the use of emergency and other legislation in force...” (ibid.: 13). It recommended a review of the legislation. It also proposed a further review of “the use of restraint and solitary confinement in custody, education, health and welfare institutions...” (ibid.: 8). Further, it stated that following “the recommendations of the Committee against Torture (A/54/44, para.77d), the State party should abolish the use of plastic baton rounds as a means of riot control” (ibid.: 7).

The defining legislation concerning children and criminal justice in NI is the 1998 Criminal Justice (Children) NI Order (CJCO). The Review of the Criminal Justice System in Northern Ireland was published in March 2000, followed in November 2001 by the Criminal Justice Implementation Plan. The Justice (NI) Act was passed in 2002 implementing many of the Review’s 300 recommendations. The Act modified and expanded the CJCO. Under the CJCO (Article 2) children were defined as being under 17. The Act included 17 year-olds. While both the CJCO (Article 4) and the Act (section 53) were proclaimed as emphasising the welfare of the child as paramount this has been contested by the children’s sector and criticised for not reflecting the best interests principle or complying with international standards. The Act aims to affirm the role of personal, social and educational development.

The Act allows children under 14 to be remanded to secure accommodation but this provision has not been enacted. Children over 14 can be remanded to the juvenile justice centre (JJC) or to the young offenders’ centre (YOC). Although the YOC accommodates 17 to 21 year-olds, 15 and 16 year-olds can be remanded to the YOC should the Court decide that they pose a risk of self-harm, suicide or violence to others. Remands should be limited to children who have committed serious offences or pose a significant threat to the public. The CJCO (Article 19) restricts custodial sentences for children to serious crimes and for the protection of the public. The Court is compelled to provide justification for each custodial sentence. Under the reformed criminal justice system children can receive juvenile justice orders, custody care orders (10 to 13 year olds), custody probation orders and sex offender orders. Grave crimes, the equivalent of a 14 year plus sentence for adults (CJCO, Article 45.2) or a 5 year plus terrorism offence (Terrorism Act 2000, section 78), can result in a specified period of custody in conditions ordered by the Secretary of State. This has resulted in indeterminate life sentences.

The range of recent reforms demonstrates a measured commitment to alternatives to custody for children. The PSNI Youth Diversion Scheme, introduced in 2003, alongside the formal criminal justice system, deals with offenders through youth diversion and restorative justice principles. ‘Informed warnings’ and ‘restorative cautions’, the latter for more serious cases, lead to restorative conferencing and youth conferencing. For cases proceeding to court and resulting in convictions, a pre-sentencing report is required from a probation officer or social worker. This focuses on

home circumstances, physical and mental health, 'character', prior offences, possible causes of offending behaviour, family support, risk factors, mitigation and the anticipated impact of possible sentences. The available non-custodial disposals are: absolute or conditional discharge; recognisance or binding over; fine; probation order; community service order (16 plus); combination order (16 plus); attendance centre order (under 17); drug treatment and testing order (17 plus); sentence deferment; suspended sentence. The Justice Act also introduced reparation orders, community responsibility orders and youth conference orders.

While recognising that all international standards have not been achieved, McKeown (2003: 402) concludes that the "introduction of the Criminal Justice (NI) Order 1996 and the Criminal Justice (Children) (NI) Order in 1998 in many respects brought the juvenile justice system more in line with the Beijing Rules and the UNCRC".

POLICING

Survival and development (arrest and detention); right to life; child's opinion; freedom of association; access to appropriate information; protection from abuse and neglect; deprivation of liberty; administration of juvenile justice (Article 40.1;2b;3b)

Context

The history of policing in NI since partition has been controversial and bitterly contested. Throughout the thirty years of conflict and beyond the 1998 Belfast Agreement policing has remained contentious: the tension between community and paramilitary policing; the handling of serious complaints; the politics of accountability; police powers under emergency legislation; the use of force and police technologies. The Belfast Agreement, however, established the basis for the Independent Commission on Policing in Northern Ireland (the Patten Commission). The Agreement called for a police service that "is professional, effective and efficient, fair and impartial, free from partisan political control; accountable, both under the law for its actions and to the community it serves; representative of the society it polices, and operat[ing] within a coherent and cooperative criminal justice system, which conforms with human rights norms". Patten consulted widely and reported in September 1999. It proposed that an effective, efficient and modern police service depended on the adoption of key principles. These were: collective responsibility involving the active and democratic participation of local communities, building a partnership for community safety; the acknowledgement and protection of human rights for all through training and strategies; legal, political and financial accountability; transparency and openness, particularly with regard to covert operations.

The Police Service of Northern Ireland (PSNI) was established as successor to the RUC in November 2001. New uniforms, badge and flag, issues of considerable dispute, were introduced in 2002 and a new programme of recruitment, training and agenda-setting, in line with Patten, was established under the broad direction of the PSNI Change Management Team. In this climate of change and critique, however, and despite the inclusivity inherent in the Patten Report and the work of the children's sector in achieving that end, minimal attention has been given to the largest group of people to have routine contact with the police: children and young people. Yet the issues raised by children in the research for this project and in other recent studies are profound. Children and young people in the NICCY schools research expressed scepticism about the degree to which the police service had changed other than in name and uniform. What was particularly interesting was that this view was expressed fairly equally among young people from both Catholic and Protestant communities. Below is a fairly typical image relating to this concern:



SPOT THE DIFFERENCE!

Hamilton et al. (2003) studied young people's views of police accountability. Although confined mainly to the 16 to 24 age range, 56% of young men and 28% of young women reported contact with the police in the previous 12 months. Being stopped and questioned by the police and being moved on were the most frequent reasons for contact and most young people regarded the circumstances as harassment. Their experiences of the police were "predominantly negative" and 24% were "very dissatisfied" with the police. Ellison (2001: 133) refers to this as "adversary contact". "Disrespectfulness and/or impoliteness" (58%) was the main criticism and harassment "included physical violence, a constant police presence and being watched, confiscation of goods and verbal abuse". The research also found marked differences in young people's perceptions and experiences of the police depending on their community.

Ellison's (2001) earlier research on the RUC found that 14 to 17 year-old males were three times more likely to be stopped and searched by a police officer than were 18 year-olds. Children from "socio-economically disadvantaged areas" were more than twice as likely to have been searched. His research also demonstrated a difference in perception and experience between Protestant and Catholic children: "92.6% of Catholic males who have been stopped and questioned by the RUC 'too many times to remember' believed this to constitute harassment, compared to 60.3% of Protestant males" (ibid.: 133). Ellison's research was conducted post Patten and he recorded considerable support among young Catholics for changes in the RUC, including name change. While a considerable minority (20.8%) of Protestant young people agreed with slight reform, the majority remained resistant to change.

Quinn and Jackson, (2003) researched the detention and questioning of children and young people. Their detailed study found that 55% of those detained were released within three hours, 25% between three and six hours, 13% between six and twelve hours and 7% between twelve and twenty four hours. Most were held in a cell or juvenile detention room, sometimes overnight. Only 15 % of those detained were eventually charged. 78% were searched, 52% were photographed, 70% were fingerprinted and 36% had a sample taken for DNA testing. "Some appropriate adults and solicitors complained that the taking of samples, fingerprints and photographs criminalised young persons" (ibid.: vi). According to custody staff, "securing the prompt attendance of an appropriate adult" was "a major problem" and "often prolonged young persons' time in custody unnecessarily" (ibid.: vii).

There was inconsistency in the advice given to children and young people by custody officers. Solicitors “complained that not enough was done to explain the importance of legal advice to young persons and their parents...” (ibid.: ix). Quinn and Jackson also found that solicitors “generally agreed that there were difficulties in ensuring that young persons, particularly under 14 year olds, understood the advice which was given to them” (ibid.: x). Whether children understood the caution, and how it was explained, was a significant issue and “it was suggested that 10-13 year olds would rarely understand the caution” (ibid.: xii). In terms of CRC compliance it is a concern that “interviewing officers had not received any special training on interviewing young persons” (ibid.: xii). Further, while “the dominant approach ... was simply to put an allegation to the young person ... other interview styles” included “an adversarial approach, a moralistic approach and an intelligence gathering approach” (ibid.: xii-xiii).

Routine, negative experiences of the police are consistent with young people’s focus groups conducted across NI for the NICCY research. Although all identified a ‘need’ for policing within their communities most recounted negative experiences of the police. Focus groups in Belfast and Derry/Londonderry gave recent examples of aggressive and bullying policing, including assaults, which occurred in non-riot situations. Typical comments, endorsed by the groups, were:

“The Peelers just push you around. You’ve got the attitude problem not them. If you come back at them they just give you a quick beating. It’s not right but it goes on all the time” (Young male, aged 17 - Youth group).

“We were just standing by the fences there the other day and the police came and told us to move on. We said we’re just havin’ a smoke, we’re here [in the building]. ‘You’re not allowed to stand there. Move on!” (Young female, aged 18 - at risk of homelessness)

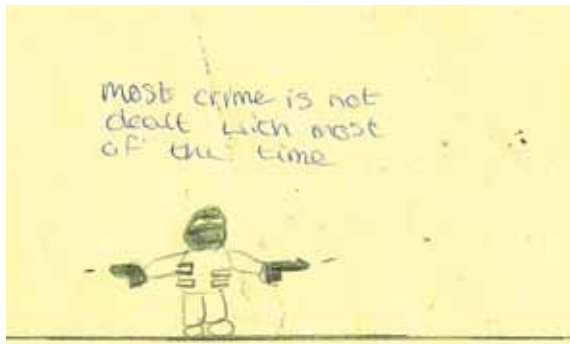
“If you’re on the street then you’re up to no good, like. They just come and tell you to go and when you say ‘Where?’ they tell you to ‘Fuck off, that’s where” (Young male, aged 17 - Youth group).

“They know you, your families an’ all. They tell you ‘You’re next’ and that you’re up to no good an’ they’re watchin’ for you. I got paranoid that I was scared to go out” (Young female, aged 17 - Youth group).

“One of the blokes [police officer] grabbed me by the scruff of the neck and threw me against the wall and had me up against the wall like this. I just said ‘Nine one one, I’ve got your number” (Young male, aged 17 - Youth group).

A youth worker witnessed an incident outside his house: “I was parking the car and I just heard a screech and a car pulled over and a guy came out, about four or five inches taller than me, and grabbed a wee young fella up by the throat and threw him into the car. The wee fella was only about 14. He was wearing an Ireland football jersey and he was just grabbed by the throat and threw into the car and taken away”. In focus groups held in Derry/Londonderry with 80 child sector workers 44% recorded their dissatisfaction with the police and 13% regarded the police as ‘bullies’. 19% considered that there should be better coordination between the PSNI and restorative justice projects. One NGO worker commented, “There needs to be an effective CRJ approach that tackles appropriately and effectively issues like under-age drinking and safety for young people and provides the opportunity for taking responsibility for misbehaviour and its consequences”.

The above accounts, across communities and from boys and girls, were consistent with the overall findings of the NICCY schools research. For example, when asked to write/draw/discuss images or words that came to mind when they heard the words 'police' or 'crime', 143 out of 710 children (20%) described the police as "lazy" and/or "not doing enough" to serve the community, that they were slow to arrive at the scenes of crimes/accidents and that they should focus more on solving "real" crime rather than "obsessing" about the wearing of seatbelts. Typical comments and images included:



"The police don't do anything about the people in [name of town], they just walk around the town at night and watch young people drink and take drugs. Over the past year our town has lost lots of things because of the teenagers and older people, for example, the circus and the fun fair festival. Some people suffer for the things they didn't do and they leave us with nothing. It's about time the police did something about it" (Girl, aged 12).

"The cops sometimes get it right by catching the robbers or killers but most of the time they are out to get the public who are not doing anyone any harm such as people who are slightly over the speed limit or people with no tax or even in some places they put a curfew on all kids even though it may just be a small percentage of the kids who are causing the trouble" (Boy, aged 14).

A further 13% remarked that the police were only interested in harassing young people; a view voiced by older children in general and boys in particular. An additional 7% claimed that differential policing was based on sectarianism and 6% associated the police with riots. Children commented:

"There should be more police about the area and the police should try to be a little more friendly. The police should try and let us play in our area because sometimes they would have a complaint saying we're not allowed to play in the streets but it's our street and we should be able to. They should try and get the people causing the trouble off the street so we can have a safer time. They should try and get joyriders off the road because they are killing people and themselves" (Boy, aged 13).

"The police are always up behind our house putting cameras in the field and watching our house. I found one about six months ago in a field. I don't feel comfortable in my own house! My dog went over and started to bark at them in the field. The fucking bastards gave it a poisoned sausage and it died a few hours later. As they walk past our house they stick up their fingers at us and call us names like 'catholic scum' and 'fenian bastards'. They scare me with their guns" (Boy, aged 14).

"The police are a bad thing to have driving about the streets and roads. They cause fights and riots on the roads. People's houses and cars are being damaged by people throwing things at the police. Just four days ago, our car tyres were busted by glass on the road" (Boy, aged 14).

"Every time I see their cars I run an' all. I don't want them to see me. I'm not afraid I just don't want them to see me because each time they come they think I have done something bad, Sometimes I do" (Boy, aged 8 - Traveller Community).

It should be noted, however, that when asked about the words and images that came to mind when they heard the words 'police' and 'crime', 156 of 710 children and young people (22%) voiced annoyance regarding the use of drugs, joyriding, drinking and noise in their community. Only 12% of children had a positive view of the police. Images which depicted the police in a positive light appeared to be influenced by media representations of 'cops and robbers' films and cartoons. That is, many depicted images of a cop chasing or arresting a robber or burglar, who would often be wearing a stereotypical black and white striped top with a swag bag. These images were most often expressed by younger aged children (i.e. those aged 5-11) and those with severe learning difficulties. A typical image is depicted below:



A focus group held with those working with lesbian, gay, bisexual and transgendered (LGBT) young people noted the average waiting time for the police to deal with a homophobic incident was three hours. When young people reported abuse or assault they were often not taken seriously and suffered alienation within communities for taking action. The distrust of the police by LGBT young people was shared regardless of religion or community. The group also emphasised the significance of 'multiple identities': "In Northern Ireland the focus is on whether you are a Catholic or Protestant and there is little attention given to other means of discrimination on the basis of class, gender or race. Yet these impressions can impinge on one another hence doubling or even tripling the oppression experienced by some young people..."

Smyth et al., (2004: 79) note that the "lack of accountability of the police and the sense that young people had of police impunity was a significant source of anger and frustration, particularly amongst young Catholics". It amounted to "a strong sense of injustice and the powerlessness to challenge unfair treatment was a recurring theme in interviews". An 11 year old girl Traveller in a NICCY research focus group commented, "They [the police] have guns and batons and they think they can do anything".

Key issues

- Absence of the 'best interests' principle in policing policy and strategy.
- Differential and discriminatory treatment of children and young people on the grounds of age, class, community, ethnicity, care, disability, gender and sexual orientation.
- Children's negative perceptions of the police particularly associated with sectarian divide.
- Use of intimidation and unreasonable force against children and young people in certain locations; from 'moving on' to assault.
- Contested evidence regarding the use of children and young people as gatherers of covert 'low level' intelligence on crime within their communities thus compromising their right to life.
- Children and young people as victims of crime: bullying; assault; theft.
- Children and young people as victims/survivors of domestic violence and abuse: child protection and inter-agency cooperation.
- The development of a comprehensive child protection policy including the introduction of PECS checks for all police officers.
- Children and young people as victims/witnesses to the policing of adult crime: house raids by police; public disorder.
- Children and young people as perpetrators of crime: dealing with 'vulnerable suspects'.
- Children and young people as witnesses to serious crime: trauma; evidence gathering procedures; vulnerable witnesses/protection.
- Appropriate accommodation and training for interviewing children as victims, perpetrators and witnesses.
- The right of silence and inferences drawn from children's silence in the issuing of cautions.
- Development of youth diversion initiatives in the context of formal restorative approaches; tensions over community restorative work.
- Post-Patten move towards community accountable policing: information provision via schools; right to participate.
- Inter-agency cooperation in the investigation of commercially sexually exploited children; particular focus on children in care.
- 'Service user involvement' in the initiation and development of child-appropriate policing policies and practices.
- Police training in children's rights and in the development of child-oriented policing including a commitment to assisting children to understand their rights.
- The development of a child-oriented complaints procedure.
- The need for the Policing Board to establish a commitment to child specific issues.

Comment

A key issue raised by community groups across the sectarian divide was the use of children by the PSNI to gather low level intelligence as informers in exchange for immunity from prosecution. A community worker put it succinctly: "They know that if they recruit a child as an informer they turn the child into a combatant and immediately put his life at risk". As institutional policy or practice, this was rejected by the PSNI and by the Police Ombudsman. Both referred to new legislation and strict operational guidelines governing the use of children as informers. A PSNI representative commented that in terms of routine policing modern forces are "intelligence led"

and young people would be considered appropriate for “information gathering” regarding crime in the area. In observing police interviews of children detained by the police Quinn and Jackson, (2003: 116) comment: “it appeared indeed in some cases that the interview was being used, not so much to extract a confession from the young person or to provide an opportunity for exculpation, but rather to gather information about other matters or individuals”. The PSNI draws the distinction between the use of children as information-gatherers primarily for political ends and as part of the routine policing of crime. It would be naïve to assume, given recent history in NI, that the two issues are not inter-connected, at least in communities wary of any police intervention. This has serious implications regarding the meeting of international children’s rights standards including the right to life.

According to a PSNI representative, proposed initiatives are based on the development of new strategies for consulting with children and their families focusing on improved access to justice, including a more accessible complaints system for children and recognition that child protection is a police as well as social services’ responsibility. He stated that central to child protection is the principle of “proactive policing” and policies developed in close consultation with “a number of children’s organisations”. Other standards to be introduced include: children as victims of crime (recognising that as a group children require special provision); children as perpetrators of crime (consistency in the use of PACE); children as witnesses of crime (particularly training officers in child-sensitive interviewing techniques); children used as covert intelligence sources; children in domestic incidents (particularly regarding child protection matters); policing bullying (working more closely with schools regarding access); children caught up in adult offences (particularly regarding house searches). Beyond this the PSNI representative stated that as an organisation the police needed to further develop appropriate methods of investigating complaints against their staff and to develop child protection training for officers.

POLICE TECHNOLOGIES

Best interests of the child; necessary protection and care for the well-being of the child; the right to life, survival and development; disaggregation of data on deaths and injuries; child’s opinion; freedom of association; inhuman treatment

Context

The use of baton rounds as a means of crowd dispersal has been an issue of serious contention since rubber bullets were first introduced and used in NI in 1970. Following deaths and injuries the ‘more accurate’ and ‘less lethal’ plastic bullet was introduced in 1974. In 1994 a ‘more accurate’ anti-riot launcher was introduced followed by a ‘more accurate’ and ‘potentially less lethal’ baton round, the L21A1, in 2001. Throughout this period 17 people were killed by rubber or plastic baton rounds. Of these, eight were children. Many others, estimated in the hundreds, have been injured. It is not possible to provide accurate statistics on injuries due to baton rounds as no records were kept by the police or by hospitals. What is clear from interviews conducted with community-based support groups is that the physical and psychological trauma caused by serious injuries is extensive both to survivors and to their families. There is also evidence that lives have been prematurely ended as a result of this trauma.

The use of baton rounds “in situations of serious public disorder” is governed by the Association of Chief Police Officers’ (ACPO) guidelines. The guidelines specify that baton rounds and CS munitions constitute a “less than lethal contingency in dealing with serious public disorder” although they recognise that baton rounds can cause serious injury and have resulted in deaths. Once a decision has been taken to deploy baton rounds they “should be fired at selected

individuals and not indiscriminately at the crowd ... aimed to strike directly (i.e. without bouncing) at the lower part of the target's body (i.e. below the rib cage)". Noting that the "risk of serious and fatal injuries is significantly increased" should baton rounds be aimed at a higher part of the body, the guidelines prohibit such targeting. This instruction fails to recognise that child's upper body and head might well be at a height consistent with an adult's rib cage.

In 2003 revised guidelines were issued which, for the first time, addressed the issue of children. Referring to Article 3C of the UN Code of Conduct for Law Enforcement Officers, the guidelines stated that "every effort should be made to exclude the use of firearms, especially against children ... [b]aton rounds represent a less lethal alternative to conventional baton rounds ... [e]very effort should be made to ensure that children are not placed at risk by the firing of baton rounds in public order situations and children should not be directly targeted unless their actions are presenting an immediate threat to life or serious injury, which cannot otherwise be countered" (para 1.9, emphasis added). While appearing to establish a safeguard in principle, in effect the guidelines authorise the use of baton rounds against children and young people.

While the number of baton rounds has reduced significantly, between 2000 and 2002 well over 300 were fired by the PSNI and just under 100 by the Army (Omega Foundation, 2003: 27). Of the 12 injuries caused by baton rounds in one year (2001-2002), where the age of the person was known, 8 were to children. During an incident in April 2002, when police officers and soldiers were deployed to contain disorder between nationalist and loyalist youths, baton rounds were fired by a police officer and soldiers. The Police Ombudsman investigated the case and police officers were given "appropriate advice and guidance" on issuing a weapon to an unauthorised officer. The officer also "received appropriate advice and guidance". The Ombudsman supports the PSNI in the use of baton rounds on the basis that there is "no viable and effective alternative". The official position is that baton rounds are preferable to live ammunition. A PSNI representative stated that "in my opinion while some lives have been lost more lives have been saved by their use. They have been shown to be effective in riot and crowd control, more than any other method". Community groups argue that if baton rounds, like bullets, have the capacity to be lethal then they are a form of 'live' ammunition and should be treated accordingly.

Research conducted by the Omega Foundation on behalf of the NIHRC recommended that the "Government commits to a binding timescale for the completion of the search for an alternative and withdrawal of the baton round in Northern Ireland". The research contests the sparse evidence presented in defence of the L21A1 and the Government's reassurances that there is greater transparency in their use. In October 2002 the UN Committee restated its concern "at the continued use of plastic baton rounds as a means of riot control in NI as it causes injuries to children and may jeopardise their life". Consistent with the recommendations of the Committee against Torture, it urged the Government "to abolish the use of plastic baton rounds as a means of riot control".

The Patten Report recommended that alternatives to baton rounds be sought. The PSNI introduced CS Incapacitant Spray as "an additional less than lethal option as part of a graduated response to any situation where police or a member of the public may be subjected to attack or violence". This PSNI position statement is not entirely accurate in that CS Spray has been involved in the deaths of at least two people in England and Wales since its introduction. If administered at close quarters while a person is being restrained it has lethal potential. The PSNI, however, states that CS Spray "is not an alternative to baton rounds, nor is it a tool for deployment in incidents of major public disorder". On a "voluntary" basis the PSNI is committed to referring all cases of its use to the Police Ombudsman to "ensure that we learn all lessons possible for our use of CS Spray".

Key issues

- The abolition of the use of plastic baton rounds as a means of riot control as children and young people are particularly vulnerable in compliance with the Patten Report and international standards.
- Further research into the extent of physical injuries caused to children by baton rounds, the long-term psychological effects of surviving injury and the impact on families of deaths and injuries of children.
- CS Gas (crowd control) and CS Spray (close contact): current review of use of CS Spray by the Ombudsman's Office to take account of impact on children and young people.
- The responsibilities of the Policing Board with regard to the use of baton rounds, CS Gas and CS Spray.

Comment

Community-based groups argue strongly that the continuing use and sophistication of baton rounds places children and young people at risk. They do not accept reassurances over their use. A representative of a community-based group commented: "the thing about the technology is this. No-one was being made to adhere to the rules - neither the police nor the army. The rules stated that they were never to be fired above waist level. And that they were never to be fired at less than 20 metres. And that they were never to be fired in non-riot situations. Yet all the people who died including all the children, were hit in the head and upper body regions, some at point blank range ... All of the deaths, and let's not forget all of the injuries, including children with horrendous facial injuries, impacted on families". This poignant observation leads to a further crucial issue - the failure of statutory services to provide long-term care and counselling for those bereaved or injured by baton rounds. An NGO representative argues that there is a broader consideration, "the whole impact of the plastic bullet on the injured has not been adequately assessed ... and many of the children injured have never been able to take their place in a normal society ... can't form relationships ... there's been no research at all into the long-lasting effects of plastic bullet injuries". Finally, on the introduction of the L21A1 campaigners argue: "They [the NIO] showed us the new bullet. There's very little difference between it and the one they use now. We asked them, 'Can you give us a guarantee that these are non-lethal?' They said 'No, we can't'. There's no guarantee they're non-lethal. Despite the Patten recommendations that they be phased out and a safer alternative found, that has not happened".

In October 2004 the PSNI announced an internal review of the holding and use of baton rounds on the basis that it had been two years since they had been used on the streets. It is of continuing concern to children's rights' organisations and to the UN Committee, as well as to community campaign groups, that baton rounds have remained available for use despite the Committee's persistent request that they be withdrawn. As new technologies are introduced it is expected that the implications of their use will be fully assessed, monitored and evaluated in terms of the risk to children and young people.

POLICE OMBUDSMAN FOR NORTHERN IRELAND

Survival and development; the child's opinion; access to appropriate information; administration of juvenile justice

Context

The office and duties of the Ombudsman are enshrined in the 1998 Police (NI) Act, the 2000 Police (NI) Act and the 2003 Police (NI) Act. Central to its duties is the securing of "an efficient,

effective and independent police complaints system” and to recommend, where appropriate, prosecution or disciplinary action against officers. Apart from acting on complaints the Ombudsman conducts inquiries on behalf of the Secretary of State or if there is “reason to believe that it would be in the public interest to investigate [a] practice or policy”. “Informal resolution” also plays a part in the resolution of “minor” or “non-criminal” complaints. For the purposes of investigation the Ombudsman’s office has the powers of arrest, search and seizure and of access to property and seizure of documentation and goods.

Statistics for 2003-04 show 2976 complaints containing 4196 allegations, a decrease of 3% on 2002-03 (Police Ombudsman, Annual Report 2004: 20). Of the 20 “serious matters reported to the Secretary of State, Chief Constable and NIPB” 12 concerned investigations of the use of baton rounds in 2002. 15.3% of allegations concerned ‘incivility’ and 37.4% concerned “oppressive behaviour”. Allegations of assault totalled 23.3% of all allegations and oppressive conduct/harassment amounted to 11.6%. Taken together this was the equivalent of 6 cases per day. 27% of complainants were aged 16 to 24 compared to 35% in 2002-03. No records were presented for complainants under 16 or for complaints made on their behalf. Given the concerns raised by children regarding their treatment by the police it appears that their experiences do not translate into formal complaints. If this is the case it is a worrying situation.

Research conducted by the Institute of Conflict Research for the Ombudsman focused primarily on 16 to 24 year-olds with only 10% of the sample under 16. While 72% recognised the role of the Ombudsman as one of investigating complaints against the police, only 52% knew of the Ombudsman and only 11% knew how to contact the office. The research concluded that on most issues - fair investigation, fair treatment, independence, impartiality - young people did not have a view. Yet, the Ombudsman considers that there is an over-representation of complaints from children possibly reflecting the range of daily interaction between the police and children on the street (interview, September 2004). Neither the research, nor the current statistics provide information on the nature and form of complaints. If they are consistent with the complaints overall they would include a disproportionate number of complaints of ‘incivility’ and oppressive ‘behaviour/harassment’. This is consistent with the findings of the NICCY research.

Key issues

- The provision of effective and accessible information for children and young people about the Police Ombudsman and importance and availability of the police complaints process (also see Chapter 1).
- Alternative, non-threatening approaches to identifying and accessing complaints of all children under 18.
- Further research, particularly with the most vulnerable and marginalised children, regarding their experiences of the police.
- The establishment of a network of children’s consultative panels with a view to tracking and responding to generic complaints.
- The need to consult with children with regard to all policy matters.

Comment

In her Annual Report for 2003/2004 the Police Ombudsman notes the work done by her staff in schools throughout NI. Alongside the PSNI, the Ombudsman has been involved in ‘youth-related projects’ including input into the Key Stage Four Citizenship and Safety textbook. In association with the Children’s Law Centre the Ombudsman also published an information leaflet Young

People and the Police. It also commissioned the above referenced research into the attitudes, experiences and opinions of young people. This research, while in itself comprehensive, focused on young people aged 16 to 24 years. The NICCY research suggests that a comparable research study with children is necessary. The expectation of the Committee is that States should not only promote but also monitor those authorities and institutions concerned with children in conflict with the law. While the office of Police Ombudsman clearly meets that expectation it would be beneficial to research the experiences and needs of children.

ANTI-SOCIAL BEHAVIOUR

Child's opinion; freedom of expression; freedom of association; leisure, recreation and cultural activities; arbitrary/unlawful interference; administration of juvenile justice (Article 40.1;2b;3;4). Beijing Rules. Also Northern Ireland Act, Section 75.

Context

The Anti-Social Behaviour (Northern Ireland) Order was introduced on 25 August 2004. From recoded crime data, research findings on victimisation and the fear of crime and consultation with community safety workers, "street violence, low level neighbourhood disorder and anti-social behaviour" were identified as the most significant community safety factors (NIO 2002). The subsequent community safety strategy document "identified that the legislation in England and Wales on anti-social behaviour needed to be examined to see if it was appropriate for Northern Ireland" (NIO 2003). The use of anti-social behaviour orders (ASBOs) was to be given particular consideration.

Recent legislation in England and Wales includes the 1998 Crime and Disorder Act and the 2003 Anti-Social Behaviour Act, defining anti-social behaviour as "act[ing] in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not in the same household as himself". In 2003 the Government White Paper, Respect and Responsibility - Taking a Stand Against Anti-Social Behaviour, listed six illustrative 'activities': harassment and intimidating behaviour; behaviour that causes alarm or fear; noisy neighbours; drunken and abusive behaviour; vandalism, graffiti and other deliberate damage to property; dumping rubbish or litter. Such activities can be subject to an ASBO applied for by either local authorities or the police in consultation with each other.

ASBOs are civil injunctions issued in the magistrates' court acting in its adult jurisdiction. Hearsay evidence is admissible, professional witnesses can be used, cases are decided on the balance of probabilities and reporting restrictions are not automatic, regardless of age. ASBOs impose very specific conditions on the behaviour, movement and, occasionally, dress of the recipient. Breach of a condition is a criminal offence. While not mandatory, part of their appeal is the publicity, naming and shaming, attached to each case. Children as young as 11 have been photographed and named in national as well as local newspapers, their addresses and conditions of their ASBO published. Several local authorities have distributed leaflets containing names, photographs and conditions imposed requesting people to report breaches. Home Office guidelines accompanying the 1998 Act stated that ASBOs would be used against children in exceptional circumstances and then only when in the company of an adult. Introduced in 1999, by 2004 1,169 of 2,455 ASBOs issued in England and Wales were against children aged 10 to 17 years. Further, of the young people prosecuted for breach of ASBOs who were subsequently found guilty 50% were given a prison sentence. Within the legislation there is no explicit recognition of the child's right to freedom of association and no measures to promote children's opportunities to exercise their rights to freedom of association.

In England and Wales the main concerns have been: the broad discretion used by local authorities in bringing cases against children; the targeting of families and their children; the lack of training provided for magistrates; the 'naming and shaming' of children in the media and in local publicity campaigns; the use of long-term ASBOs in addition to sentences following conviction for criminal offences; the extension of ASBOs in length (up to 10 years) and in location (to cover the entire jurisdiction); the 'threat' made by certain local authorities that should children enter specified areas at specified times unaccompanied by an adult they will be served with an ASBO; the increased number of children committed to custody for breaching the conditions of the order. The statistical data shows that certain local authorities are more committed to applying for ASBOs than are others and in most areas there has been an exponential growth in their use. Greater Manchester, for example, issued 127 ASBOs in the first four years and 295 in the fifth year. Perhaps the most alarming statistic is the ease with which ASBOs are granted by the courts. Over five years only 98.3% of those applied for have been granted. Those authorities where ASBOs are most used are also those with the least refusals. 93% of ASBOs issued against under 21s were issued against boys or young men. Given the tensions within NI concerning the exiling of families and punishment beatings of children, the introduction of ASBOs has been controversial.

The NIO claimed that the Order followed a "period of consultation". This was a Section 75 Equality Impact Assessment consultation which, despite age being a core element, did not include consultation with children's NGOs or with children. The NICCY, with unanimous support from the leading children's NGOs, challenged the proposed legislation on several grounds. In rejecting the application Justice Girvan stated, "...one wonders in practical and realistic terms what meaningful response could be obtained from children unless they were in a position to understand the legal and social issues to anti-social behaviour, the mechanisms for dealing with it. The shortcomings of the criminal law, and the effectiveness or otherwise of the English legislation and its suitability for transplant to the Northern Ireland context, and the interaction of Convention and international obligations" [sic].

Under the Order where there is no associated conviction a District Council, the PSNI or the NI Housing Executive can apply to a magistrates' court for an ASBO to be issued. ASBOs can also be added to a conviction. Interim ASBOs can be issued prior to the determination of the full order. Breach of an ASBO constitutes a criminal offence carrying a penalty of up to 5 years' imprisonment, a fine or both. ASBOs can be issued to a child aged 10 or over and courts have the discretion to impose reporting restrictions regarding children. There has been considerable Home Office resistance to the granting of reporting restrictions as 'naming and shaming' is considered to be an essential element in effectiveness of the initiative.

Throughout the children's sector in NI the negative response to ASBOs has been unanimous. The following comments, made as part of written submissions to the consultation, are typical of the sector's response: "this measure has the potential to demonise and further exclude vulnerable children who already find themselves on the margins of society and the communities in which they live"; "information regarding the identity, residence and activities of those subject to an order [will] be in the public domain and could lead to the breach of a right to life were paramilitaries to act on that information". A written conclusion of a children's sector focus group put it more directly: "supporting ASBOs and supporting paramilitary beatings are about revenge". Regarding vulnerability, a focus group with the TMNI was particularly concerned that ASBOs could be used as a device for exclusion.

In contrast a social services' representative commented that a "pragmatic stance was appropriate with ASBOs used only as a 'last resort'. They are an expression of 'muscle' and as such have to

be used with discretion, particularly if they became a 'trigger' for paramilitary interventions". In discussion with PSNI representatives the "personal view" was that ASBOs were "rushed through too quickly" and would not assist the police in developing a more positive image in the minds and experiences of children and young people. While the official line from within the PSNI has been to welcome ASBOs, a more general perception is that they are a potential barrier to effective community policing.

Key issues

- The introduction of ASBOs and ABCs without appropriate consultation or research into potential impact and despite significant opposition from children's NGOs and community groups.
- The lack of consultation with respect to magistrates' rules.
- The Section 75 requirement to consult over policies regarding implementation.
- Concerns regarding the relationship between ASBOs and paramilitary responses: punishment beatings on children; house expulsions on families.
- Confusion of civil and criminal processes: balance of probabilities; hearsay evidence; professional witnesses; reporting restrictions (England and Wales data).
- Use of ASBOs in addition to prison sentence leading to a form of 'release under licence' (England and Wales data).
- Expansion of child custody as a consequence of breaches of ASBO conditions (England and Wales data).
- The CRC concern regarding orders introduced by the 1998 CDA in England and Wales and extended to NI as violating the principles and provisions of the CRC.
- The need to consider the circumstances specific to NI and the undermining of the Criminal Justice Review.
- Restrictions on play and leisure space exacerbated by community harassment and by police intervention: moving on/blaming/surveillance (also see Chapter 5).
- Appropriate training for those who seek and implement ASBOs.
- Child protection issues with regard to children served with ASBOs and the impact on other children within the household.
- The need to impose reporting restrictions on all cases involving children.
- The implications of ASBOs for housing of families.
- The introduction of appropriate and adequate arrangements for monitoring the issuing and impact of ASBOs on children and their families.

Comment

The evidence on the use of ASBOs in England and Wales is compelling. In their conception they confuse civil and criminal justice and procedures. Local authorities' high rate of success securing ASBOs is explained by the denial of safeguards that obtain within the criminal courts, the admission of hearsay evidence, the use of professional witnesses and guilt decided on the balance of probabilities (each denial was considered by the House of Lords to be ECHR compliant). The relatively high number of children and young people receiving ASBOs as a result of breaching often demanding conditions can be viewed as criminalisation 'through the back door'. As such it represents a significant failure in children's rights standards regarding imprisonment as a last resort. The lack of reporting restrictions seriously compromises child protection standards.

It is instructive that in its 1999 report to the UN Committee, the UK Government failed to mention the introduction of ASBOs although it listed all other civil injunctions introduced by the 1998 Crime and Disorder Act. Following their introduction in NI, State monitoring of their use, particularly in relation to punishment attacks within communities, is necessary. Also significant will be the review of their use against other dispositions such as youth and family conferencing. A further issue, illustrated by the statistical data on England and Wales, will be the evaluation of consistency of application between similar demographic areas.

Finally, legislating against behaviour and actions that are so broadly defined gives considerable discretion to magistrates. The NI children's sector is concerned that minimal attention has been given to the particular circumstances in which behaviours come to be defined and represented as 'antisocial'. A trauma counsellor stated: "the physical harm is over to a point, but emotional harm is still there. Children and their parents are in dire need of medical support. The children are accused of misbehaving, of antisocial behaviour, rather than their mental ill-health being recognised".

CHILDREN AS VULNERABLE WITNESSES

Non-discrimination; the right to life, survival and development; respect for the views of the child; preservation of identity; protection of privacy; access to appropriate information; physical and psychological recovery (Articles 19 and 37); children's rights training of judges, prosecutors and lawyers

Context

Children before the courts, whether accused or as witnesses, are vulnerable. As Naffine (1992: 96) states, "children are often passive ... unsuited to the rigours of higher court justice which presupposes [an] informed defendant, capable of invoking her rights". This section concentrates particularly on children as vulnerable witnesses (also see Chapter 2). Delays in a case coming to court can be prolonged and in NI it is not uncommon for cases to be delayed for over a year. The impact on a child and her/his family is significant. When children are due to give evidence against an adult, delays can have serious repercussions within the family, at school and in the community. There is evidence of cases involving child witnesses being withdrawn after a long delay. Delays also impact on the 'quality' of a child's evidence and their hesitation or inconsistency under cross-examination will be used to discredit the veracity and reliability of the evidence. Children are not able to access therapeutic counselling until after the criminal process is complete. The application of special measures to children is mandatory. While video links are used as a means of child protection, some children want to give evidence in person to the court. Insufficient research has been carried out on the impact on juries of video link evidence.

In the processing of children and the cross-examination of evidence in court there is an absence of training for those involved. Quinn and Jackson (2003) found that in gathering of evidence from children, police investigators have no appropriate training. In courts the failure to institute a child friendly context regularly results in the use of inaccessible language by barristers and judges. There is also concern, particularly within the children's sector, that children can be bullied by counsel and asked non-relevant questions as disclosures are sought to discredit their evidence. In her NI research on children as vulnerable witnesses McMahan (2004) found that the prosecution and the judiciary often fail to intervene to protect the best interests of the child and she noted a tendency to reveal children's personal details not directly relevant to the proceedings.

Child witnesses are particularly vulnerable in abuse cases. The lack of availability of, and reluctance to use, expert witnesses results in problems concerning the method of disclosure, delay in disclosure and the eventual discrediting of evidence. McMahon also notes that disclosure of a child's previous sexual history is a gender issue. If such disclosure is considered to be absolutely necessary it should be subject to a pre-trial decision and not emerge during the course of the trial. Enduring the trauma of abuse followed by subjection to bullying or leading cross-examination not only has consequences for the perceived reliability of a child's evidence but also for the long-term recovery of the child. A PSNI representative commented that he "cringed" whenever he walked into a criminal court with a child witness. From that moment, he stated, the child was left to the insensitivities of a court process ill suited to his or her needs.

Key issues

- Solicitors, barristers and judges should receive children's rights training with particular emphasis on child protection and the implementation of the 'best interests' principle.
- The institution of a separate list for cases involving child witnesses with such cases prioritised.
- Disclosure of medical history and notes and the close monitoring by judges of the use of information obtained under the rules of disclosure.
- The control of all information allowed to be asked of the child with particular emphasis on gender.
- Reconsideration of the use and impact of video evidence.

Comment

Hodgkin and Newell (1998: 151) state that there is "an increasingly recognized need to adapt courts ... to enable children to participate" including 'innovations such as more informality in the physical design of the court and the clothing of judges and lawyers, the videotaping of evidence, sight screens, separate waiting rooms and the special preparation of child witnesses'. In England and Wales a range of measures was introduced under the 1999 Youth Justice and Criminal Evidence Act. Such measures, including examination via an intermediary, are some distance from the Lord Chief Justice's direction concerning improved, child-friendly accommodation and assisted understanding for children.

CHILDREN DETAINED IN CUSTODY

Non-discrimination; right to life; survival and development; preservation of identity; separation from parents; child's opinion and freedom of expression; thought, conscience and religion; privacy; information; protection from abuse and neglect; health; refugee children (asylum); review of placement; education; children of minorities; leisure, recreation and play; deprivation of liberty; use of restraint; separation from adults (Article 37c); inhuman and degrading treatment; rehabilitative care; administration of juvenile justice

Context

In its concluding observations published in October 2002 the CRC recorded its particular concerns to the Government that across the UK young children were being deprived of their liberty, that the use of custody for children was increasing, that children were being sentenced for longer and for lesser offences and that court powers had increased to give detention and training orders. It stated that "deprivation of liberty is not being used only as a measure of last resort and for the shortest appropriate period of time, in violation of article 37(b) of the Convention". Further, the CRC severely criticised young offenders' institutions for their prevailing conditions, inadequate protection measures, poor staff-child ratios, violence, bullying, self-harm and suicide.

Rehabilitation opportunities were limited and solitary confinement was used routinely for punishment and for protection. The CRC also noted that children in some prisons were not held separately from adults. These criticisms were scathing.

A commonly held position, however, is that these criticisms do not apply to children in custody within NI. Taken as a whole and as a proportion of the overall population NI (70 per 100,000) imprisons half the number of those imprisoned in England and Wales (141 per 100,000) and just above half of those imprisoned in Scotland (129 per 100,000). It is fair to assume, although comparable figures are not available, that this lower proportionate figure is replicated for children and young people. In keeping with the CRC's requirement for provision of disaggregated data these statistics should be published. Clearly, however, the evidence suggests that diversionary strategies and the provision of alternatives to custody have been markedly successful in NI when compared to Scotland, England and Wales.

The Juvenile Justice Centre

Following the closures of St Patrick's Juvenile Justice Centre in 2000 and Lisnevin Juvenile Justice Centre in 2003, there remains one Juvenile Justice Centre (JJC) serving NI. Rathgael JJC, located at Bangor, is a secure facility for the detention of 10 to 17 year-olds. From 2005 vulnerable 17 year-olds can be detained in the JJC, rather than at the Hydebank Wood Young Offenders' Centre (YOC), if they are assessed as being at risk of bullying or self-harm and have previously been held in the JJC. According to the Northern Ireland Office, the 1996 Criminal Justice (NI) Order (CJO) and the 1998 Criminal Justice (Children) (NI) Order (CJCO) were "framed to ensure that the custody of children would be strictly limited to the most serious, violent or persistent offenders" (NIO 2004: 121). Despite assurances being given to the children's sector in 1998, JJC Rules have yet to be reviewed.

Rathgael is a determinate JJC taking those sentenced between 6 months and 2 years, half served in custody and half under supervision in the community. There were 323 admissions in 2002, 68% of which were under the 1989 Police and Criminal Evidence (NI) Order (PACE). Under PACE when a child is charged with an offence and bail cannot be granted or no place of safety can be secured, she or he can be held in custody pending a court appearance. Consequently, PACE admissions are usually for a day or two. While annually they present a high percentage of admissions, giving an annual number of 219 in 2002, the daily average for detention under PACE is one child. However, two-thirds of those admitted under PACE transfer to remand following a court hearing. In 2002 28% of those admitted to the JJC were direct remands with 5% after sentence. Remands averaged two-thirds of the JJC's overall population. 86% of those admitted were boys, 14% girls.

Between 1 January 2002 and 31 December 2002 there were 17 admissions to the JJC of 10 to 13 year olds, 14 via PACE and three direct remands. Eight of these were from 'looked after' care as were two of the remands. The Chief Inspector of Social Services noted that none of these children received custodial sentences and "while one cannot minimise the seriousness of the behaviour in which they were engaged a question is raised regarding whether different interventions might have prevented them entering a criminal justice setting". Admissions to the JJC from May 2003 to May 2004 were: 183 under PACE, 72 direct remands and 15 committals, giving a total of 270. 32 were aged 10 to 13, 235 aged 14 to 16 and 3 aged 17. There were 250 boys and 19 girls. The highest average monthly population was 33 (May 2003), the lowest being 16 (December 2003). Further, in the first six months of 2004 the over-representation of children from 'looked after' care admitted to the JJC rose from 4 out of 18 (January) to 21 out of

36 (June). The over-representation of catholic children and of children with special education needs were raised within the children's sector interviews and in focus groups.

Given that emphasis is placed on the rehabilitative function of detention in custodial settings, the Committee's expectation is that children will receive age-appropriate education. Once removed from community-based school settings, however, the statutory responsibility for the education of the child shifts from the Department of Education to the Northern Ireland Office (NIO). In their comprehensive research and analysis of the rights of children in custody Kilkelly et al. (2002:4) found that while "[e]ducation for children in custody should be suited to their needs and abilities and designed to prepare them for their return to society" the provision they received was "inadequately resourced especially in relation to children with learning disabilities". As the earlier discussion of children with special education needs shows (see Chapter 3), they are over-represented in the JJC. Kilkelly et al. (ibid.) concluded that "NIO responsibility for education in the centres marginalizes children from mainstream education and can deprive teachers of vital training and support".

Interviews conducted with statutory agency representatives raised significant issues of concern. As the figures indicate, there "is leakage from the care system". What this amounts to is pressure on the JJC through having to take children via PACE who stay for no more than one night: "This is often a traumatic experience for the child and is difficult to manage in the Centre". By summer 2004 this issue came to a head and, after seeking legal opinion, the JJC for the first time refused several PACE referrals. A further problem relates to children who enter the custodial setting without any relevant records: "Their records are not complete and there is a lack of assessment of their needs prior to custody. There is no evidence of a consistent approach to their needs and what follows is a fairly rudimentary assessment" (Statutory Agency Representative). The frustration being, that delays in gaining access to relevant information inhibit the development of appropriate programmes when children are in the JJC for relatively short periods.

The interviews with statutory services representatives and with volunteer mentors consistently raised the concern that children who were disruptive in care homes were too easily moved, via PACE, to the JJC. The suggestion being that they were "management problems" rather than "offenders". A statutory agency representative concurred: "there's a pattern emerging in some of our homes, residential homes, basically calling the police and asking [them] to take away young people that they feel they can't control. The Juvenile Justice Centre numbers are being swelled as a consequence of that. That's not what we should be in the business of doing". This was put more bluntly in the summary sheet of a children's sector focus group: "If young people [in care homes] do something wrong, they end up in court. It's the fault of residential staff phoning the police at the drop of a hat".

The Young Offenders' Centres

Children and young people aged 17 to 21 on remand, committal or convicted are held in the Hydebank Wood Young Offenders Centre (male) or the Hydebank Wood Young Offenders' landing (female). Until June 2004 and during the course of this research girl children and young women were held on a landing in the high security Mourne House women's unit in Maghaberry Prison. The 1989 Treatment of Offenders (NI) Order limits, in theory, location in young offenders' centres (YOCs) to children and young people aged 16 to 21. 15 year-olds can be sent to YOCs if they are deemed likely to self-harm or harm others. The Secretary of State has powers to extend admission to children aged 14 or 15. In the most recent published statistics the Prison Service records that between June 2003 and May 2004 of the 304 receptions into Mourne House four

were aged 14-16 and 58 aged 17-20. During the course of the research several young women aged 17 were located within Mourne House. From 2005 vulnerable 17 year-olds can be transferred to the JJC if they have been held there previously. This will not apply to those who have not been in the JJC. The Social Services Inspectorate has noted the particular vulnerability of this group in terms of the potential for serious harm or death.

Scraton and Moore (2004) found that one 17 year old was held variously on association with adult women, in strip conditions in the Special Supervision Unit (punishment block) and in a strip cell in the Maghaberry male prison hospital (healthcare centre). Extensively self harmed, hearing voices, depressed and distressed she endured 23 hours lock up in a strip cell with no integral sanitation or ablutions, no mattress, no pillow, no underwear, dressed in a quilted 'indestructible' gown, and an 'indestructible' blanket to lie on. Her period in cellular confinement was 28 days. She was assessed as suicidal, a risk to herself and to others. There was also a serious suicide attempt by another 17 year-old. The 2002 Prisons Inspectorate Report raised profound concerns regarding the holding of a 15 year-old child in Mourne House.

In June 2004 the women and girls held in Mourne House were transferred to a refurbished house within the Hydebank Wood male YOC. Without in-cell sanitation or ablutions and with no discrete healthcare facility the move was criticised by children's NGOs, the Prisons Inspectorate and Northern Ireland Human Rights Commission research. The main concern was reflected in the recommendation made by the Prisons Inspectorate, that women should be held in a discrete facility with a dedicated management and operational structure. A further concern, however, is the mixing of girls with adult women prisoners. The practice is defended because there are so few girls and women and their total separation would result in the isolation of girls. Research for the NIHRC revealed that holding girls in severe penal conditions is a consequence of the lack of a secure facility for the therapeutic treatment of children and young people presenting with serious mental health problems (ibid.).

Apart from the concern for the health and well being of women and girls imprisoned in a male young offenders' establishment, which includes the lack of policies for young Muslim women and young mothers, there are also concerns regarding the boys and young men. The Prisons Inspectorate has repeatedly confirmed that young offenders' institutions should provide distinctive and dedicated environments yet in Hydebank Wood the women's house accommodates all categories of women prisoners. Prior to the women's transfer (June 2002), the Prisons Inspectorate conducted a full, announced inspection. It identified over 50 examples of good practice but was critical of several significant aspects of the regime and its operation. Its concerns were: the holding of 17 year-olds and younger boys and the requirement of separate provision; the policy and practices regarding self harm and suicide; the lack of appropriate training of officers for working with children and young people. In its annual report for 2002-03 the Hydebank Wood Visiting Committee also noted a 25% increase in the centre's population which had led to "doubling up in small rooms designed for single occupancy" (para 2.4) and the "small but growing number of very seriously disturbed young men being committed to the Centre" (para 2.6). The Committee recognised particularly those "borderline" cases "where acute behavioural problems and poor mental health combine" (ibid.).

From the evidence available the YOC averages between 25 and 30 boys and two or three girls (under 18s) on any given day. Until the 2002 inspection there was no discrete policy in operation to identify and respond to their needs and requirements. In 2003 a Child Protection Policy Statement and Management Instruction Manual were introduced. While the YOC management

has stated that child protection a priority the extent and quality of children's rights training is an issue raised by children's organisations. While a unit provides discrete accommodation for 16 year-olds, 17 year-olds move to the YOC mainstream following assessment. Staff who work regularly with children receive child protection training but this does not extend to all staff in the YOC who have contact with under 17s. In 2002 HM Inspectorate made its position on training clear to the NI Prison Service: "This aspect of childcare is specialist work for staff with the appropriate training, skills and knowledge base" (MH.104). Child protection procedures "fell far short of the standard that would be required for staff working with very needy and damaged children in a custodial setting" (MH.105).

The Visiting Committee did not consider that the YOC had been sufficiently "aggressive" in developing an anti-bullying policy and had not prioritised the development of the Personal Officer Scheme. The Committee also noted that vocational trainers had commented on the bullying of a child by young men during classes. Not only does this raise questions concerning the effectiveness of anti-bullying strategies but also it illustrates the problem of mixing children with young adults in a potentially hostile environment.

Despite all that has been researched and published regarding self-harm and suicide and the emergence of positive anti-suicide initiatives within the YOC, the Visiting Committee noted the "disappointing" levels of staff training in suicide awareness. Of particular concern was the use of the "observation room" in the YOC hospital for those at risk of suicide or self-harm. The 'room' was an unfurnished strip cell in which the child or young person was held for long periods dressed in a "canvas vest and shorts", observed via CCTV. The cell had been used on 57 occasions through the year accommodating 46 children and young people. This was a significant increase on the previous year. The Visiting Committee recorded that "the experience of isolation for people who are threatening suicide or self harm is inappropriate" and "urg[ed] the Prison Service to end, without any further delay, the policy of using isolation ... to manage young people identified as being at risk of suicide, or liable to self harm" (para 11.4.4). It considered the delay in responding to the "care of vulnerable people" to be a consequence of a "combination of financial considerations, fear of litigation and inertia" (para 11.4.5).

"In Rathgael you had support. Psychiatric people don't come near you in here" (Young Female, aged 17 year-old, Mourne House).

"If you're suicidal they threaten you with the punishment block. Puts your head away. They don't even look in on you. I'm surprised the whole jail hasn't killed themselves" (Young Female, aged 17 year-old, Mourne House).

"The real issue is, there are too many under 18s in the YOC and we don't have the necessary services to support them when they're released" (Statutory Services Representative).

It is regrettable that as a direct consequence of carrying out research into the imprisonment of women and girls in NI's prisons the principal researcher for the NICCY research was denied access to Hydebank Wood to conduct research for this project.

Secure accommodation for children in care

In the context of children's services 'secure accommodation' is provided at Lakewood House, to restrict the liberty of the child (see also: Section 2). The restriction of liberty of children in care is governed by the 1995 Children (NI) Order (Article 44) and the 1996 Children (Secure

Accommodation) Regulations (NI). A history of absconding, the likelihood of absconding and the risk of harm to the self or to others are criteria for keeping children in secure accommodation. The 2002 Justice (NI) Act introduced custody care orders. While the orders have not been introduced they would allow 10 to 13 year-olds found guilty of certain offences to be located in secure accommodation. The practice of holding children in care alongside those disposed by the courts for offending behaviour has been heavily criticised as constituting a 'volatile mix' by Goldson's, (2002) in-depth research.

Key issues

- Detention as a measure of last resort and for the shortest possible time: length and use of remands; also the practice of remands via video link (JJC).
- The requirement of incorporating the best interests principle into all custodial policies, programmes and practices.
- Increasing numbers of children from care backgrounds admitted to the JJC (marked 2004).
- The use of PACE remands to the JJC.
- Development of an 'appropriate staff culture' within the JJC through new recruitment and training (see also Chapter 1).
- The securing of child protection procedures, confidential complaints mechanisms and effective anti-bullying policies.
- The holding of girls in the JJC in a predominantly male-child environment.
- The provision of gender-specific regimes and programmes for all children in custody.
- The holding of children under 18 in HWYOC and in the adult women's prison unit.
- While 17 year olds will be brought into the youth court system the legislation still provides for their custody in HWYOC.
- The requirement to hold children and young adults in separate and discrete accommodation and the provision of age-appropriate regimes and programmes.
- The implementation and effectiveness of the child protection policy, PECS vetting, child protection awareness training (HWYOC) and children's rights training (JJC and HWYOC).
- Lack of appropriate healthcare provision and secure facilities for working with children with mental health problems.
- The use of isolation within Special Supervision Units (punishment blocks) for managing children self-harming or at risk of suicide or as discipline.
- The lack of therapeutic regimes and counselling; inadequate staff training for dealing with distressed and disturbed children.
- The lack of gender specific regimes particularly regarding the identification of and provision for appropriate healthcare needs including sexual health.
- The provision of an education curriculum appropriate to the assessed needs, attainment record and school background of each child.
- The removal of responsibility for education provision in the JJC from the NIO and its integration within the established education system
- The lack of child-friendly information and the need for advocacy.
- Issues concerning lock-up and the hours spent routinely in cell in isolation.
- The need for guidance, regulation, training and monitoring of the use of restraint.

- The requirement to ensure privacy and confidentiality at all times without compromising the safety of children and young people held in custody.
- The over-representation of children with special education needs and the lack of access within the JJC or HWYOC to their statements.
- The geographical location of both the JJC and HWYOC and the difficulties experienced by families in visiting children.
- The ambiguity over planning for the commencement of custody care orders.

Comment

The combination of a low age of criminal responsibility and processes that net widen into criminalisation rather than divert children mean that while NI uses custody proportionately less than Scotland, England and Wales, there is evidence that it is not always used as a 'last resort'. The Committee has expressed its concerns on these issues alongside its criticisms of the holding of under 18s in young offenders' settings and the use of solitary confinement for children. The research found disturbing evidence of both issues. Not only is the State, through its institutional regimes and practices, in breach of the CRC, particularly with reference to Article 40, the seriousness of the evidence gathered suggests that children were, and continue to be, put at risk of harm and possibly death. This situation is not solely the responsibility of the Prison Service, and there is evidence also that managers have attempted to improve the situation in often difficult circumstances. What is required is an alternative disposal for children suffering from serious mental health problems. It is inappropriate that some of the most vulnerable children, in need of therapeutic mental health support services, are placed in custodial settings where they are often managed in punishment cells.

ALTERNATIVES TO CUSTODY AND SECURE CARE

Separation from parents; child's opinion; freedom of expression; access to appropriate information; parental responsibilities; protection from abuse/neglect; periodic review of placement; education; administration of juvenile justice (Article 40.4)

Context

In 2002 the CRC expressed its 'serious concern' that for children in conflict with the law in the UK the "situation ha[d] worsened since the consideration of the initial report" in 1995. A particular concern was that the "detention of children is used as a measure of last resort", the clear inference being that the increase in child and youth custody reflected the UNCRC (Article 37b) was being breached. As stated above, the use of detention for children in NI, although increasing, remains considerably lower than in Scotland, England and Wales. The Youth Justice Agency for NI was established in 2003 following the 1998 Belfast Agreement and the work of the Criminal Justice Review Group. Its four services are: Community Services; Corporate Services; Custodial Services; Youth Conference Services. It recognises the "importance of taking account of international and human rights obligations", not least the use of imprisonment for children and young people as a last resort.

As stated in the introduction, preventative strategies involving various services are reflected in a range of orders available to the courts. Attendance Centre Orders (involving community service centre offending behaviour programmes), Reparation Orders (involving reparation to the victim or the community) and Community Responsibility Orders (involving citizenship education alongside appropriate activities) are each intended as alternatives to more punitive responses.

The underlying principle is to support the child in recognising and addressing offending behaviour. Attendance Orders have been criticised for inconsistency and a lack of awareness regarding the needs of the child.

Youth Conferencing is central to the 2002 Justice (Northern Ireland) Act. Within the Agency, the Youth Conferencing Service (YCS) enables the development of a plan of action involving the offender, her/his family, the police and other relevant agencies and, where possible, the victim. Such restorative approaches are designed to divert children from the criminal justice system, to encourage them to take responsibility for their actions and behaviour and to develop case-specific interventions. It was raised by several youth conference workers that it should not be considered an appropriate mechanism for dealing with sex offences. There are serious child protection and privacy issues in such cases although, as one worker noted, "there needs to be acknowledgement that young people who display sexually harmful [behaviour] are not being treated in a consistent manner by the criminal justice system and social services".

Key issues

- Commitment to and resourcing of community-based projects involving inter-agency partnerships: early intervention/preventative work but not as a criminal justice option.
- The need to ensure parity and consistency while working on a case-specific basis.
- The presentation and reality of youth and family group conferencing as an alternative approach to retributive or punitive responses.
- Independent monitoring of youth conferencing to ensure compliance with CRC guidelines.

Comment

The YCS notes that the linking of ASBOs to criminal convictions "could be used an alternative to youth conferencing where the young person does not consent to youth conferencing". It considers its potential as "an additional incentive to young offenders to engage properly with youth conferencing rather than having the contents of an ASBO imposed on them". The crucial issue here is that ASBOs are the product of a more authoritarian response to dealing with children's 'antisocial' behaviour and are directly connected, in breach, to the criminal justice system. Yet youth conferencing "came about through the review of the criminal justice system which had a clearer grasp of human rights considerations than the ASBO process" (Children's NGO Representative).

RESTORATIVE JUSTICE

Separation from parents; child's opinion; freedom of expression; access to appropriate information; parental responsibilities; protection from abuse/neglect; periodic review of placement; education; administration of juvenile justice (Article 40.4)

Context

Restorative justice approaches to offending and antisocial behaviour have become influential in many states seeking structural alternatives to criminal justice interventions that have minimal impact on recidivism. They are acceptable particularly to those concerned that authoritarian interventions create a spiral of worsening behaviour matched by hardening responses. They are criticised by those who depict restorative approaches as 'soft options' that fail to acknowledge the suffering of victims. Within criminological theory and research, restorative justice is an area of considerable and continuing expansion. For societies in periods of transition, where justice

processes are constructed as providing the means of acknowledging past crimes and conflicts, restorative approaches take on a more profound meaning. This is particularly the case where the criminal justice system, the police and the prisons are central to the political process of transformation. As institutions linked directly to previous social and political conflict their capacity not only to change but to win the confidence of communities is a key aspect of transition. It is in this context that restorative justice approaches have developed in NI.

Community-based restorative justice projects - such as Greater Shankill Alternatives, East Belfast Alternatives and the 16 groups across NI that comprise Community Restorative Justice, Northern Ireland - have emerged as significant community development projects negotiating difficult issues, most notably paramilitary punishment beatings. The projects aim to challenge and reduce offending and harmful behaviour in communities, develop opportunities for the reconciliation of offenders and victims and encourage 'safe' environments. They recognise that criminal justice responses have been unsuccessful in reducing crime and that a lack of trust prevails within communities regarding statutory agencies' provision and interventions. The NICCY research shows that there is considerable tension between community-based restorative justice projects and statutory providers although some progress has been made towards establishing a working protocol towards resolving that tension. Working towards an acceptance of community-based projects, funded and supported by the state as alternatives to statutory providers, is a clear illustration of 'transition'. Their expansion and consolidation reflect the support and trust of economically disadvantaged and marginalised communities. The projects also demonstrate the need within communities for the effective engagement of paramilitary groups if the issue of punishment attacks, particularly on children and young people, is to be addressed.

Family Group Conferencing has been developed by NGOs, in particular Barnardo's, in association with statutory agencies. The Diamond House project, based in Moy, has developed a model for restorative justice in schools, particularly directed towards disruptive or violent behaviour and bullying, and has used family group conferencing in the context of children 'at risk'. The Police Service of Northern Ireland (PSNI) has initiated and developed restorative conferencing in situations where an offence has been admitted and the police decide that it offers an appropriate alternative to prosecution. It is identified as 'complementing' the criminal justice process and aims to involve the offender, the victim and the community.

Key issues

- The development of formal restorative approaches involving statutory agencies, YJA and PSNI as real alternatives to criminal justice disposals.
- The need to develop children's rights training for all involved in offering restorative programmes via statutory provision or community-based projects.
- Community-based restorative justice, its links with paramilitaries and the tension with formal approaches; issues of accountability and trust.
- Community-based projects and their negotiating potential with paramilitaries regarding punishment beatings and exclusions.
- The development of an effective strategy for resolving the impasse between community-based projects and statutory agencies and the need to allocate necessary and accountable funding to projects.

Comment

The tension between community-based restorative justice schemes and State agencies is well illustrated by the interviews with both parties. A representative of the former stated that there would not be “a problem with centralised NIO funding to aid reintegration as long as the protocols were in place to retain our independence and it didn’t interfere with our relationship with the community ... Agencies talk about community partnerships but what they mean is they all throw a few pound in and start another community project which is isolated from the workings of the community and yet is supposed to represent the community’s views”. In contrast a social services representative stated that for community-based programmes to gain credibility and legitimacy a “demonstration of trust” is required. They “have to be open to external scrutiny and must establish sets of standards and be open to inspection to establish whether or not they are working to those standards”. The common line within State agencies was that community-based restorative justice programmes should be open, in all situations, to monitoring and review with their credibility determined by evidence-based analysis. The Criminal Justice Review recognised the sensitivities associated with requiring detailed and specific information on alternative, community-based programmes involving often-difficult negotiation with paramilitary groups.

The stated objectives of Youth Justice Agency restorative justice approaches and those to have emerged within communities are similar. They are concerned primarily with diversion: from the criminal justice system and from punishment attacks. To that end they represent measures to prevent children from losing their liberty and/or from receiving physical punishments outside the law. Within Article 40 is the expectation that States will take measures without resort to judicial proceedings and will also establish a range of dispositions as alternatives to custody. While restorative justice initiatives, including family group and youth conferencing, constitute a significant development in alternative provision, it is essential that they are offered as a real alternative and not as part of a broader punitive process. In this context the measures taken should be CRC compliant in terms of participation, consultation and information with human rights respected and legal safeguards in place. The expectation is that children should experience and participate in the process in a manner appropriate to their well-being and proportionate to their circumstances and the offence. Whether State or community-based, programmes should not be offered to children under threat of other, more punitive options and all projects should demonstrate CRC compliance, a regard for due process and mechanisms for child protection.

COMMUNITY JUSTICE

Right to life, survival and development; freedom of association and peaceful assembly; protection of privacy; subjection to torture or cruel, inhuman or degrading treatment or punishment;

Context

Smyth et al. (2004) emphasise that the relationship between young people and paramilitaries is complex. They illustrate well the contradiction felt by many children in their contact with paramilitaries within their areas: “While some young people expressed admiration for paramilitaries from their own community, or said that paramilitaries were necessary for the protection of their community’ they also ‘criticised them for the brutality of their punishment attacks and for their harassment of children and young people” (ibid.: 28). Paramilitaries were often perceived as “cool”, enjoying the status of “local heroes and role models”, yet young people also considered that the “brutality of such attacks outweighed the seriousness of the crime they were meant to punish” and this “undermined the legitimacy of the paramilitaries’ authority” (ibid.: 85).

Paramilitary interventions in the lives of children extend beyond the administration of punishments to include the control of children's movements within communities. In her unique study of the experiences of children living in interface areas, Leonard (2004) found that, with few options open to them, boys in particular hung around street corners in their community, drinking. Complaints from local people resulted in "children moving around the streets being chased from one location to another by paramilitary groups" (ibid.: 41). As Smyth et al. (2004: 28) record, paramilitaries often "enforc[ed] nightly curfews for people under a certain age". This was bitterly resented by children as were non-paramilitary vigilante groups which, according to children, imposed "unreasonable and over-strict rules". Leonard, (ibid.) notes that many children considered paramilitaries to be "gangsters", who "used to be joy-riders themselves", now "telling everybody what they can and can't do".

The most common description of punishment beatings administered to children and young people by paramilitaries of whatever organisation was 'barbaric'. Perhaps the greatest concern, other than the beatings and shootings, was the widespread belief within communities that physical punishments worked and were supported by non-affiliated community members. In Derry/Londonderry and in Belfast, community workers gave accounts consistent with the following in which a woman in her seventies made a direct request to a community worker for 'community justice': "I'm not a [organisation] supporter, son, but the wee fella down the street has me tortured. Could you get him shot for me? I don't want him shot too hard, I just want him shot so that he goes away". The community worker remarked that "they're all moderates, none of them are hard-liners. It really is crazy double standards". In these cases the workers acknowledged that the children's behaviour was unacceptable and that physical punishment was widely seen as an appropriate response.

Key issues

- Punishment beatings and exiling and the impact on the health and welfare of children.
- Recruitment of children by paramilitaries.
- The use of children by the PSNI for low-level intelligence gathering.
- Establishing precautionary measures regarding the issuing of ASBOs and their potential for influencing punishment beatings or exiling.

Comment

Paramilitaries' violence against children and young people has been endemic within both Loyalist and Nationalist communities. While there is evidence that some paramilitary groups have accepted there needs to be an end to the victimisation of children, there are others that refuse to negotiate protocols and seek alternatives. In terms of Article 37 (a) of the CRC, paramilitaries have enjoyed impunity and the State has failed to investigate and prosecute perpetrators. Further, the State has neglected to ensure the psychological recovery and protection of children as survivors of this brutality. The 'naming and shaming' of children, often through proclamations written on gable end walls, damages children's reputations and leaves them in fear of further attack and possible reprisals. Finally, it is appropriate that children punished and displaced by paramilitaries should be viewed as the casualties of armed conflict (Article 38) and their physical and psychological recovery and social reintegration (Article 39) be secured through the intervention of statutory agencies. The State should report on the extent of this issue and on the special care programmes it has established to respond to this specific need.

TRAUMA AND CONFLICT

Survival and development; protection from abuse/neglect; health (Article 24.1;3); appropriate mental health care particularly post trauma; armed conflicts (Article 38.4); rehabilitative care; recovery and reintegration through truth and acknowledgement

Context

A combination of the ceasefires and the Belfast Agreement, reflected in the commonly-used phrase 'peace process', has promoted the view that the 'conflict' has ended and NI has entered a 'post-conflict' phase. Whatever the advances made since 1995, it is important to emphasise that transition from long-term and deep-rooted conflict is itself a long and complex process. However sporadic and opportunist, conflict continues within and between communities. The loyalist feud, for example, led to the displacement of numerous families and their children and interface violence occasionally flares, particularly around parades. Beyond these issues, however, is the legacy of thirty years of serious conflict and its impact on children who are now parents. In this context is the significant issue of the right to truth and to acknowledgement as part of the process of recovery.

Smyth et al. (2004: 96) concentrated their research on areas that were "relatively more exposed to the Troubles than average" and illustrate their findings as an "iceberg". Relatively "infrequent effects such as severe traumatisation tend to attract more attention from the media, researchers and organisations" concerned with the impact of the conflict on children's lives. These include: victim of punishment attacks, witness to killing, shooting or punishment attack, being injured, rioting, loss of home, school-related sectarian violence and bullying. Other, less dramatic but significant experiences, however, are not always apparent and often unaddressed: "chronic anger, lack of trust in adults, isolation and feelings of marginalisation, bitterness at other community or at the police; distrust of all authority; feelings of marginalisation or lack of contact with or knowledge of 'other' community" (ibid.: 99). The researchers note that vulnerability "is not only experienced by individuals, but also by whole families and communities" and that "adults on whom children could ordinarily turn to for support or protection are more often than not exposed to the same traumatic events that the children are, and are themselves traumatised and sometimes incapacitated..." (ibid.: 109).

Interviews with community-based workers raised the problems faced by children and young people during the conflict which remain unresolved: house arrests involving a heavy military presence; forced house entry during the night by the police; parents imprisoned, 'on the run' or killed; witnessing violent confrontations, including death, in communities. "House raids are over to a point and the physical harm is over; but the emotional harm is there and it's not recognised" (Community-based Counsellor). Those interviewed felt that research studies had omitted to give sufficient priority to the impact of house raids in particular on children and their attainment. A typical response was: "As far as we are concerned no allowances were made for them at school".

Community workers in the most economically disadvantaged communities emphasised the significance of the "emotional effects of the conflict". They stressed the "dire need" for appropriate medical intervention to support children and a reconsideration of how children in conflict with the law are defined and criminalised. A children's caseworker identified the issue graphically: "when you're raising mental health care for this generation, post-conflict, we're dealing with a huge age range of people who've been the bereaved, the injured, been the children who were killed. And another generation who are the children of the children ...the

impact of the trauma, which they're calling trans-generational trauma ...it's affecting children's education, their mental health and their ability to participate in society". She stated that the cases dealt with by her organisation showed that "the agencies that are dealing with people have no idea what the effects of trauma are, they don't put it into the equation when children are displaying different symptoms, whether they are in education, the criminal justice system or whatever. The effects of trauma don't even factor there ... and the issue of the conflict doesn't even raise itself".

As Smyth et al. (2004: 43) noted in their study, those children deeply affected by the conflict had "difficulties in concentration and the aggressive behaviour that followed their traumatisation was misinterpreted by others, being seen as deliberately disruptive behaviour" posing "particular problems in school, where teachers did not always seem aware of the pupil's history or the difficulties faced by them, nor did they appear to be equipped to deal with such difficulties". What is clear from the existing and current research for NICCY is the serious deficit in child and adolescent mental health services. While no case research has been developed into suicides of children and young people, particularly in North Belfast, the relationship between trauma due to the conflict, to paramilitary threats and to forced exiling and economic marginalisation and social exclusion requires serious consideration. These are the contexts in which hopelessness, helplessness and despair accumulate in the minds of children who self harm. As one young woman stated, when asked why she self-harmed, "it's my only way of coping ...and I release the pain as well".

Issues arising from the conflict also emerged in the NICCY schools research. For example, 28 out of 710 children (5%) felt that their movements were restricted because of their religion. A further 4% raised the issue of paramilitary activity when asked to depict images and pictures that came to mind when they heard the words 'police' and 'crime'. Paramilitary activity was of particular concern to young people aged 15-16 years (61%). This is unsurprising given that it is the target age for recruitment into paramilitary organisations. Yet young children from the age of six demonstrated a clear awareness of paramilitary activity in their areas. For example, a six year old girl drew a vivid stick drawing of a punishment beating and another young boy drew a picture of a person being dragged from a car and beaten by paramilitaries.

Key issues

- The longer term impact of the conflict on children, their parents and extended families including accessing the truth and securing acknowledgement.
- The consequences for children of the recent feuds, violence and displacements.
- Paramilitary allegiances and intra-community conflict in schools.
- Children as witnesses to violence and participants in interface violence.
- The need to address the impact of trauma, both primary and transgenerational, on children's behaviour, attainment and participation in school and the community.
- Research into self-harm and suicide in the context of their experiences of the conflict and the lack of opportunities.
- Resourcing of adequate and appropriate mental health services for children and young people.

Comment

In the NICCY schools research, 11% of children and young people expressed a desire for peace. This desire increased in significance as children grew older. The message from these children was plain and direct:

"I would like people to live where they would like to and for the protestants and fenians to live together" (Girl, aged 16, MLD).

"Where I live there are people with a different religion who also live near and people give them a hard time. I wish there was no religion so that everyone could get on and there would be no fighting" (Boy, aged 13).

While these desires were common in the research interviews, the view from interface areas is bleak, indicating a resignation among children that differences have solidified. In her research report Leonard (2004: 105) notes, "while the situation was better [now] in some ways as there were less bombings and shootings", some children "felt there was more hatred than in the past". There was a pervasive "sense of inevitability and permanence about the conflict" and all were "pessimistic about the possibility for conflict resolution in Northern Ireland" (ibid.). In their lives and everyday experiences "peace remained a distant vision" (ibid.: 107).

It is often stated that NI is a society 'emerging from conflict' going through a long process of 'transition'. The sections in this Chapter on community justice and on violence against children, however, demonstrate that for many children the notions of 'post-conflict' or 'transition' are distant possibilities as sectarianism entrenches hatred for the 'other' physically as well as psychologically and culturally. This is a particularly harsh reality in interface locations. In these contexts the State has an obligation to investigate thoroughly all child deaths and, given the particular situation in NI, to demonstrate the measures it proposes to adopt to monitor and address the growing issue of self harm among boys and girls and to prevent suicide (Article 6).

YOUNG PEOPLE AND PARADES

Non-discrimination; right to life, survival and development; preservation of identity; freedom of expression; freedom of association and peaceful assembly

Context

The Parades Commission is an independent quasi-judicial body whose powers and duties are laid down in the 1998 Public Processions (Northern Ireland) Act. The Commission notes that it "operates from the fundamental premise that the rights to freedom of assembly (i.e. to parade) and to freedom of expression (i.e. to protest) are important rights to be enjoyed equally by all". These rights are "not absolute" and have to be balanced against "the rights of people living and working in the area of a parade or in the area of a parade protest". In regulating parades the Commission places obligations on organisers regarding the route, conduct, music, flags and other regalia. It has powers to ban parades and to exclude individuals or groups who caused trouble. The total number of parades, year on year has remained relatively consistent over the three years prior to 2004: 2,808 in 2001/02; 3,056 in 2002/03; 2,978 in 2003/04. In each year there were 23, 3 and 9 illegal parades. In 2003/04 of the 2,978 parades 2,361 were Loyalist and 172 were Nationalist (there were 445 parades classified as 'other'). Over a three year period Nationalist parades accounted for approximately 5% of all parades. In 2003/04, 22 parades were rerouted (all Loyalist), 103 had conditions imposed (99 of which were Loyalist) and 32 parades resulted in disorder (29 Loyalist). There has been a steady reduction in the number of parades classified by the Commission as 'contentious'. The Commission reports that over a quarter of all parades considered 'contentious' proceed without any restrictions and approximately 96% of all parades proceed without any restrictions. Route restrictions, to avoid direct confrontation with local communities, are the most common condition placed on organisers.

Parades are a significant aspect of children's experiences of sectarianism in high conflict working class areas. In their study of the experiences and perspectives of 3 to 11 year olds, Connolly and Healy (2004) note that 3 to 4 year olds "living under the shadow of sectarian violence" already tended to prefer events or symbols associated with their culture and a minority had begun to re-enact violent incidents through play. By 7 to 8 years old they were aware of the distinction between Protestant and Catholic communities and some were routinely involved in interface violence including stone-throwing and verbal abuse. They exhibited strong negative attitudes towards the other community and the majority were aware of local paramilitary groups, with some identifying with the groups. Leonard (2004: 44) found that 14 year olds often found rioting exciting and a relief from boredom, but also "a mechanism for demonstrating religious/sectarian identity ... a way of emphasising the internal cohesiveness of the group". It is in this context, as Smyth et al. (2004: 104) note, that children are recruited into paramilitary organisations.

Key issues

- Community identity, territoriality and access to safe space.
- Children's expressed desire for peace and the lessening of the impact of religion/flags/bonfires.
- The threat to life, movement and education as consequences of curfews imposed on specific locations

Comment

While the Commission records a low number of contentious parades there have been particular flashpoints, the most contentious being Garvaghy Road in Portadown and the Tour of the North in North Belfast. A North Belfast community worker commented that "allowing Loyalist parades right through places where Nationalists live, given the history of conflict, can only generate bitterness and violence. Children end up corralled in their own areas for protection". Parades are defended as part of a right of cultural expression, religious identity and freedom of movement. In areas of high conflict, however, they pose a significant threat to the right to life, freedom of movement and access to education. They also compromise the health and welfare of children.

CHILDREN OF PRISONERS AND EX-PRISONERS

Discrimination on the basis of parents' status, activities, expressed opinions or beliefs; separation from parents, right to parental care and direct contact; family life, parental responsibilities and family counselling; protection from abuse/neglect; freedom of expression/family life; protection of privacy; standard of living; children in armed conflicts

Context

In her study of the experiences and needs of the children of Loyalist political ex-prisoners Spence (2002: 20-21) distinguishes between psychological, social and physical effects. Children suffered depression, anxiety and panic attacks and reported being "bombarded by a variety of strong feelings, which left them more confused and worried". Typically these included: "loss, sadness, guilt, fear, anger, helplessness and loneliness". Children, their mothers and teachers, "noted changes in their [children's] normal behaviour". Most significant among these changes were an increased propensity to violence and "withdrawal from social interaction and the company of friends". Often they lacked trust in others and the capacity to build new relationships. Physical effects included: "sleepless nights, weight loss or gain, headaches, stomach upset, recurring illness and bedwetting". This range of serious consequences for the children of political prisoners could not be reduced simply to the imprisonment of one parent, usually the father. It has to be interpreted within the social, political and material context of that imprisonment.

For many children the reality of witnessing armed police raids, often in the middle of the night, resulting in the arrest of a parent and a full search of the house and personal possessions, was traumatic. Their home as a secure, safe and private place was lost forever. What followed was an attempt to adjust to the loss of a parent and the “beginning of their isolation and neglect [by statutory agencies]” (ibid.: 28). As is often the case with bereavement, children were not told the full story as families struggled to cope with the prospect of long-term imprisonment. Jamieson and Grounds (2002: 40), in their study of the effects of long-term imprisonment on Republican prisoners and their families, note that most children of politically motivated prisoners knew of their imprisonment, but it was not clear whether the children “had been told of the offences for which their absent parents had been imprisoned”. As they state, “studies of prisoners’ children emphasise that withholding the truth has potentially harmful effects on the child later on, for example, if the child is given a partial or distorted account of the circumstances at school, from other adults, or from the media”. While poverty, meeting basic needs such as housing, food and clothing, was a material consequence, the emotional struggle involved attempts to maintain meaningful family contact in the inhibiting and punitive situation of prison visits.

Difficulties in maintaining positive and fulfilling relationships between children and their imprisoned parents extended into the period of adjustment on their release as “relationships had to be healed” (ibid.: 53). Anticipating release, the “assumption was that when they were reunited everything would fall into place, and everyone would be satisfied and happy. This was too often not the case”. As Jamieson and Grounds (2002: 39) note, “a number of the ex-prisoners ... reported that they previously had, or were continuing to have, difficulties in their relationships with them [their children]”. They comment that their findings were consistent with those of McEvoy et al. (1999) who recorded that “63% of prisoners’ partners reported that their children were experiencing problems relating to their parents’ imprisonment (e.g. disturbed behaviour, anger, depression)” (ibid.). In making the necessary adjustments “to cope” families often “have to ‘close ranks’ to cover the gaps (practical, financial and emotional) left by the prisoner’s absence from family life” and “changes are likely to be more marked for those who were younger at the time of imprisonment and for those who had more traumatic experiences” (ibid.: 41). While Jamieson and Grounds make this statement with regard to prisoners, the same could be argued for their children.

Depending on the circumstances of imprisonment, politically affiliated prisoners were ascribed clearly defined statuses within their communities. This ascription had, and continues to have, consequences for their families, especially their children. Spence (2002: 61) found that a number of children in her study “were made to feel that they had ‘done something’ or been guilty of something themselves”. There was also a marked difference “between the treatment of ex-prisoners children in urban and rural settings” with all participants from rural locations believing “that there was less stigma suffered in urban areas”. Further, was the feeling among children that they were not responded to as “individuals with their own views and opinions” but labelled “ex-prisoner’s child” (ibid.: 63). In this they felt defined by the actions or reputation of their parent. How they presented themselves to others created “vulnerability” in social situations where they did not want to be defined by their family history and also did not want to appear to be “bragging”. This also created tensions around personal safety. Jamieson and Grounds (ibid.: 60) conclude that while the “broader community ... must be informed and positively influenced to develop empathy and understanding of the needs of ex-prisoners and their families” the “quieter and more distant voices ... have been those of the children, whose own problems of lost parenting and family disruption also need to be recognised”.

The issue of prisoners' children is not confined to political prisoners. While that is a specific and significant consequence of the conflict and continues, in terms of adapting to the early release of many prisoners and in terms of those prisoners held on separation in Maghaberry Prison, there are many children whose parents are in prison for non-conflict related offences. It is instructive that there are no available records in NI on the numbers of children routinely affected by the imprisonment of a parent. Given the number of prisoners held in prison at any one time, and those that pass through prison over a twenty year period, it is reasonable to assume that the overall number of children affected at some point in their childhood by the imprisonment of one or more parent would be in tens of thousands. They experience many of the same problems as those listed above, particularly: a sense of loss; lack of knowledge and/or understanding; material deprivation; emotional suffering; unstable and distanced relationships; stigmatisation and labelling; adapting to release and fear of further loss. A further issue, given that there are only three prisons in NI, relates to access, in terms of geography and cost, for families travelling long distances.

While few women are imprisoned at any one time in NI, the research demonstrates that many have several children, including the very small number of long-termers. Their experiences illustrate the problems faced by parents, particularly mothers, in prison. Scraton and Moore (2004: 52) quote a long-term prisoner: "My only priority in my day is contacting my children. There's nothing worse when a day goes by and you don't speak to them ... than going to bed that night knowing you've not spoke to them. If it's a very limited access to the phones ... and you know it'll be two minutes, that's no good especially if there's a problem at home and they want to talk about it ... maintaining contact and bonds that's my top priority". Another long-term prisoner felt that the "jail could do a lot more to maintain family ties". Open days had been stopped in the women's prison: "Coming in for families is important. If families see the place, see you're ok, it settles them. They see where you're living and how you interact with other people ... they don't get that from visits ... and it's not as bad as it seemed to them" (ibid.: 54).

Scraton and Moore's research clearly illustrates that for all mothers their primary concern is the health and welfare of their children and the fear of losing their bond with them. Typical comments were, "I have felt like giving up numerous times. It's only the children that gives me something to go on for"; "I only want to get through the day - one day less 'til I get back to my children"; "It was just too much being locked away from my three kids... they think I'm in hospital having a baby" [she was pregnant]; "I have four kids and four grand-kids and I miss them all so much. I keep thinking to myself that I'll never see mine again. I love them all so much too. Every day is like a nightmare" (ibid.: 52-54).

Focus groups conducted with paid workers and volunteers who work with the children of prisoners raised several issues of concern consistent with the research. The experience of being stigmatised was profound: "it starts with difficulties and fear in the school playground but as the child gets older it becomes more aggressive". Particular problems faced by children of prisoners "are not understood or addressed in school" and often their behaviour "puts them in the detention unit and on a predetermined course". Families "are left high and dry with no natural support mechanism, fearing the services provided". Children "are the silent victims" and there has been "little or no commitment to identifying their needs and those of the family" yet "at the heart of working towards a reduction in recidivism is, in part, keeping families connected". Regarding accessing mainstream services, participants in the focus groups were concerned about targeting children thereby contributing further to their labelling. It was felt that creative ways had to be found of addressing service provision without identifying children.

Key issues

- Children of ex-combatants and the impact of the politics of imprisonment and release; children's association within communities with the status of parents' imprisonment.
- Punishment attacks on/exiling of prisoners' families.
- Children of non-political prisoners: establishment of child-centred, flexible visits; separate partner visits; access to mainstream services; appropriate support without identification/stigma; employment and employability of young people; children's services planning.
- Inadequate welfare support for families; poverty as a consequence of imprisonment.
- Gender issues regarding the imprisonment of mothers; distinct visiting needs; recent adverse publicity concerning women lifers and the impact on their children.
- Children born in prison and their separation from their mothers.
- Greater family involvement with the sentence and appropriate, family-based programmes of resettlement; 'safe' return to community/integration.
- Language and cultural issues for children visiting their parents classified as non-nationals.
- Problems of information and access associated with visiting parents in custody in England

Comment

Innovative provision developed by NIACRO at Magilligan Prison's visitors' centre has centred on the initiation of child-centred visits. The feedback on the programme, involving relatively small numbers of children, has been positive and has received the support of the NI Prison Service and the NIO. It operates, however, subject to prison staff goodwill and availability. The Barnardo's parenting education and support programmes have developed at Magilligan and Maghaberry male prisons and for women held in Hydebank Wood. They provide "the first opportunity to look at the impact of prisoners' offending behaviour on their children and consider the available opportunities to lessen the impact of their sentence". The focus groups agreed that universal, appropriate services should be made available, linked to children's services planning, particularly addressing those children's needs who are identified as being at risk of offending. Child centred visits and the assisted visits scheme, at the heart of effective provision, had been delayed by "more and more obstacles and red tape". The common position was that such visits "should be consistent, connected to resettlement and form an essential element of the children's strategy". In this process, "children have a view and should be consulted' and 'they should be fully informed about prison and what happens there". In the short term, "there needs to be a more respectful and dignified way of handling visits, they should be more family friendly". The overall conclusion was that there should be "greater family involvement with the sentence" including "knowing that their fathers are progressing and sitting in on resettlement interviews".

Support services for prisoners and their families' pre and post release is an important aspect of recovery from the disruption to family relationships. As Smyth (1998: 35) concludes, '[l]ong periods of readjustment, with the concomitant stresses on family relationships, the stigma of ex-prisoner status and discrimination against ex-prisoners means that children may have to live with the effects of the imprisonment of a parent for much longer than the term served in jail...' This was confirmed in interviews with ex-prisoners groups: "the impact of a criminal record on a family can't be under-estimated. We've established that unemployment among the children of ex-prisoners is 87.5%. The stigma is passed on".

YOUNG PEOPLE AS VICTIMS OF CRIME/VIOLENCE

Right to life, survival and development; freedom of thought, conscience and religion; freedom of association; protection from punishment; abuse and neglect (art.19); armed conflicts (art.38); psychological recovery and social reintegration (art.39)

Context

Although official statistics are rarely a reliable indicator of the extent of crime or violence they are a useful indicator of the distribution of reported offences. Bunting (2003: 11-12) notes that of the recorded 4,997 offences against children under 17, 4,211 were offences against the person. Of these, 79% were "classified as minor assaults" and 15% "as serious assaults, manslaughter or murder". Sexual offences, probably the most under-reported category, amounted to 786. Depending on the self-report studies or rape crisis statistics used, it fair to assume that the hidden figure of sexual assault is between 10 and 13 times the recorded figure and this would not include the repeat or multiple victimisation of one child. Considering the number of child deaths in NI for 2001, Bunting (2003: 15) notes that of the 55 deaths of children aged 1 to 19 in the category of "external causes of morbidity and mortality a majority ... were related to transport accidents" but six "were the result of assault" and 11 (20%) "were classified as intentional self-harm".

Victimisation rates in NI demonstrate that men are more likely than women to be victims of violent crime and younger people are most likely to be victims of violent offences (French et al., 2001). The exception is domestic violence in which women and children are the most vulnerable. As successive self-report studies have demonstrated, assault within households is the most common use of violence and the most under-reported. French et al. (2001: 17) note that "high proportions" of young women in NI claimed to be "very worried" about physical attack (32%) and racial or sectarian attack (19%). Data focusing on children's experiences of being victims of crime or the fear of crime is not routinely recorded. The Northern Ireland Crime Survey, for example, categorises a 'young person' as being aged 16 to 29.

It is important to emphasise the relationship between poverty, social exclusion and small scale 'criminal' activity. A focus group of young people who had recently experienced the criminal justice system, several of whom had been in the JJC, gave clear accounts of the struggles they faced on the margins. A young mother stated "when you're desperate nowhere will take you because you'll get put out for fighting or smoking blow. When I was in [respite hostel] I ran away and they didn't even phone my mammy and let her know. I ended up on the streets, drinking heavily, doing drugs and sleeping in a subway. I felt worthless. Maybe this was what I was supposed to be. I was suicidal, so low. Soon after I started to self-harm. They put me in this hostel in Downpatrick and I had all this anger inside me so I did it to release it. I was getting used to the pain so I was getting deeper cuts. You don't think in the long run where you'll end up. You feel like you'll be like that for ever".

A young man talked of his experiences of violence: "I used to wait for my Da, like, and he'd take off on us for nothing ... belt, fists, anything he could use. I was bullied all through my childhood. There were always fights in the house, like. And then I got it at school. You were going through enough at home, you didn't expect it in school, like. Then it was on the street with the peelers. You've got the attitude problem. You feel like a hurt animal, just waiting to be released". The young people shared their experiences and talked of always having to negotiate the violence in their lives. Much of it was within the family and at school, the two places that many other children experience as safe havens. They were careful where they walked and constantly feared assault:

“‘You shouldn’t be here you Fenian bastard’ ... then they started spitting on her [girl-friend] on the street. Then social services turn round and blamed her”. Another young parent stated: “You’ve got to forget about your past, when you’ve got kids you don’t want them to live what you’ve lived”.

Street violence is most common and most severe in interface areas. In her research with children in both Loyalist and Nationalist areas of North Belfast, where 20% of all deaths in the conflict have occurred, Leonard (2004: 7) notes that the “area has experienced the mass movement of people, open street rioting, clashes with security forces, shootings and intimidation”. The complexity of “territory” is such that the area “contains around 24 interfaces” and “eight of the official Belfast peace lines”. Asked about the positive aspects of life in the area the 14 year olds specified “strong ties, family, friends and neighbours”. But the “amount of space devoted to highlighting positive aspects was insignificant” when contrasted to the negative: the area’s appearance; lack of amenities; availability of alcohol and drugs; joy-riding; paramilitaries; rioting.

Leonard (ibid.: 76) found that the “[f]ear of verbal and physical intimidation and violence impacted on the movements of both groups” with places “outside the children’s immediate locality ... labelled as spaces of risk and fear”. The levels of violence endured by children in and around their schools were extreme, including attacks on buses and vandalising or torching teachers’ cars. Children attended school behind locked gates monitored by security guards. They could not use playgrounds for fear of being stoned. Verbal abuse and spitting were everyday occurrences as they made their way home. The in-depth interviews with children showed that “many young people curtailed their movements because of fear of physical and verbal intimidation by the other main religious community” and many “recounted incidents where they had been direct victims of physical and verbal abuse” (ibid.: 133).

The most graphic and widely publicised example of sectarian violence and its impact on children occurred in 2001 around Holy Cross School, North Belfast. Following an increase in tensions within the area, caused primarily by the Loyalist feud and the renewed violence towards the Nationalist community initiated by Loyalist paramilitaries, tensions were high. On 20 June a major disturbance took place as children from the Holy Cross Primary School were leaving for home. The police recorded further rioting during the following day. Shots were fired and 10 blast bombs and 60 petrol bombs were thrown. As a consequence the police redirected children and their parents from walking their normal route to school, stating that they could not guarantee their safety. After a troubled summer the police reviewed their initial decision and made plans to allow children and their parents to take their normal route to Holy Cross. Access along the road was to be protected by barriers and an ‘anti-spit’ screen. In erecting the protection the army and police were attacked by Loyalists. As the protest gathered momentum children, accompanied by their parents, walked along the road through the corridor made by the barriers. They were subjected to verbal abuse and violent threats.

Between September and October the protests continued. The extreme levels of abuse and violence directed against children under 11 years of age and their parents had a major impact on the children, evidenced by the written statements of parents. They record the severe distress and suffering endured by young children who feared for their lives, the death threats received by parents and their enforced displacement from the area. Human rights organisations raised the issue of the failure by the police to adequately protect children, to apply the best interests principle and to secure the children’s right to education. Although the initial application for judicial review was lost it is undergoing appeal.

Intra community violence has also impacted on children. Leonard (ibid.) found that the forced movement of families from the Shankill area to North Belfast was particularly significant in children's lives. Some idea of the extent of displacement can be gained from what was considered to be the "largest forced movement of households since the 1970s" between August and October 2000 (Inter-agency Working Group on Displaced Families). Within the 263 families were 269 children, 178 of whom were 11 years old or under. The Working Group noted that the "figures [seeking relocation from the Housing Executive] do not present the whole picture" as "many families are not living at home and are dispersed throughout the area because of death threats made on their lives. We estimate that approximately 1,000 individuals are directly affected by this situation". Children's experiences of these enforced moves included direct violence and assaults, their houses ransacked or burnt and furniture damaged, destroyed or stolen. While agencies provided temporary accommodation, emergency payments and health-care including 'trauma counselling' this was on a short-term basis.

Recently there has been a marked increase in racist attacks including intimidation, assault and arson. While media attention has tended to focus on incidents against black and Chinese families in Belfast, attacks have occurred across NI and include migrant workers from Europe and asylum seekers. The NICCY research with Portuguese children revealed their familiarity with racist attacks. All children were aware of or had experienced windows being broken, verbal abuse, stones thrown at them and being told to 'go back to your own country'. The PSNI statistics show an increase in 'racial incidents' from 185 in 2001/02 to 453 in 2003/04. According to a police representative the PSNI has adopted a "zero tolerance policy towards hate crime both within the organisation and outside it". NICCY research with the Portuguese and Traveller communities, however, demonstrates clearly that there is under-reporting of racist attacks because "fear and suspicion of authorities in general leads to under-reporting..." (Community Worker). This was confirmed by a focus group held with TMNI. Travellers often did not report incidents to the police because they would have left themselves vulnerable to investigation if the police arrived on their site.

As displayed in the images below, children within our schools sample were also aware of racial bullying within their schools and communities and discrimination on the grounds of sexuality and ethnicity:



Key issues

- Recording and responding to children as victims of property crime.
- Establishing support networks for children to disclose violence within the family and within the community.
- Communities as 'unsafe' places for children: fear of crime and violence as debilitating as crime itself.
- Need for child-centred community safety strategies based on consultation with children and young people.
- Vulnerabilities and restrictions on movement and dress.
- Age appropriate mental health and welfare provision to aid the recovery of children as victims or survivors.
- Hate crime: racism; traveller children; asylum seekers children; homophobia.
- Media misrepresentation of children as perpetrators and offenders rather than as victims and survivors.

Comment

NI is not only divided by sectarianism but also by class and poverty. The intersection of these two key determining contexts is crucial in the lives of children and young people. As many research studies have noted, in the urban areas people can live in close geographical proximity but occupy entirely contrasting worlds. The focus in this section has been on those communities in which violence has become normalised, a feature of daily life. They are also the communities in which crimes other than violence, mainly petty or low level crime, prevail. Yet they are communities rarely policed effectively by the PSNI and where many community-based workers argued that the statutory services had given up on their responsibilities. In terms of the 'best interests' of children local budgetary allocations for services directly concerned with identifying and meeting the needs of children alongside appropriate planning and development policies have to be reviewed with particular attention paid to the issues raised above. This also connects to protecting children's right to life, survival and development in the context of continuing sectarian conflict.

DRUGS AND ALCOHOL

The right to life, survival and development; access to appropriate information; highest attainable standard of health, treatment and rehabilitation; drug abuse (Article 33)

Context

Smyth (1998: 82) notes that NI "has not had the same level of illegal drug problems as other European regions". While the statistics are not consistent regarding drug use among children and young people there is significant evidence (Ellison 2001) that cannabis in particular is commonly used by children in rural and urban areas. Quoting McEvoy et al. (1999) Smyth states that it is "impossible to see drug use as separate from politics and the dynamic of the conflict, because of the involvement of combatants in the armed conflict in drug trafficking and attempts to control the illegal drugs trade". Yet, part of the explanation offered for the lower level of drug use is "the long-standing opposition of certain paramilitary groups to trafficking of illegal drugs, and the use of punishment beatings and shootings as a method of sanctioning those involved". Despite this, in her more recent research Smyth et al. (2004: 44) note that in coping with trauma as a result of the conflict children "described using drugs or alcohol" and "in many cases children as young as 12 years started using alcohol".

Ellison (2001: 55) found that “young males are more likely to have experimented with psychoactive drugs than young females”. In his study 48.5% of 14 to 18 year olds had tried cannabis at least once. Inhaling gas, glues or aerosols “is concentrated in the 14-15 year old cohort” but “their consumption decreases dramatically with age”. While he found the use of psychoactive drugs “prevalent throughout all social classes and socio-economic categories ... young people from areas of socio-economic disadvantage are more likely than young people from affluent areas to have tried inhalants and tranquilisers (e.g. Temazepam), and also to use them regularly”. 89.8% of Ellison’s sample had consumed alcohol and his results “confirm Northern Ireland’s status (along with England, Scotland and Wales) as having one of the highest levels of teenage alcohol consumption in Europe”. 64% of the sample drank alcohol regularly and binge drinking “appears to be widespread” (ibid.: 118). Just over half of the 14 year olds in the study consumed alcohol regularly, rising to 70% of 16 year olds. 14 to 16 year olds “tend to drink in local parks, friends houses (whenever parents are away) or any other location where adults are not around”. Ellison also found that high levels of regular alcohol consumption “correlate strongly with offending patterns and the risk of victimisation”.

The consumption of illegal drugs and alcohol by children and young people is a difficult issue in a society where the use of drugs, legal and illegal, and alcohol is prevalent among adults. Children and young people in the NICCY research were quick to point out the contradictions implicit in targeting and policing their consumption. “The peelers are after us for drinking or blow, but no one says anything about adults getting out of their heads” (Youth Focus Group). Another young person agreed: “I would dread him [father] coming in from the pub. He was always drunk and anything would set him off and we [siblings] would take a beating”. A third young person commented: “It’s one law for them and another for us. All we’re doing is hanging out, a few cans an’ all, we don’t even have to be making any noise and they’re down on us ... but when they [adults] kick off it’s just a laugh for them”.

Throughout the research there was considerable concern expressed, particularly by community workers, that children were actively encouraged into drugs and their distribution. Starting as ‘runners’ they were attracted by the status it gave them in certain communities and the money that was clearly on offer. Often this led “to a habit they couldn’t sustain, then they’re into small-scale stealing or burglary and then they take a beating if they’re caught” (Community Worker). The representatives of one community project were adamant that children were used by suppliers: “The kids role models become the BMW drivers. Everyone knows the major players and people have to live with it. But there are interest groups within our communities at a higher level who are quite happy to see the community flooded with drugs. What would happen to them if people became drug free?”

The Northern Ireland Drugs Strategy closely links the use of drugs and alcohol to poverty. Hillyard et al. (2003: 64) found that 37.4% of NI’s children are brought up in poverty. They state, “[t]he impact on the development and opportunities of these 150,000 children and young people should not be under-estimated ... growing up in excluded families increasingly characterised by anti-social behaviour, insecurity and threat”. Given that Northern Ireland’s Health Promotion Agency (HPANI: 1998) records that 62% of 14 to 17 year olds have tried at least one illegal drug it is reasonable to assume that for children in poverty drugs and under-age drinking are connected to their social exclusion.

The relationship between drugs and poverty was raised as an issue by all participants in the children’s sector workers’ focus groups. Drug use “is often no more than an attempt to escape, it’s how adults cope and are we surprised that it’s how children cope with all that’s going on around

them". But once in the poverty trap young people are made more vulnerable by the accommodation they are allocated: "They do the rounds of the hostels, the B and Bs, and you have serious concerns about the type of environment they're in. They are becoming dumping grounds, often unsupervised, and then they have so much time on their hands, little wonder they drink and use other stuff".

Key issues

- Need for inter-agency initiatives to identify and respond to the rising problem of drugs, alcohol and substance misuse.
- Children identify these problems as community safety issues; fighting; thefts; recruitment as runners.
- Policing priorities and targeting: tension between policing the users rather than tackling the suppliers.
- Relationship between drugs supply and paramilitary interests.

Comment

Community-based projects in the poorest communities were adamant that the statutory agencies had failed to deal effectively with the issues. While stark, the following comment from a community-based worker was typical: "It's all connected. These are benefit-trap communities, they're abandoned by the police, by the faceless civil servants and the education system has failed. The perception in this community is that no-one cares, 'let the scumbags sort it out for themselves'. As long as it stays in the community. Drugs are deliberately allowed into this community. Drink, drugs, they're ignored by the police, just send the kids to the park".

The UN Committee stresses the significance of awareness raising programmes regarding children, obliging the State to indicate its response regarding schools and school curricula. Also significant under Article 33 compliance is an expectation to provide family-oriented programmes, including counselling and support. The emphasis is on recovery and reintegration. It is clear disaggregated data, regarding age-related analysis and other 'key' factors, has not been developed and there is no evidence that an integrated, focused and proactive strategy has been constituted to combat drug and alcohol abuse.

PRIORITIES

Given that the baseline adopted for the research was the CRC, and that NICCY is committed to full implementation of the CRC, it is appropriate that the priorities for implementation established by the UN Committee are considered first. The research endorses those priorities. They are:

- The use of plastic baton rounds as a means of riot control should be abolished.
- A co-ordinated strategy for the reduction of child deaths through violence should be introduced, recording all crimes committed against children and monitoring, investigating and prosecuting cases of violence against children.
- The minimum age of criminal responsibility should be raised and age-appropriate welfare and justice interventions established.
- The detention of children in custodial and care institutions should be used a measure of last resort and children are at all times should be held separately from adults.
- The use of restraint in custodial and care settings should be reviewed and solitary confinement should be abolished.

Further priorities arising from the research are:

- Policing strategies should be initiated that gain the confidence of children and young people through effective consultation and challenging differential and discriminatory treatment.
- Given their incompatibility with the principles and provisions of the CRC, anti-social behaviour orders should be withdrawn.
- Appropriate training that meets the needs of children as vulnerable witnesses should be provided for the police, lawyers and judges.
- An appropriately resourced and integrated framework of mental healthcare and therapeutic provision should be established, directed towards the physical and psychological recovery of children who are survivors of violence, abuse, trauma and self-harm.
- Self-harm and suicides of children and young people should be researched and an informed, multi-agency strategy developed identifying and responding to children 'at risk'.
- Restorative justice initiatives should be monitored to ensure that in policy and practice they offer an effective alternative to punitive measures.
- Workable protocols through which state agencies and community-based restorative justice programmes can work co-operatively should be advanced.
- There should be an end to all community punishments and exiling of children and young people administered by paramilitaries and vigilante groups.
- Building on existing initiatives, fully-resourced programmes for the children and families of prisoners and ex-prisoners should be consolidated and expanded.
- Community-based initiatives for combating drugs and alcohol abuse should be implemented alongside effective policing strategies targeting the supply of drugs into NI.

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APPENDIX:

one

**SCHOOLS
METHODOLOGY**



NI COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE COMMISSIONED RESEARCH

Dear Parent/Guardian,

We are a team of researchers carrying out a project on behalf of the Northern Ireland Commissioner for Children and Young People. The aim of the research is to help the Commissioner establish the priorities for his office. In order to do this we are collecting information from children in relation to their rights and what is it like for them growing up and living in Northern Ireland. Some children's views may be included in reports and articles about the research but no names will be used and any quotations will be anonymous.

We would like as many children as possible to be included in the study and hope very much that your son or daughter will be able to participate. We will be visiting your child's school in due course. If you **do not** want your son or daughter to take part please complete the following reply slip and return it to the school.

If you **do allow** your child to take part, you don't have to return the reply slip.

#

I DO NOT WANT my son/daughter to take part in this research

Child's Name: _____

Parent/Guardian Name: _____

Parent/Guardian Signature: _____

Table 1: Structure Of Schools Sample By Method Of Data Collection

Gender (%)	Story	Picture	Poster	Dusty Bin	Discussion	Total
Male	206	88	208	8	-	510 (48%)
Female	182	66	136	2	-	386 (36%)
Mixed group**	-	-	152	-	16	168 (16%)
School Type						
Controlled P.S	57	84	108	-	-	249 (23%)
Controlled S.S	81	-	28	-	-	109 (10%)
Controlled G.S	41	-	52	-	-	93 (9%)
Maintained P.S	86	50	132	-	-	268 (25%)
Maintained S.S	98	-	76	-	-	174 (16%)
Maintained/Vol. G.S	-	-	24	-	-	24 (2%)
Integrated P.S	25	-	24	-	-	49 (5%)
MLD	-	20	52	-	-	72 (7%)
SLD	-	-	-	10	16	26 (2%)
Religion						
Catholic	184	50	232	-	-	466 (44%)
Predominantly Protestant	179	104	240	10	16	549 (52%)
Integrated	25	-	24	-	-	49 (5%)
Board						
NEELB	28	53	184	10	16	291 (27%)
BELB	85	15	128	-	-	228 (21%)
WELB	101	27	100	-	-	228 (21%)
SELB	44	20	24	-	-	88 (8%)
SEELB	130	39	60	-	-	229 (22%)
Key Stage						
1	39	132	60	-	-	231 (22%)
2	139	2	204	-	-	345 (32%)
3	143	20	72	5	-	240 (23%)
4	67	-	160	5	-	232 (22%)
17+***	-	-	-	-	16	16 (2%)
Total	388	154	496	10	16	1064

Guidance Notes For Table 1

- * N=1064 people.
- ** Posters and discussion groups were made up of both males and females with an average of four persons per poster group and eight persons per discussion group. As not all pupils would volunteer their name (or choose a pseudonym), it was not possible to provide a gender breakdown of all groups.
- *** The 17+ age category represents those with Severe Learning Disabilities. Due to the timing of data collection (i.e. exam time), schools understandably did not give access to this age group in mainstream schools.

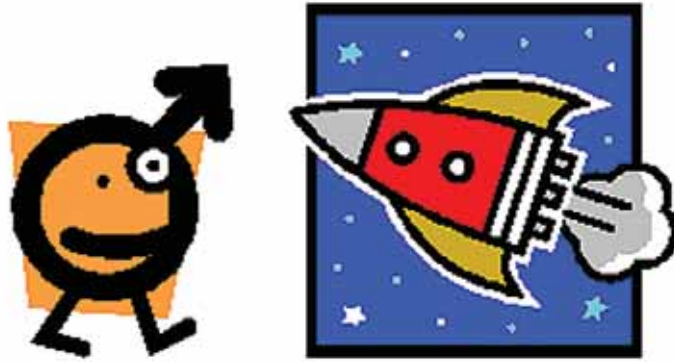
POSTER TASK - MLD

(Printed in colour coded card)



Congratulations!

Your group has been picked to design a poster letting everyone know what types of things young people like you might think are **unfair about school** or **do not like about school**.



An alien has landed in your school. He has never been to the planet earth before and does not know what the words 'crime' and 'police' mean.

Your group has been picked to design a poster which shows him all the things you think of when you hear the words 'crime' and 'the police'. These can be good things or bad things.



The adults in your area are trying to find out about all of the things that young people like you **do not like** about where you live.

Design a poster showing all of the things that you **do not like** about where you live. They have asked you to think about things which **might annoy you** and that you **would like to change**.





Congratulations! Your group has been given a big pile of money to spend on **making play/leisure facilities better** for young people like you.

First of all, fold your poster in half and open it out again, so as there is a line down the middle.

On one side of the poster draw all of the things that you **do not like** about the play/leisure facilities you use.

On the other side of the poster, draw pictures of things that you would spend the money on to **make play/leisure facilities better** for young people like you.



Your local newspaper is writing an article and they need your help. They want to know about the types of things that happen in the home that young people think are **unfair**.

They have asked you to find out about all of the things that young people like you would like **more of a say in at home**. For example, is there something that you think you should **be asked about more than you are now?**

Use the poster provided to design your newspaper article.

DUSTY BIN TASK: SLD (Aged 8-14 years)

(Please note that the option cards for each theme will have to be scanned and inserted separately as they used a different computer package)



Dusty bin is hungry today. He likes to eat pictures. Feed dusty bin all of the pictures of things you don't like about school.

(A similar picture was presented for each theme)

APPENDIX:

two

**CONSULTATION
LIST**

Consultation with the Statutory and Voluntary Sector

Association of Chief Police Officers
Adolescent Team (SEBSS)
Alternative Education Projects
Altnagelvin Hospital
ANIMATE project
Arts Council (NI)
Barnardo's
Base 2 (NIACRO)
Belfast Jewish Community
Belfast Travellers Education and Development Group
British Medical Association
Brook Clinic
Cathedral Youth Club
Council for the Curriculum, Examinations and Assessment (CCEA)
Council for Catholic Maintained Schools (CCMS)
Child Care Policy Directorate
Child Care Unit, PSNI
ChildLine
Children in Northern Ireland
Children's Express NI
Children's Law Centre
Children's Hospice Northern Ireland
Children of Prisoners Agency
Children Service Planners
Committee on the Administration of Justice
Council for Homeless
Children Order Advisory Committee
Comhairle Na Gaelscholaíochta
Community Restorative Justice
Community Safety (Northern Ireland Office)
Coiste na n-Irchimí
Department of Education
Derry Children's Commission
Drug and Alcohol Misuse Outreach Project (Northern Health and Social Services Board)
Duty to Care Group
Eastern Board Social Services
East Belfast Alternatives
Educational Guidance Centre (North Eastern Education and Library Board)
Educational Welfare Officers
EPIC Enterprises
Equality Commission
Family Planning Association
Family Policy Unit
Fermanagh Shadow Youth Council
Fostering Network
Foyer Federation
Foyle District Command
Foyle Downs Syndrome Trust

Gingerbread Derry/Londonderry
Graduate School of Education (QUB)
Guardian Ad Litem Agency
Health Promotion Agency
Healthy Cities Project
Housing Executive (Headquarters & Regional)
Housing Rights Service
Include Youth
Institute of Child Care Research (QUB)
Judicial Studies Board
Lakewood Secure Accommodation
Law Centre (NI)
Law Society of Northern Ireland
Londonderry YMCA
Looked After Children in Education
National Children's Homes, NI
National Youth Advocacy Service
NEXUS
Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)
Northern Ireland Commissioner for Children and Young People (NICCY)
Northern Ireland Council for Ethnic Minorities (NICEM)
Northern Ireland Human Rights Commission (NIHRC)
Northern Ireland Office (NIO)
Northern Ireland Pre-School Playgroup Association
North and West Belfast Trust
NSPCC
Off the Streets Initiative Derry/Londonderry
Office of the First Minister and Deputy First Minister (Equality Unit, CYPU)
Old Library Trust Derry
One World Centre
Opportunity Youth
PAPA
Parents' Advice Centre
Parents as Partners Derry/Londonderry
PEAT
Playboard
Police Ombudsman for Northern Ireland
Prisoner Release Victim Information Scheme
Probation Service Northern Ireland
Probation Service Victim Information Scheme
Police Service for Northern Ireland
Rainbow Project
Red Cross Children Derry/Londonderry
Relatives for Justice
Save the Children (NI)
School of Law (QUB)
School of Nursing (QUB)
School of Social Work (QUB)
Shared City Project Derry/Londonderry

Shepherd View Young People Project Derry/Londonderry
Simon Community NI
South & East Belfast Social Services
Sperrin Lake Trust Northern Ireland
Special Educational Needs Advice Centre
Sports Council of Northern Ireland
Sui-Pak Community
Surestart Projects
Task Healthy Living Centre (Banbridge)
Transferors' Representatives
Traveller Movement, NI
Tullyvalley Youth Group
Voice of Young People in Care (VOYPIC)
VOYPIC Advocacy Group
Western Area Child Care Partnership
Western Association of Chief Police Officers
Western Education and Library Board
Women's Aid
Youth Action
Youth Council (NI)
Youth Justice Agency
Youth Life Derry/Londonderry
Youth Net

Professions who were consulted:

Education Welfare Officers
General Medical Practitioners
The Judiciary
Nurses
Psychiatrists
Social Workers
Solicitors
Teachers

Consultation with Children and Young People (Outside School)

Alternative Education Projects x 2
Children from the Portuguese Community
Derry Bytes
Fermanagh Essential Skills
Include Youth
Off the Streets Initiative Derry/Londonderry
Old Library Trust Derry/Londonderry
Riverview Youth Club Derry/Londonderry
Shared City Project Derry/Londonderry
Traveller Children
Young Mothers
Youth Action
Youth at CLC

APPENDIX:

three

**GENERAL INTERVIEW
SCHEDULE**

NICCY Research

The research being conducted by a team based at Queen's University is intended to establish the key priorities for the Children' Commissioner. In a tight time-frame we are committed to conducting an inclusive project drawing on the full range of existing research and practice-based work being carried out throughout Northern Ireland. We appreciate your help with the Project.

The **'key question'** that we have put to organisations is:

What do you consider to be the most pressing concerns regarding the welfare and rights of children in Northern Ireland?

We want to make this question the focus of today's workshop discussion. Please respond in terms of our identified **'key themes'**. These are:

Civil Rights and Freedoms

Family and Alternative Care

Health, Welfare and Material Deprivation

Education

Youth Justice and Policing

Implementation

Other issues not covered above?

Is there any information or research that should be brought to our attention from within your work experience?

Many thanks.

APPENDIX:

four

**INTERNATIONAL
STANDARDS**

United Nations

1 Convention on the Rights of the Child

- Convention on the Rights of the Child, adopted by General Assembly resolution 44/25 of 20 November 1989
- Optional Protocol on the protection of children from sexual exploitation, prostitution and the sale of children adopted by General Assembly resolution A/RES/54/263 of 25 May 2000
- Optional Protocol on the involvement of children in armed conflicts adopted by GA resolution A/RES/54/263 of 25 May 2000

2 Documentation of the Committee on the Rights of the Child:

- 1 Concluding Observations of the Committee on the Rights of the Child
 - i United Kingdom of Great Britain and Northern Ireland (1995)
 - ii United Kingdom of Great Britain and Northern Ireland (2002)
- 2 General Comments
 - i The Aims of Education (2001);
 - ii The role of independent national human rights institutions in the protection and promotion of the Rights of the Child (2002)
 - iii HIV/Aids and the Rights of the Children (2003)
 - iv Adolescent health and development in the context of the Convention on the Rights of the Child (2003)
 - v General measures of implementation for the Convention on the Rights of the Child (2003)
- 3 Reports of General Discussion Days including the Committee's recommendations on the implementation of the Convention in areas including economic exploitation (1993); the role of the family (1994); juvenile justice (1995); the child and the media (1996); children with disabilities (1997); violence against children (2001); the private institutions as service provider (2002) and implementing the rights of the child in early childhood (2004).
- 4 Guidance on the Reporting Process
 - General guidelines regarding the form and content of initial reports to be submitted by States Parties under article 44, paragraph 1(a), of the Convention (1991)
 - General guidelines for periodic reports (1996)

3 UNICEF and Special Session Documentation

- A World Fit for Children (2002)
- UNICEF Follow-up to the United Nations Special Session On Children (2003)
- Guide for NGO Involvement in National-Level Follow-up to the Special Session on Children (2003)

4 International Covenant on Economic, Social and Cultural Rights, 1966

- 1 International Covenant on Economic, Social and Cultural Rights adopted by GA resolution 2200A (XXI) of 16 December 1966
- 2 Concluding Observations of the Committee on Economic, Social and Cultural Rights on the United Kingdom of Great Britain and Northern Ireland (2002)

3 General Comments

- a No 4 on the right to adequate housing (1991);
 - b No 5 on Persons with Disabilities (1994) ;
 - c No 9 on the Domestic Application of the Covenant (1998);
 - d No 13 on the Right to Education (1999) ;
 - e No 14 on the Right to the Highest Attainable Standard of Health (2000)
- 4 Report of General Discussion Day on the Right to Education (2002)

5 International Covenant on Civil and Political Rights, 1966

- International Covenant on Civil and Political Rights adopted by GA resolution 2200A (XXI) of 16 December 1966
- Concluding Observations of the Human Rights Committee on the United Kingdom of Great Britain and Northern Ireland (1996) and (2001)
- General Comment No 17 on the Rights of the Child (1989)

6 Convention on the Elimination of Discrimination against Women

- Convention on the Elimination of Discrimination against Women adopted by GA in 1979
- Concluding Observations of CEDAW on the UK of Great Britain and Northern Ireland (1999)

7 International Convention on the Elimination of All Forms of Racial Discrimination

- International Convention on the Elimination of All Forms of Racial Discrimination adopted by General Assembly resolution 2106 (XX) of 21 December 1965
- Concluding Observations of CERD on the UK of Great Britain and Northern Ireland (2001)

8 UN Convention on Discrimination in Education

Convention against Discrimination in Education adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 14 December 1960

9 UN Youth Justice Standards

- UN Standard Minimum Rules on the Administration of Juvenile Justice (Beijing Rules) adopted by General Assembly resolution 40/33 of 29 November 1985
- UN Rules on the Protection of Children deprived of their Liberty adopted by General Assembly resolution 45/113 of 14 December 1990
- UN Rules for the prevention of delinquency (Riyadh Guidelines) adopted by General Assembly resolution 45/112 of 14 December 1990
- Guidelines for Action on Children in the Criminal Justice System recommended by Economic and Social Council resolution 1997/30 of 21 July 1997

10 Specialised Agency Standards

- World Health Organisation
 - World Health Report :Reducing Risks Promoting Health Life 2002
- UNESCO
 - Gender and Education for All: A Monitoring Report (2003)
 - Policy documentation on various aspects of education, including early childhood and family education, and leisure and cultural activities

Council of Europe Standards

- European Convention on Human Rights, 1950 (CETS 005)
- First Protocol to the European Convention on Human Rights, 1952 (CETS 009)
- Convention on the Legal Status of Children born outside Wedlock, 1975 (CETS 085)
- European Convention on the Adoption of Children, 1967 (ETS 58)
- European Convention on the Exercise of Children's Rights, 1996 (CETS 160);
- Framework Convention for the Protection of National Minorities, 1995 (CETS 157)
- European Charter for Regional or Minority Languages, 1992 (CETS 148)
- Convention on Contact concerning Children, 2003 (ETS 192)

1 Parliamentary Assembly Resolutions:

- European Strategy for Children (1996) and follow up (2002)
- Declaratory statements on matters of youth affairs, family law, succession and the media.

Hague Conference on Private International Law

1 Hague Convention on Inter-Country Adoption

2 Convention of 29 May 1993 on the Protection of Children and Co-operation in respect of Inter-country Adoption

- Reports and Conclusions of the Special Commission (2000)

3 Hague Convention on Abduction

4 Convention of 25 October 1980 on the Civil Aspects of International Child Abduction

- Reports and Conclusions of the Special Commission (2002)

5 Hague Conference on the recovery of maintenance

6 Convention of 2 October 1973 on the Law applicable to Maintenance Obligations

- Reports and Conclusions of the Special Commission (2003)

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