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# NORTHERN IRELAND NGO WRITTEN STATEMENT

TO THE UN COMMITTEE ON THE RIGHTS  
OF THE CHILD

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## INTRODUCTION

This written statement has been prepared by the Children's Law Centre [CLC] on behalf of the Northern Ireland NGO sector to complement the **Northern Ireland NGO Stakeholder Report 2<sup>1</sup>**, **Northern Ireland NGO Stakeholder Report 2 Evidence<sup>2</sup>** and **Rights Here, Right Now Children and Young People's Report about Children's Rights in Northern Ireland<sup>3</sup>**.<sup>3</sup> It highlights key children's rights developments in Northern Ireland [NI] since the submission of the above reports in December 2022 ahead of the 94<sup>th</sup> pre-sessional working group.

We would like to reiterate that while a functioning devolved administration has been absent for four of the last six years in NI, while respecting the devolution settlement and the Good Friday/Belfast Peace Agreement lodged with the UN, the absence of functioning devolution cannot excuse the UK Government as the State Party of its responsibilities in ensuring the rights of children in the jurisdiction are upheld.

## GENERAL MEASURES OF IMPLEMENTATION

### *Proposals to reform the Human Rights Act*

On 25 January 2023 the UK Parliament Joint Committee on Human Rights published its Legislative Scrutiny report on the UK Government's *Bill of Rights Bill*.<sup>4</sup> The Bill seeks to repeal and replace the *Human Rights Act 1998*. In its conclusion, the Committee has urged the UK Government not to proceed with the Bill, highlighting within the report, the risk the Bill poses to undermining human rights commitments central to NI's Peace Process as well as the barriers it would create in preventing particular groups of children claiming their rights.

*Suggested Recommendation: The Committee recommends that current rights protections, including enforcement and remedies, enjoyed under the ECHR and Human Rights Act 1998 and provided for in the Good Friday/ Belfast Agreement, are maintained. Following its recommendation in 2016 the Committee further recommends that the UK Government should legislate for a specific Bill of Rights for NI, as provided for under the Good Friday/ Belfast Agreement, which builds upon the ECHR and incorporates the UNCRC domestically, as a matter of urgency.*

### *Withdrawal from the European Union [EU]*

31 January 2023 marked three years since the withdrawal of the UK from the EU. Recognising the particular circumstances of NI and the *Good Friday/ Belfast Agreement* the *Protocol on Ireland/Northern Ireland* was agreed as part of the *UK-EU Withdrawal Agreement*. Article 2 of the Protocol contains important, if limited, non-diminution protections to mitigate against the loss of rights which has occurred following the UK's exit from the EU. Concerns persist in relation to the UK Government's ongoing disregard for these important protections and so it is crucial that the principle of non-diminution is respected, reinforced and strengthened in any future arrangements.

*Suggested Recommendation: The Committee recommends that the UK Government ensures that any negotiations with the EU further guarantee an open border between Northern Ireland and the Republic of Ireland, with maintenance of positive cross-border arrangements; that children in Northern Ireland identifying as 'British' retain the same rights entitlements and protections as those identifying as 'Irish' or other EU citizens; and that steps are taken to strengthen the commitment to non-diminution of rights as a consequence of the UK's withdrawal from the EU.*

## CIVIL RIGHTS AND FREEDOMS

### *Use of stop and search on children*

The Police Service of Northern Ireland's [PSNI] latest statistics<sup>5</sup> show that between 1 October 2021 and 30 September 2022 children were stopped and searched by the police on 2295 occasions (11% of all stop and searches carried out by the PSNI). Of those 2,295 stop and searches, on only 60 occasions was there a subsequent arrest. This is a conversion rate of 2.6%.

<sup>1</sup> Northern Ireland NGO Stakeholder Report 2. December 2022. Accessible at: <https://childrenslawcentre.org.uk/?mdocs-file=6128>

<sup>2</sup> Northern Ireland NGO Stakeholder Report 2 Evidence. December 2022. Accessible at: <https://childrenslawcentre.org.uk/?mdocs-file=6130>

<sup>3</sup> Rights Here, Right Now. Children and Young People's Report about Children's Rights in Northern Ireland. December 2022. Accessible at: <https://childrenslawcentre.org.uk/?mdocs-file=6132>

<sup>4</sup> Joint Committee on Human Rights. Legislative Scrutiny: Bill of Rights Bill. January 2023. Available at: <https://publications.parliament.uk/pa/it5803/jtselect/jtrights/611/report.html>

<sup>5</sup> Use of Stop and Search Powers by the Police in Northern Ireland. Available at: [https://www.psni.police.uk/sites/default/files/2022-11/PSNI%20Stop%20and%20Search%20Report%20Q2%202022\\_2023.pdf](https://www.psni.police.uk/sites/default/files/2022-11/PSNI%20Stop%20and%20Search%20Report%20Q2%202022_2023.pdf)

**Suggested Recommendation:** *The Committee recommends that the Northern Ireland Executive ends the disproportionate use of non-statutory stop and search checks by the police on children, particularly 15-17 year old males; regularly collects, analyses and publishes disaggregated data relating to the use of stop and search checks on children; conducts consultations with young people about their experiences of being stopped and searched and police officers' interactions with them; and monitors record keeping and reporting processes to ensure compliance with relevant legal and operational requirements and the UNCRC.*

### **Strip searching on children**

In correspondence from the PSNI to CLC,<sup>6</sup> the PSNI confirm that in 2021 and 2022 53 strip searches of children had taken place with at least one child as young as 14 strip searched in each of those years. It was also confirmed that no data on strip searches of children was available prior to 2020 and that in almost all cases nothing was actually found. Additionally, in 2021, no appropriate adult was present in over 96% of cases with comparative data for 2022 not yet known.

**Suggested Recommendation:** *The Committee recommends that the Northern Ireland Executive prohibits the strip searching of under-18s; regularly collects, analyses and publishes disaggregated data about strip searching by the police; and monitors record keeping and develops transparent reporting processes to ensure implementation and compliance with such a prohibition is realised.*

## **VIOLENCE AGAINST CHILDREN**

### **Use of Tasers, attenuating energy projectiles, spit and bite hoods and other harmful devices on children**

The Northern Ireland Policing Board's [NIPB] Human Rights Advisor published a review of the PSNI's Use of Force on 18 January 2023.<sup>7</sup> The report outlines that between 1 April 2021 and 31 March 2022 an AEP was pointed at a 13 to 17 year old twice and fired once at a 13 to 17 year old. The report also outlines that in the same reporting period PSNI officers have drawn CED (TASERS) in 3% of instances (out of 320 total incidents) and have discharged CED in 5% of instances (out of 21 total incidents) on children aged 13 to 17. In correspondence from the PSNI to the CLC<sup>8</sup>, the PSNI confirm that since March 2020, there have been 19 applications on 15 children of spit and bite hoods, including one deployed in a children's home and one in a school.

**Suggested Recommendation:** *Following the Committee's 2016 recommendation the Committee again recommends that the use on children of electrical discharge weapons (such as Tasers), attenuating energy projectiles and any other harmful devices are prohibited, and that the relevant authority systematically collects and publishes age-disaggregated data on their use to monitor implementation of such prohibition. The Committee further recommends the prohibition of spit and bite hoods on children at any time, in any circumstances, and that age-disaggregated data on their use should be systematically collected and published to monitor implementation of such prohibition.*

### **Conversion practices**

On 17 January 2023 a Parliamentary Statement<sup>9</sup> from the Secretary of State for Digital, Culture, Media and Sport confirmed that draft legislation will be published, "shortly" for pre-legislative scrutiny which would set out a proposed approach to ban conversion practices on the basis of sexual orientation and gender identity. These proposals, if progressed and given effect, would apply only in England and Wales. Despite a motion calling for a ban on 'conversion therapy' being debated and carried by a cross-party, cross-community majority in the NI Assembly,<sup>10</sup> substantial proposals which would protect children and young people in this jurisdiction from harmful 'conversion therapy' are yet to be published and progressed.

**Suggested Recommendation:** *The Committee recommends that urgent steps are taken by the Northern Ireland Executive to prohibit the promotion, facilitation and delivery of, 'conversion practices' on*

<sup>6</sup> Letter received by CLC from the Police Service of Northern Ireland's Assistant Chief Constable Chris Todd, dated 9<sup>th</sup> January 2023.

<sup>7</sup> NIPB. Human Rights Review of PSNI's Use of Force. January 2023. Available at: <https://www.nipolicingboard.org.uk/files/nipolicingboard/2023-01/human-rights-review-of-psnis-use-of-force.pdf>

<sup>8</sup> Letter received by CLC from the Police Service of Northern Ireland's Assistant Chief Constable Chris Todd, dated 9<sup>th</sup> January 2023.

<sup>9</sup> UK Parliament. Statement made on 17 January 2023 by Michelle Donelan, Secretary of State of Digital, Culture Media and Sport. Available at: <https://questions-statements.parliament.uk/written-statements/detail/2023-01-17/hcws500>

<sup>10</sup> Northern Ireland Assembly, Motion: Conversion Therapy. 20/04/2021. Available at: <http://aims.niassembly.gov.uk/plenary/details.aspx?ses=0&doc=331626>

*the basis of sexual orientation and gender identity with particular attention paid to the vulnerabilities of children who may be subject to such harm.*

## **FAMILY ENVIRONMENT AND ALTERNATIVE CARE; DISABILITY, HEALTH AND WELFARE**

### **Early intervention for children with complex needs**

On 27 January 2023 the Northern Ireland Commissioner for Children and Young People [NICCY] published the findings of an investigation<sup>11</sup> into the life of a child in the care of the State.<sup>12</sup> The investigation found consistent and ongoing failings by a number of duty bearers in NI during the life of the child in relation to the care and support she received from birth to young adulthood which resulted in her isolation, criminalisation and deprivation of liberty.

**Suggested Recommendation:** *The Committee recommends that the Northern Ireland Executive take urgent, meaningful steps to ensure consistent assessment of and early intervention for all children and young people, but particularly those with complex needs and to ensure effective coordination between all duty bearers including children's services providers to develop child-centred, inclusive working practices.*

## **EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **Impact of funding cuts on provision for the most vulnerable**

In recent weeks, in the absence of a NI devolved government, the British Secretary of State for Northern Ireland has set a budget for NI's' current financial year. In a Parliamentary Statement<sup>13</sup> made in November 2022 he indicated that the Department of Education would be required to make, "significant reductions" which in January 2023 the Education Authority for Northern Ireland [EANI] reportedly<sup>14</sup> declined to implement due to "highly unacceptable and detrimental risks" to children. The EANI also stated that further cuts they are being asked to make for the 2023/24 financial year, "will have a potentially detrimental and profound impact, for example, on the day-to-day running of schools, special educational needs support, transport and catering, and ultimately on the educational experience and outcomes of our children and young people."<sup>15</sup>

The budget per pupil in Northern Ireland is already less than any other jurisdiction of the UK. There is significant potential for further regression in the realisation of children's rights to education, leisure and play as a result of the proposed funding decisions with the already most disadvantaged and vulnerable children being most negatively impacted.

**Suggested Recommendation:** *The Committee recommends that the UK Government and Northern Ireland Executive take urgent measures to ensure adequate resourcing is made available to address existing inequalities in education and to allow all children to access appropriate and suitable education without discrimination.*

## **SPECIAL PROTECTION MEASURES**

### **Age of criminal responsibility**

A NI public consultation on proposals to increase the minimum age of criminal responsibility [MACR] closed in December 2022. The absence of a government in NI means it is unclear if or when any subsequent proposal may progress. A detailed briefing document<sup>16</sup> prepared by the Children's Law Centre, Include Youth, Voice of Young People in Care [VOYPIC] and NIACRO was published outlining the strong body of evidence supporting the view that the jurisdiction's MACR should rise to 16 years old. This position is supported by NICCY and other NGOs.

**Suggested Recommendation:** *Recognising NI is an industrialised democratic society the Committee recommends that the Northern Ireland Executive take urgent steps to raise the minimum age of criminal responsibility to 16 years old.*

<sup>11</sup> The investigation was referenced in *Northern Ireland NGO Stakeholder Report 2 Evidence* (Page 39) but had not been published at the time of submission.

<sup>12</sup> Looked After? A formal investigation into the life of a child in the care of the state. Northern Ireland Commissioner for Children and Young People. January 2023. Available at: <https://www.niccy.org/news/a-failed-child/>

<sup>13</sup> UK Parliament. Statement made on 24 November 2022 by Chris Heaton-Harris, Secretary of State for Northern Ireland. Available at: <https://questions-statements.parliament.uk/written-statements/detail/2022-11-24/hcws385>

<sup>14</sup> BBC News NI. Education Authority refuses to back savings plan. 18 January 2023. Available at: <https://www.bbc.co.uk/news/uk-northern-ireland-64313130>

<sup>15</sup> BBC News NI. NI Education Authority looking at potential 10% budget cut. 27 January 2023. Available at: <https://www.bbc.co.uk/news/uk-northern-ireland-64417408>

<sup>16</sup> Raising the Age of Criminal Responsibility: Joint Briefing Paper. November 2022. Available at: <https://childrenslawcentre.org.uk/?mdocs-file=6033>