

Children's Law Centre

The image features the silhouettes of a young boy and a young girl standing in a field of tall grass, holding hands. The boy is on the left, with his right arm raised high. The girl is on the right, with her left arm extended. They are positioned against a bright sunset sky with scattered clouds. The sun is low on the horizon, creating a strong backlight effect. The overall mood is hopeful and protective.

Close the Gap

Key priorities for the NI Assembly to protect children by closing the gap in children's rights



Key Priorities



Incorporate the UNCRC into domestic law



Deliver Equal Protection for Children



Raise the Minimum Age of Criminal Responsibility



Scrutinise the Policing of Children and Young People



Prioritise Children and Young People's Mental Health



Get Serious About Data Informed Decisions



Transform Support Services for Children with Special Educational Needs and Disabilities



Support Children with Complex Needs

Introduction

Founded 25 years ago on the principles enshrined in the United Nations Convention on the Rights of the Child (UNCRC), the Children's Law Centre (CLC) has worked with and for children and young people across an increasing range of issues to ensure their voices are heard and their rights are realised.

CLC believes that it should be the desire of every person in Northern Ireland to build a society in which all children can properly participate, where they are valued, their rights are respected and guaranteed without discrimination and where every child can achieve their full potential.

To date, the rights of children in Northern Ireland have received limited protection and as a consequence, some of our most

vulnerable children are unable to access critical services. There is no overarching recognition in domestic law in Northern Ireland of what rights they should have. It is in this context that we are increasingly concerned by the UK government's proposals to scrap the Human Rights Act. This, alongside the impact on children's rights of the UK's departure from the European Union, as well as the Northern Ireland Assembly's persistent failure to deliver a Bill of Rights, sets a worrying scene.

However, our experience tells us that devolution has the potential to transform lives and deliver real change in our communities. We believe the new Assembly mandate provides an opportunity to do just that.

Recommendation: Based on evidence from our 25 years of working to protect and promote the rights of all children in Northern Ireland but especially the most vulnerable, CLC believes that the new Assembly should work urgently to make the UNCRC part of our domestic law. This is the best mechanism through which we can build a society where every child can achieve their potential.

Further reading:

- [Children's Law Centre Response to MoJ Consultation: Human Rights Act Reform \(March 2022\)](#)



Deliver Equal Protection for Children

Currently children have less legal protection from violence than anybody else in Northern Ireland despite being among our most vulnerable members of society.

There is compelling international evidence that physical punishment is ineffective in changing children's behaviour and, in fact, has an adverse impact on children's well-being.

The UN Committee on the Rights of the Child has repeatedly called for physical

punishment in the home to be banned.

Northern Ireland is falling short of standards set elsewhere, including in Scotland, Wales and the Republic of Ireland. Over 60 states have outlawed physical punishment, with a further 28 states committing to reform their laws to achieve a ban. It should be noted that there is no evidence that any of the countries that have changed the law to ban physical punishment have seen a rise in criminal prosecution of parents.

Recommendation: The new Assembly should legislate to provide equal protection for children as a matter of urgency.

Further reading:

- [Briefing: Equal Protection for Children in Northern Ireland \(October 2021\)](#)
- [Un Committee on the Rights of the Child Concluding Observations and Recommendations 2016](#)

Raise the Minimum Age of Criminal Responsibility

The UN Committee on the Rights of the Child has repeatedly raised the minimum age of criminal responsibility in Northern Ireland as a serious breach of children's rights and made clear recommendations that the age threshold should be raised considerably "in accordance with acceptable international standards".

The UN Committee has set out clearly in General Comment 24 what is meant by acceptable international standards:

"International standards recommend that the minimum age of criminal responsibility shall not be fixed at too low an age level,

bearing in mind the facts of emotional, mental and intellectual maturity... State parties are encouraged to increase their minimum age to at least 14 years of age. At the same time, the Committee commends states parties that have a higher minimum age, for instance 15 or 16 years of age."

At 10 years of age, we have one of the lowest ages of criminal responsibility in the world and the lowest in Europe. A large body of international evidence tells us that 10 is far too low, that children will not understand the full consequences of their actions until much later in their development.

Recommendation: The new Assembly should legislate to raise the age of criminal responsibility as a matter of urgency.



Further reading:

- [General comment No. 24 \(2019\) on children's rights in the child justice system](#)

Scrutinise the Policing of Children and Young People

Stop and search powers are used disproportionately on children and young people in Northern Ireland, with the use of the power rarely resulting in an arrest. For example, in 2021, 2767 young people aged 17 and under were stopped and searched by the PSNI, yet only 104 of those young people were subsequently arrested. This excessive and unreasonable use of stop and search diminishes trust and damages the

relationship between young people and the police.

Use of force on young people also continues, including the use of Tasers, CS spray, spit and bite guards and Attenuating Energy Projectiles (AEPs) despite concerns outlined by the UN Committee on the Rights of the Child.

Recommendation: The new Assembly should ensure that the Justice Minister, the Chief Constable of the PSNI and NI Policing Board work together to bring an end to the disproportionate and improper use of stop and search and ensure that children are not subject to any use of force by the PSNI.



Further reading:

- [Use of Stop and Search Powers by the Police in Northern Ireland 1 January 2021 to 31 December 2021](#)
- [UN Committee on the Rights of the Child Concluding Observations and Recommendations 2016](#)

Prioritise Children and Young People's Mental Health

There has been a long-standing chronic under-investment in Children and Adolescent Mental Health Services (CAMHS). Despite children and young people representing approximately 25% of the population, the total spend on CAMHS is between 6.5% and 8.5% of the overall mental health budget in Northern Ireland.

Youth@CLC, CLC's youth advisory group, undertook peer research with almost 1000 young people in 2015. The survey results reveal that 27% of the young people surveyed, reported having experienced a mental health concern, of which only 37% had received help, and only 66% of those were satisfied with the help they received. Research undertaken by Queen's University Belfast in 2020 shows that one in eight young people have a mental health condition, one in six young people had symptoms of an eating disorder, one in ten had self-harmed, and one in eight reported suicidal thoughts or attempts. In 2020/21, almost 1000 children presented to A&E with a mental health crisis.

The pandemic has also had a huge impact. Northern Ireland's Mental Health Champion, Professor Siobhan O'Neill, has recently said that, "Research shows that young people's mental health has been more heavily impacted by the pandemic and the restrictions than any other age group."

It is crucial that there is significant increased investment in CAMHS to not only address historic under resourcing and demand, but also to meet additional needs arising as a consequence of the pandemic. This should include properly resourcing early intervention, community services and acute care. When addressing under resourcing of CAMHS, departments should comply with their duty under the Children's Services Co-operation Act (NI) 2015 to co-operate as they deliver services aimed at improving the well-being of children and young people. This should not however negate the lead responsibilities of the Department of Health in this regard.

Recommendation: The new Assembly should work together to prioritise and fund interventions to improve children and young people's mental health and wellbeing. This means ensuring budget allocation for CAMHS is sufficient to meet the actual need and that government departments and other agencies work together to plan and fund services in a holistic way.

Further reading:

- [Mental Health Strategy 2021 - 2031](#)
- [NI NGO Alternative Report to the UN Committee on the Rights of the Child 2015](#)
- [QUB Youth Wellbeing Prevalence Survey, October 2020](#)
- [NICCY: 24% Increase in Children Attending A&E with Mental Health Crisis](#)
- [Prof Siobhan O'Neill, Mental Health Champion briefing paper to Education Committee](#)
- [Children's Services Co-operation Act \(NI\) 2015](#)

Get Serious About Data Informed Decisions

There is a lack of up to date, disaggregated data on children and young people in Northern Ireland. Without child specific data, it is impossible to monitor or measure how legislation, strategies and policies will improve the lives of children.

By way of example, it has been a long-standing problem that government departments have not been collecting even the most basic data in relation to children with disabilities in a manner that translates across departmental lines. Additionally, there has not been any large scale study of the mental health needs of children and young people since 1999.

If appropriate data is not gathered as to how many children have disabilities, or how

many children have a mental health need, then government departments cannot possibly plan coherently for the delivery of services to these children, nor can they monitor the effectiveness of the actions taken.

As the statutory duty to collect disaggregated data has existed since the commencement of Section 75 of the Northern Ireland Act 1998, the absence of disaggregated child specific data in respect of disabled children cannot be defended.

Data deficits also exist in relation to other groups of children and young people such as, newcomer and unaccompanied asylum-seeking children, and children in contact with the criminal justice system.

Recommendation: The new Assembly should ensure that interventions intended to improve the lives of children and young people are based upon and can be measured by disaggregated data, and that government departments and public bodies discharge their statutory duties to gather disaggregated data.



Transform Support Services for Children with Special Educational Needs and Disabilities

Assessing and understanding the support required for children and young people in education at the earliest possible opportunity is a crucial step in allowing every child to access education and achieve their full potential.

The failure of the Education Authority (EA) to provide early intervention services for children with special educational needs and disabilities is in breach of the Special Educational Needs (SEN) legal framework and code of practice, and is failing some of our most vulnerable young people.

Having reached crisis point, the EA is

undertaking a SEN Strategic Improvement Programme and the Department of Education (DE) has commissioned an Independent Review of SEN services. DE is planning for the phased implementation of the SEND Act (NI) 2016 alongside revised regulations and code of practice.

It is vital that the revised framework is properly resourced, fit for purpose and delivers inclusive education for children with special educational needs and disabilities. DE and the EA must ensure equality of access to education for children with special educational needs and disabilities.

Recommendation: The new Assembly should prioritise close scrutiny of the EA SEN improvement process and the implementation of the Department of Education’s revised SEN framework, and ensure that effective systems and processes are implemented which ensure early intervention and the removal of barriers to equality of opportunity in education.



Support Children with Complex Needs

CLC regularly supports children with complex needs, and their families who are being failed by the Health and Social Care system. Whether in workforce shortages leading to delays in allocation of social workers or the impact of lengthy waiting times resulting in children and young people not receiving timely diagnoses. There is an ever-increasing range of issues which require urgent attention as children and families grow increasingly frustrated and exhausted.

Already inadequate respite services have been greatly reduced since the pandemic. Many of the children's respite units in each of the five health and social care trusts have been repurposed for residential services and are therefore unable to provide respite. This has a devastating impact on many families who rely on respite for essential breaks from their caring role. Respite services need to not only resume but to be significantly expanded to provide greater choice and availability for carers.

Our experience of working with young people who move from children's services to

adult services evidences that this transition is often very difficult. Many families see a reduction in the services which are available to them, with many young people losing out on services they previously accessed, such as respite, or having to wait for services such as adult mental health services. Transition to adult services should be seamless to ensure good outcomes for young people.

We also work with children who are, sometimes for years, delayed discharge patients in hospital, i.e. medically fit to leave hospital but the support package to allow them to be discharged into the community is not in place. There needs to be investment in sufficient suitable long term residential care options for children with complex needs to allow them to leave the hospital setting. There also needs to be improved systems for community and hospital teams to work together to successfully discharge children from hospital in a timely manner.

These are just some examples of the challenges facing children and young people with complex system within the health and social care system.

Recommendation: The new Assembly should prioritise supporting children with complex needs, by ensuring adequate resourcing for these children and requiring cross-departmental planning and pooled budgeting for services in compliance with the duties and powers set out in the Children's Services Co-operation Act (NI) 2015.



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