

**ADDITIONAL INFORMATION
IN RESPONSE TO THE LIST OF ISSUES RELATING TO
THE FIFTH PERIODIC REPORT OF THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

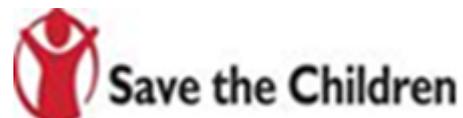
**SUMMARY OF ADDITIONAL INFORMATION
SUGGESTED QUESTIONS**

CHILDREN'S LAW CENTRE

AND

SAVE THE CHILDREN NI

APRIL 2016



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INTRODUCTION

Northern Ireland (NI) experienced 30 years of conflict between the late 1960s and 1990s. A peace agreement, the Good Friday/Belfast Agreement, signed on 10th April 1998, led to the creation of a power sharing multi-party government (the Northern Ireland Executive (NIE)) and a devolved Northern Ireland Assembly (NIA). Powers were initially¹ devolved to the NIA on 2nd December 1999, with full legislative and executive authority in respect of certain matters (devolved matters) transferring from the UK Parliament and Government at Westminster to the NIA and NIE at Stormont, which enabled the Assembly to pass new laws and make decisions, initially in relation to eleven Government Departments.² This became 12 Departments following the establishment of the Department of Justice on 12th April 2010, following the devolution of policing and justice powers in the 2010 Hillsborough Agreement.³ The UK Secretary of State for NI retains responsibility for a number of 'excepted and reserved matters' and represents NI within the UK Westminster cabinet. Although remaining reserved matters can be transferred to the NIA at a future date, excepted matters will remain with the UK Government at Westminster.

Elections to the NIA are due to take place in 2016. As a result of the Departments Act (Northern Ireland) 2016, it is also anticipated that the current 12 NIE Departments will be reduced to 9,⁴ in the next NIA mandate. It has been stated that the 9 future departments will incorporate all the powers and functions of the current 12 departments.⁵ However, it is not proposed that there will be a Minister for Children and NGOs are concerned that in the reorganisation of Departments, a focus on children may be lost.

NI remains a society in transition from conflict. Non-State forces still operate and the threat from these organisations remains real. Political unrest remains relating to parades, commonly organised by the Orange Order (a Protestant fraternity⁶ committed to Northern Ireland remaining part of the UK) or by other Loyal Orders or Unionist groups that would support Northern Ireland remaining part of the UK. In 2014/15, there were 2,918 marches organised by the loyal orders and broad Unionist tradition. The number of overall parades (including, but not limited to marches organised by the loyal orders and broad Unionist tradition) deemed to be sensitive increased to 619 from 491.⁷ A resolution to the issue of contentious marches has proved illusive and sporadic street violence can occur, at which children are often present. Community division and segregation in housing, education and public services has been noted as a daily reality experienced by most children.⁸ In addition,

¹ Devolution was suspended in Northern Ireland on 14th October 2002. Devolution was restored on 8th May 2007.

² The eleven Government Departments are the Office of the First and Deputy First Minister, the Department of Health, Social Services and Public Safety, the Department of Education, the Department of Employment and Learning, the Department of Finance and Personnel, the Department of Social Development, the Department of Agriculture and Rural Development, the Department of Enterprise, Trade and Investment, the Department of the Environment, the Department of Culture, Arts and Leisure and the Department of Regional Development. The Department of Justice was established on 12th April 2010, making a total of 12 Northern Ireland Government Departments.

³ Hillsborough Agreement, 5th February 2010.

⁴ The 9 new departments will be the Executive Office (which will be led by the First Minister and Deputy First Minister), the Department of Agriculture, Environment and Rural Affairs, the Department for Communities, the Department for the Economy, the Department of Education, the Department of Finance, the Department of Health, the Department for Infrastructure, and the Department of Justice (Section 1 and Schedule 1, Departments Act (Northern Ireland) 2016).

⁵ Departments Bill – Revised Explanatory and Financial Memorandum.

⁶ <http://www.grandorangelodge.co.uk/>

⁷ Annual Report of the Parades Commission for Northern Ireland, 2015, p.10 – 11.

⁸ McAlister, S., Scraton, P. And Haydon, D. (2009) Childhood in Transition Experiencing Marginalisation and Conflict in Northern Ireland QUB, Save the Children, The Prince's Trust, p.152.

Northern Ireland has experienced rises in inward migration, with increasing numbers of newcomer children and families settling in Northern Ireland (see *Northern Ireland NGO Alternative Report*, p.32, 75, 77 – 78).

SUMMARY OF ADDITIONAL INFORMATION

This additional information has been compiled by the Children’s Law Centre (CLC) and Save the Children (SC),⁹ in response to the Committee’s ‘List of Issues’ and relates to the situation of children and young people in NI. The information is provided under headings relating directly to the List of Issues. Reference is made to the relevant pages of the *Northern Ireland NGO Alternative Report* (June 2015) where information about an issue has already been provided to the Committee by NI NGOs and we would suggest that this submission be read in conjunction with the *Northern Ireland NGO Alternative Report*. Questions have been provided at the end of each section which we suggest that the Committee may wish to ask the State Party during the examination, in light of the State Party’s report to the Committee and its replies to the List of Issues. Recommendations are also proposed by NGOs in order to give effect to the CRC in NI.

The additional information referred to has been sourced from NGOs or individuals who have endorsed or who were consulted in the development of the *Northern Ireland NGO Alternative Report*. In addition, information has been sourced from Northern Ireland government departments or agencies, or academic research. A list of all abbreviations used within the report is included as an annex, as are all questions suggested.

PART I

2. Please update the Committee on the process of developing a bill of rights for the United Kingdom, including on how the process has involved consultation with children, civil society organizations and national human rights institutions in the State party, and how the bill will affect the protection of the rights of the child in accordance with the Convention, as compared to the Human Rights Act of 1998

See: *Northern Ireland NGO Alternative Report*, p.9

The Conservative party UK Government has committed to repealing the Human Rights Act 1998 and replacing it with a British Bill of Rights,¹⁰ a proposal which has led to widespread concern amongst NGOs, academics and lawyers in NI that human rights protections will be significantly weakened. Whilst the Human Rights Act 1998 does not incorporate the CRC into domestic law, it has had a significant effect in vindicating children’s rights and its repeal would represent a regressive step in the protection of children’s rights. The UK Government states within its replies to the List of Issues that it has a mandate to reform the human rights framework.¹¹ However, this assertion fails to recognise the obligations placed upon the UK Government through the Good Friday/Belfast Agreement (Peace Agreement) to ensure that the European Convention on Human Rights (ECHR) is incorporated into NI law, with direct access to the courts and remedies for breach of the ECHR, including powers for the courts

⁹ With thanks to Dr Deena Haydon, independent research consultant and a member of the *Childhood, Transition and Social Justice Initiative* at Queen’s University Belfast, for her contributions to this report.

¹⁰ <https://www.conservatives.com/manifesto>, p.75.

¹¹ Replies of the United Kingdom of Great Britain and Northern Ireland to the List of Issues, March 2016, para.3.

to overrule NIA legislation on the grounds of inconsistency with the ECHR.¹² These obligations are currently met through the Human Rights Act 1998 and any movement to repeal the Act threatens breaching the terms of the Good Friday/Belfast Agreement.

Recognising the fact that NI was emerging from conflict, under the Good Friday/Belfast Agreement, the UK Government has responsibility to legislate for supplementary rights which together with the ECHR will provide a specific Bill of Rights for NI. Despite the Committee on the Rights of the Child making a specific recommendation in its 2008 Concluding Observations on the need for the UK Government to introduce legislation in line with the Convention through developing a Bill of Rights for NI which incorporates the principles and provisions of the Convention,¹³ no progress has been made in NI with regard to the implementation of a Bill of Rights for NI. A Bill of Rights for NI incorporating the principles and provisions of the UNCRC has yet to be legislated for by the UK Government and a recent statement from the UK government, indicating that it will only consider supporting a NI Bill of Rights if the NI parties can reach consensus on its content,¹⁴ indicates a lack of commitment to do so.

The Bill of Rights process in NI, with its foundation in the Good Friday/Belfast Agreement, is a distinct process to the possible creation of a UK Bill of Rights. The UK Commission on a Bill of Rights has recognised this, stating in its report to the UK Government in December 2012 that it recognises the distinctive NI Bill of Rights process and its importance to the peace process in NI. The UK Commission on a Bill of Rights has stated that it did not wish to interfere in that process in any way and that the conclusions reached by the Commission should not be interpreted or used in such a way as to interfere in, or delay, the NI Bill of Rights process.¹⁵ Media reports have suggested that publication of a British Bill of Rights will now take place in July 2016, after the referendum on the UK's membership of the European Union on June 23rd.¹⁶

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the UK Government desist from repealing the Human Rights Act 1998 and introduce a NI Bill of Rights ensuring that it affords maximum protections to all children in NI.

Possible Questions

Given the importance of the Human Rights Act 1998 for the protection of rights in Northern Ireland, in a society transitioning from conflict, and given the obligations under the Good Friday/Belfast Agreement, how can the UK Government justify undermining human rights protections in NI through the proposed repeal of the Human Rights Act 1998?

When will the UK Government proceed to legislate for a Bill of Rights for Northern Ireland, in compliance with its obligations under the Good Friday/Belfast Agreement, incorporating the principles and provisions of the CRC?

¹² Agreement reached in multi-party negotiations, 10th April 1998, Rights, Safeguards and Equality of Opportunity, para.2.

¹³ United Nations Committee on the Rights of the Child, Concluding Observations United Kingdom, CRC/C/GBR/CO/4, 20th October 2008, para.11.

¹⁴ Response to Written Question 31923, answered on 24th March 2016.

¹⁵ 'A UK Bill of Rights? The Choice Before Us – Volume 1', December 2012, para.75.

¹⁶ <http://www.dailymail.co.uk/news/article-3466627/Human-rights-reform-ice-Tory-pledge-shelved-save-PM-EU-row-war-obesity.html>

3. In the light of the Convention not being incorporated into the domestic law of the State party, please explain what progress has been made to give full effect to the Convention at the levels of the State and of each of the four nations, including measures taken to guarantee domestic remedies for breaches of the principles and rights provided under the Convention.

See: *Northern Ireland NGO Alternative Report*, p.9 – 10

The UK Government has not signed the Optional Protocol on a Communication Procedure. The CRC does not have full effect within NI. The UK Government has argued that the UK has strong and effective laws under which individuals may seek enforceable remedies in courts or tribunals if they feel their rights have been breached.¹⁷ Whilst the NIA has recently legislated to recognise the CRC in defining the ‘well-being’ of children,¹⁸ there has been no progress with regard the comprehensive incorporation of the CRC into domestic law in NI. Instead, there have been proposals to legislate in breach of the rights and principles provided under the Convention, such as the proposal to introduce legislation prohibiting age discrimination in the provision of goods, facilities and services, which would exclude under 16s (see *Northern Ireland NGO Alternative Report*, p.14).

The CRC is not currently binding in domestic courts in NI. The House of Lords, now the Supreme Court, has indicated that children’s rights under domestic law should be interpreted in accordance with the CRC¹⁹ and that the State should take the CRC into account when determining its’ actions.²⁰ The Supreme Court has also found that the CRC can be relevant in interpreting the state’s obligations under the ECHR.²¹ However in a recent case, whilst the Supreme Court found incompatibility with Article 3(1) UNCRC it did not find incompatibility with the ECHR.²²

The State Party, in its report to the Committee, states in relation to ensuring that domestic legislation is in line with the provisions of the CRC in NI, Departments and other public authorities must consider the impact of their policies, programmes and projects under the equality duty set out under section 75 of the Northern Ireland Act 1998. Age is one of the nine groups of persons protected under this legislation and so the impact of any policy on children and young people must be considered.²³ **However there have been a number of problems with the operation of the duty as it applies to children and young people.** These are mainly as a result of the failure of public authorities and government departments to afford the correct degree of importance to the effective operation of the duty, and the lack of an effective enforcement mechanism. Policies and legislation have been proceeded with by public authorities in NI which do not promote equality of opportunity for children and young people and which are not in line with the principles of the CRC. In addition, the duty to promote equality of opportunity is not a duty to ensure that legislation, policies and practices are compliant with the CRC.

Despite the recommendation of the Committee on the Rights of the Child following its examination of UK State Party’s compliance with the UNCRC in 2008 that child rights impact

¹⁷ Fifth Periodic Report to the UN Committee on the Rights of the Child – United Kingdom, May 2014, Chapter 1, para.5.

¹⁸ Children’s Services Co-operation Act (Northern Ireland) 2015, section 1.

¹⁹ *Smith v. Secretary of State for Work and Pensions* [2006] UKHL 35, per Baroness Hale at para.78.

²⁰ *Re E* [2008] UKHL 66, per Lord Carswell at para.60.

²¹ *R (on the application of SG and others (previously JS and others)) v Secretary of State for Work and Pensions* [2015] UKSC 16, paras.83 – 86, per Lord Reed, para. 137, per Lord Hughes, para.217 per Lady Hale.

²² *Ibid.*

²³ *Op Cit* 17, para.22.

assessment should be regularly conducted,²⁴ Government in NI does not carry out child rights impact assessments of existing and new legislation, policies or practices.

NGO Recommendations

Given the differing responsibilities held by the NIA and NIE for devolved matters, and the UK Government on excepted and reserved matters affecting children and young people in NI, within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that:

The UK Government should:

- **Sign and ratify the Optional Protocol on a Communication Procedure;**
- **Incorporate the CRC into domestic law and develop a statutory child rights impact assessment process to ensure that legislation and policy affecting children is CRC compliant;**

The NIA and Executive should:

- **Incorporate the CRC into domestic law and develop a statutory child rights impact assessment process to ensure that legislation and policy affecting children is CRC compliant;**

Possible Questions

When will the CRC be incorporated comprehensively into domestic legislation within Northern Ireland, including the provision of remedies for breaches of the principles and rights under the CRC?

When will a statutory and enforceable child rights impact assessment process be developed to ensure that legislation and policy affecting children in Northern Ireland is CRC compliant?

4. Please inform the Committee about the steps taken by the State party to ensure that the Children's Commissioners in England, Wales, Scotland and Northern Ireland are independent, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) and mandated, inter alia, to receive and investigate complaints from or on behalf of children concerning violations of their rights.

See: *Northern Ireland NGO Alternative Report*, p.10

As highlighted in the State Party's replies to List of Issues, the Northern Ireland Commissioner for Children and Young People (NICCY) has made recommendations to Northern Ireland's First Minister and Deputy First Minister about strengthening the role, including the independence required by the Paris Principles.²⁵ NGOs have also in the past raised their concerns regarding the non-compliance of NICCY with the Paris Principles. However, no changes have yet been made to the powers of NICCY.

²⁴ *Op Cit* 13, paras.18 – 19.

²⁵ *Op Cit* 11, para.12.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should amend the Commissioner for Children and Young People (Northern Ireland) Order 2003 to ensure Paris Principles compliance.

Possible Questions

When does the Northern Ireland Executive intend to bring forward amendments to the Commissioner for Children and Young People (Northern Ireland) Order 2003 to ensure that NICCY is Paris Principles compliant?

5. Please explain why children under the age of 18, or under the age of 16 in Northern Ireland, are excluded from age-discrimination legislation or from proposals for such laws.

See: *Northern Ireland NGO Alternative Report*, p.12 - 14

In July 2015, the Office of First Minister and Deputy First Minister (OFMDFM) launched a consultation process to inform Age Discrimination Goods, Facilities and Services legislation (Age Discrimination GFS legislation) which proposed to prohibit discrimination in the provision of goods, facilities and services only for those aged 16 years and above.²⁶ **The exclusion of under 16s will result in age discrimination legislation which itself discriminates on the grounds of age. NGOs consider it vital that all children are included within the scope of age discrimination legislation.**

NGOs in NI believe that the proposed exclusion of children and young people aged under 16 from inclusion within future Age Discrimination GFS legislation is a fundamental breach of the Government's obligations under the UNCRC and the ECHR. **CLC does not believe that there is any legal or practical reason for the exclusion of under 16s from Age Discrimination GFS legislation.** The exclusion of under 16s from the scope of future Age Discrimination GFS legislation will mean that where a child aged under 16 is treated in an inferior or discriminatory way compared to adults in accessing goods, facilities and services, including for example mental health services, education services, or by police, they will have no right to challenge this treatment. Equally, where a service provider does treat under 16s less favourably because of their age, there will be no requirement on service providers to explain or justify their actions, which they will be required to do in the case of over 16s.

In a time of extreme pressures on very limited government resources, the failure to protect under 16s from age discrimination in accessing goods, facilities and services will mean that funding for children's services will be disproportionately impacted upon.

As set out in the State Party's replies to the List of Issues, Age Discrimination GFS legislation has yet to be brought forward to the NIA following the consultation process.²⁷ The NIA is currently in a pre-election phase so any legislative developments in this matter will rest with the incoming government. OFMDFM officials have informed the Committee for the Office of the First Minister and Deputy First Minister at the NIA that the vast majority of responses to the consultation process suggested that they would like to see under 16s included within Age Discrimination GFS legislation. Despite this clear analysis of the views

²⁶ 'Proposals to extend Age Discrimination Legislation (Age Goods, Facilities and Services) - Consultation document' Office of the First Minister and Deputy First Minister, July 2015, p.23.

²⁷ *Op Cit* 11, para.16.

of consultees, OFMDFM officials maintained to the Committee that Ministers will have to consider the range of views put forward in determining the final policy position, with the inclusion of under 16s being put forward as an option only.²⁸

In the State Party's replies to the List of Issues, the UK Government states that distinctions drawn by age offer additional protection, e.g. prohibiting sale of alcohol to under-18s.²⁹ CLC's legal opinion is that Age Discrimination GFS legislation in NI could be drafted to ensure that any age limits already in place in other pieces of legislation would not be affected by these proposals. Further, as part of an Expert Paper commissioned by NICCY and the Equality Commission for Northern Ireland (ECNI) to inform the development of Age Discrimination GFS legislation, Robin Allen QC and Dee Masters BL recommended that to address any concerns around Age Discrimination GFS legislation affecting age limits established in legislation, the legislation should make it explicit that the prohibition on age discrimination in accessing goods, facilities and services is secondary to other legislation which imposes age limits.³⁰

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should:

- **Urgently address the Committee's recommendation from 2008 on the demonisation of children, including in the media;**
- **Take measures to address discrimination against all groups of children, in schools and the community;**
- **Ensure children are treated as rights holders and included in legislation which implements their rights**

Possible Questions

What is the legal justification for the exclusion of children aged under 16 from Age Discrimination (Goods, Facilities and Services) legislation in Northern Ireland?

When will the Northern Ireland Executive bring forward legislation prohibiting age discrimination in the provision of goods, facilities and services for all ages, including children aged under 16, in full compliance with their obligations under the CRC?

7. Please explain the measures taken to protect children, in particular Muslim children, from stigmatizing effects of the counter-terrorism measures.

See: *Northern Ireland NGO Alternative Report*, p.17 – 18

In NI, particular counter-terrorism measures are used. An example of these particular powers is the ability of the Police Service of Northern Ireland (PSNI) to stop and search and stop and question under the Terrorism Act 2000 (TACT) and the Justice and Security (Northern Ireland) Act 2007 (JSA). The power to stop and search individuals under section 24 of the JSA allows a police officer to stop and search a person for munitions/wireless apparatus if prior authorisation to do so has been given by a senior officer. There is no

²⁸ Committee for the Office of the First Minister and deputy First Minister Meeting, 20th January 2016, available at <http://niassembly.tv/video/committee-for-the-office-of-the-first-minister-and-deputy-first-minister-meeting-20-january-2016/>

²⁹ *Op Cit* 11, para.15.

³⁰ 'Strengthening Protection for all Ages' Expert Paper, Robin Allen QC, Dee Masters BL, April 2013, p.63.

requirement that the police officer conducting the search reasonably suspects that the person being searched is carrying such items, provided that an authorisation is in place. Statistics show that the vast majority of stops and searches of persons are carried out under section 24 JSA under such an authorisation, without the requirement for reasonable suspicion. During 2013/2014, of 6,239 of all persons stopped and searched under section 24 JSA, 95.5% were stopped and searched under an authorisation.³¹ However and very worryingly, the Northern Ireland Policing Board (NIPB) has reported that the extent of the use of powers under TACT and JSA specifically against young people is unknown,³² as is the use of these powers against different groups of young people. We are unaware of any particular measures used to protect children from the stigmatising effects of counter-terrorism measures.

Possible Questions

Noting the absence of Northern Ireland specific data within the State Party's replies to the List of Issues, within Northern Ireland, how many children are stopped and searched or stopped and questioned under powers contained within the Terrorism Act 2000 or the Justice and Security (Northern Ireland) Act 2007 and what proportion of the overall numbers of persons stopped and searched or stopped and questioned under these powers does this represent?

8. Please provide further information on the measures taken to ensure children's access to justice and the representation of children in civil and criminal proceedings in the context of cuts in the provision of free legal aid.

See: *Northern Ireland NGO Alternative Report*, p.15 – 16, 44 – 45

Currently in Northern Ireland, children, who are the rights holders, do not qualify for legal aid for representation at education tribunals (such as the Expulsion Appeal Tribunal, or the Special Educational Needs and Disability Tribunal (SENDIST)), nor are their parents able to access legal aid on their behalf. This means these tribunals are the preserve of those who have economic resources.

In addition, NGOs are concerned that many children accepting diversion within the criminal justice system will not have received independent legal advice and that many children detained within police stations do not access legal advice, despite the availability of legal aid for this. Between December 2013 and July 2014, 1,808 juveniles were in police custody. Of these, only 1,215 requested legal advice.³³ In 2012, in NI the Department of Justice (DoJ) developed Youth Engagement Clinics (YE Clinics), which are operated by the PSNI and Youth Justice Agency (YJA). Children are offered the opportunity to attend a clinic and can accept a diversionary disposal if they admit guilt. Most children attending clinics will not have had a legal representative or legal advice, despite being permitted to bring a legal representative and the availability of legal aid. A summary of all referrals made to YE Clinics up to 2nd May 2014 stated that of 310 clinic cases, solicitors were present at only 25.³⁴ Most children accept diversion via the Clinic process. In 2014/15, in 355 cases suitable for YE Clinics, diversion was accepted in at least 322 of these (91%).³⁵

³¹ 'Human Rights Annual Report 2014' Northern Ireland Policing Board, p.30.

³² 'Human Rights Thematic Review on the use of police powers to stop and search and stop and question under the Terrorism Act 2000 and the Justice and Security (NI) Act 2007' Northern Ireland Policing Board, October 2013, p.92.

³³ Information supplied by Police Service of Northern Ireland, 17th September 2014.

³⁴ Information obtained from Department of Justice, 6th June 2014. This is provisional data and may be potentially subject to change.

³⁵ Information supplied by Department of Justice, 4th April 2016.

Whilst these diversionary measures are not convictions, they are recorded on a young person's criminal record for certain periods of time and can potentially be disclosed as part of a future criminal records check. While it is vital that children are protected from harm, NGOs are concerned that the unnecessary disclosure of criminal record information can prevent children accessing education, employment and training opportunities which could aid their rehabilitation. It is critical that children receive independent legal advice before admitting guilt and accepting diversion.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should:

- **Introduce legal aid for education tribunals...;**
- **Ensure that all children in contact with the criminal justice system receive independent legal advice;**

Possible Questions

Recognising children as autonomous rights holders, in need of special protection, what measures have the Northern Ireland Executive taken to protect children's right to access justice in the context of proposed cuts to legal aid?

When will legal aid be made available for children seeking representation at education tribunals in Northern Ireland?

What measures are being taken by the authorities in Northern Ireland to ensure that children being detained in, or otherwise attending police stations (e.g. to be interviewed voluntarily) access legal advice?

What measures are being taken by authorities in Northern Ireland to ensure that children being offered diversionary disposals access independent legal advice before accepting such measures, given that these may be disclosed as part of a future criminal records check?

9. Please explain why a youth parliament has not been established in Northern Ireland, and why support to the Funky Dragon in Wales has been withdrawn, resulting in its dissolution. Please explain the progress made in this area in the overseas territories and Crown dependencies.

The NIA Commission³⁶ announced in 2009 that they had plans to establish a Youth Assembly. However, plans to establish a NI Youth Assembly have not been taken forward due to financial barriers, according to the State Party's replies to the List of Issues.³⁷

Within the *Northern Ireland Young People's Report to the United Nations Committee on the Rights of the Child (June 2015)*, some NGOs put forward the view that Government appears to have made the establishment of a NI Youth Assembly a low priority and have expressed concern that ongoing austerity measures will make the prospect of a NI Youth Assembly even less likely in the foreseeable future.³⁸ In response to Government's failure to establish

³⁶ The NIA Commission is a body tasked to provide the NIA, or ensure the NIA is provided, with the property, staff, and services it requires to carry out its work (Northern Ireland Act 1998, section 40).

³⁷ *Op Cit* 11, para.29.

³⁸ *Northern Ireland Young People's Report to the United Nations Committee on the Rights of the Child (June 2015)* p.15.

and fund a Youth Assembly, members of the NI Youth Forum (NIYF) decided to set up their own Youth Congress. This was established in March 2014, following an election in which over 7,000 young people voted to appoint Members of Youth Congress (MYCs) from each of the constituencies in NI. The Youth Congress is currently funded through the NIYF on a temporary basis, until such times as a Youth Assembly is established.

As part of the survey undertaken by youth@clc to inform the development of the *Northern Ireland Young People's Report to the United Nations Committee on the Rights of the Child* and *Northern Ireland NGO Alternative Report*, children and young people were asked about the extent to which they were enjoying their right to participate in decision making at home, at school, in the community and in government matters. Results from the survey show that young people are enjoying their right to participate on a sliding scale, with home life being highest and Government decision making, lowest. Young people are disillusioned and frustrated by the lack of meaningful participation structures available to them at both local and regional level. Also of particular concern is that children with disabilities stated that, although Government representatives will often seek opportunities to seek their views on matters impacting on their lives, they rarely represent their views accurately, in the policy development process. Young people have also become disillusioned by their experience of Government consultations, which they feel have little meaning or impact on effecting change. Young people feel that Government representatives do not make themselves either accessible or accountable to the young people who take the time and effort to participate in consultations with the expectation that their contribution might make a difference.

Within the *Northern Ireland Young People's Report to the United Nations Committee on the Rights of the Child*, young people supported the establishment of a youth led Northern Ireland Assembly to provide them with a real voice in the Northern Ireland Assembly.³⁹

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should strengthen cooperation between civil society and Government in the implementation of children's rights, and that direct engagement between Government and children should be facilitated through the proper implementation of Section 75 of the Northern Ireland Act 1998;

Possible Questions

What steps are being taken currently to establish a youth assembly within Northern Ireland?

Given the serious concerns raised by NGOs and children in Northern Ireland that their voices are not heard in the development of policy, what steps are being taken to ensure that children's views are heard and taken into account by Government in Northern Ireland, in compliance with section 75 of the Northern Ireland Act 1998?

10. Please update the Committee on initiatives in England, Wales, Scotland and Northern Ireland to lower the voting age to 16.

In NI, young people cannot vote until they turn 18. Given this, many young people are firmly of the view that until they can vote at 16, their views will never be respected or taken seriously by politicians in decision making.⁴⁰

³⁹ *Ibid.*

⁴⁰ *Op Cit* 38.

On 6th November 2012, the NIA passed a motion supporting lowering the voting age to 16 for all elections and referendums, and calling on the Westminster Government to introduce legislation to accommodate this change.⁴¹ The State Party, in its replies to the List of Issues, has indicated that the UK Government has no plans to lower the voting age for elections within its remit, including UK parliamentary elections and European Parliamentary elections. It also states that devolved institutions, such as the Scottish Parliament, have the legislative competence to set the voting age at a local level.⁴² **However, this is not the case in relation to NI. Electoral policy has not been devolved to the NIA, with the Secretary of State for NI retaining the power to make provision as to persons entitled to vote in NIA elections.**⁴³

Within the Northern Ireland Young People's Report to the United Nations Committee on the Rights of the Child, it was recommended that the voting age should be lowered to 16 in NI and education measures for young people should be put in place to increase their capacity to vote.⁴⁴

Possible questions

What reason can the UK Government offer for not lowering the voting age to 16 for elections within its legislative competency?

Given that the power to set the voting age in Northern Ireland for elections to the Northern Ireland Assembly is vested in the UK Secretary of State for Northern Ireland, when does the Secretary of State for Northern Ireland intend to make provision to allow children aged 16 to vote in elections to the Northern Ireland Assembly in compliance with the will of the Northern Ireland Assembly?

11. Please provide information on how the State party intends to fulfil its obligation to remove all legal defences for corporal punishment of children in the home and all other settings throughout the State party, including the Crown dependencies and overseas territories.

See: Northern Ireland NGO Alternative Report, p.18

Within its report to the Committee, the UK Government has outlined its view *“that a mild smack does not constitute violence and that parents should not be criminalised for giving a mild smack.”*⁴⁵

This statement is extremely concerning and runs contrary to the obligations contained within the CRC and the Committee's previous concluding observation in relation to corporal punishment, following the examination of the UK in 2008⁴⁶ and the Committee's General Comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.⁴⁷

⁴¹ Official Report (Hansard), Northern Ireland Assembly, 6th November 2012, Volume 79, No 2, p.38.

⁴² *Op Cit* 11, paras.33 – 34.

⁴³ Northern Ireland Act 1998, section 34.

⁴⁴ *Op Cit* 38.

⁴⁵ *Op Cit* 17, para.86.

⁴⁶ *Op Cit* 13, para.42.

⁴⁷ 'General Comment No.8 (2006), The Right of the Child to Protection from Corporal Punishment and other Cruel or Degrading Forms of Punishment (arts.19; 28, para.2; and 37, inter alia)', UN Committee on the Rights of the Child, CRC/C/GC/8, 2nd March 2007.

The removal of all legal defences for corporal punishment of children in the home and all other settings in NI is within the legal competency of the NIA. It is clear that, whilst the law within NI remains unchanged and allows for the defence of reasonable punishment in cases of corporal punishment against children, the State party remains in serious breach of the CRC.

Within the State Party report to the Committee, reference is also made to the UK taking a variety of action to promote positive parenting and caring relationships, including NI's Families Matter Strategy.⁴⁸ However, some NGOs in Northern Ireland have expressed the view that not enough is currently being done to promote positive parenting and alternatives to physical punishment on a universal basis for all groups of children.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should prohibit all corporal punishment of children.

Possible Questions

When will the Northern Ireland Assembly provide children with equal protection from assault by removing the defence of 'reasonable punishment' from Northern Ireland law in cases of corporal punishment of children?

Within Northern Ireland, when will a universal, agreed and fully resourced programme relating to all ages of children be introduced to assist parents in understanding appropriate alternatives to physical punishment?

12. Please provide further information on how the use of restraint is prohibited or restricted in education, custody, mental health, welfare and immigration institutions, both residential and non-residential, throughout the State party. Please also explain how compliance with such prohibition and restriction is monitored.

See: *Northern Ireland NGO Alternative Report*, p.18, 27, 41 - 42

Within Northern Ireland, there has been no comprehensive review of the use of restraint in education, custody, health and welfare institutions as recommended by the Committee in 2002.⁴⁹

Under the NI Mental Capacity Bill,⁵⁰ safeguards are included in relation to acts of restraint on those persons who lack capacity⁵¹ **but only for children aged 16 and over.**⁵² Under 16s have been excluded from the scope of the new Mental Capacity Bill. The Mental Health (Northern Ireland) Order 1986 will remain in place for children aged under 16 with mental health problems, including children with a learning disability. Under 16s will therefore be unable to access the protections and safeguards contained in the new Mental Capacity Bill due to their age. Whilst the Mental Capacity Bill will amend the provisions of the Mental Health (Northern Ireland) Order 1986, it will not amend the Order to include equivalent safeguards and protections for under 16s in relation to the use of restraint.

⁴⁸ *Op Cit* 17, para.88.

⁴⁹ 'Concluding Observations: United Kingdom of Great Britain and Northern Ireland' United Nations Committee on the Rights of the Child, CRC/C/15/Add.188, 9th October 2002, para.34.

⁵⁰ The Bill is currently awaiting Royal Assent in order to become an Act of the NIA.

⁵¹ A lack of capacity is found where a person is unable to make a decision for himself or herself about a matter because of an impairment of, or a disturbance in the functioning of, the mind or brain (clause 3)

⁵² Clauses 9 and 12 Mental Capacity Bill.

In order to inform the development of the NI NGO Alternative Report to the UN Committee on the Rights of the Child, CLC consulted with children in secure care at the Lakewood Regional Secure Care Centre, Northern Ireland's only secure care facility. Children in care are placed there where they have a history of absconding and are likely to abscond from any other description of accommodation, and, if absconding are likely to suffer significant harm, or if they are kept in any other description of accommodation, are likely to injure themselves or other persons.⁵³ Some young people consulted recounted instances where restraint had been used on young people in their unit, although one acknowledged that alternative methods are employed by staff before resorting to use of restraint (including 'talking down' individuals and young people being separated from the rest of the group for short periods).⁵⁴

Restraint is used against young people detained in the Juvenile Justice Centre (JJC), but inspection reports suggest that levels of restraint fell significantly between 2007 and 2013. In 2007, there were 204 incidents of restraint in the JJC. In 2013, this figure was 63. However, this figure was the highest level of restraint since 2009.⁵⁵ In addition, some NGOs have expressed concerns about the use of restraint in specialist residential units.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should:

- **Review the use of restraint in all settings and ensure that restraint against children is only used as a measure of last resort, to prevent harm to the child or others;**
- **Ensure that all children with mental ill-health and/or learning disabilities have equal access to robust, children's rights compliant legislative protections and safeguards which will meet their needs and realise their rights;**
- **Ensure restraint is only used as a measure of last resort, exclusively to prevent harm to the child and never as a response to child sexual exploitation;**

Possible questions:

When will a comprehensive review of the use of restraint in all settings in Northern Ireland be conducted, in line with the Committee's recommendation of 2002?

When will steps be taken to ensure that children aged under 16 with mental ill health and/or learning disabilities have equal access to children's rights compliant safeguards and protections in relation to the use of restraint?

What steps are being taken in Northern Ireland to ensure that restraint is only ever used as a measure of last resort, to prevent harm to the child or others, across all settings?

13. Please provide information on the causes of the recent increase in children placed in care. Please explain to the Committee why, reportedly, many children in care face frequent transfers, and provide information on measures that have been taken or envisaged in order to ensure stability and continuity of child placement.

⁵³ Children (Northern Ireland) Order 1995, Article 44.

⁵⁴ 'Promoting and Protecting the Rights of Young People that Experience Secure Care in Northern Ireland – Children's Law Centre Consultation with Young People in Lakewood Regional Secure Care Centre about their care experiences', authored by Dr Deena Haydon, January 2016.

⁵⁵ 'An announced inspection of Woodlands Juvenile Justice Centre' May 2015, Criminal Justice Inspectorate Northern Ireland, p.26.

Please also provide information on measures taken to ensure that children in care have regular contact with their families when it is in their best interests.

See: *Northern Ireland NGO Alternative Report*, p.19 – 21, 63 – 64

On 31st March 2015, 2,875 children were in the care of Health and Social Care (HSC) Trusts in NI – the highest number recorded since the introduction of the Children (Northern Ireland) Order 1995.⁵⁶ The number of children in care in NI has increased by 14% since 2011, and by 24% since 1999 when the lowest number of looked after children was recorded.⁵⁷ The Department of Health, Social Services and Public Safety (DHSSPS) suggests that this growth in the number of children in care may be due to a number of interrelated factors arising from increased pressures on families and professional agencies due to the economic climate, including low employment, poverty and a reduction in support systems.⁵⁸ NGOs have suggested that more research is required to understand the correlation between poverty and children being taken into care.

Similar to figures from previous years, 76% of the 2,875 children in care on 31st March 2015 were in foster care placements (two fifths of those in foster care were in kinship placements); 12% were placed with their parents; 7% were in residential care; and 5% were in other placements.⁵⁹

Placement stability is associated with better outcomes for children in care. Consequently, one of the Ministerial targets relating to children in care in the *Health and Social Care (Commissioning Plan) Direction (Northern Ireland)* for both 2013/14 and 2014/15 was that 85% of children in care for 12 months or longer should have no placement changes during the previous year.⁶⁰ During the year ending September 2014, this figure was 79% (similar to the previous four years).⁶¹ Of all children in care for 12 months or longer during 2013 - 14, 21% changed placement at least once during the year.⁶² Children in kinship foster care had the highest level of stability of placement. Only 9% of children in kinship foster care in 2013 - 14 experienced a placement change. By comparison, 63% of children in 'other accommodation' (such as independent living facilities), and 50% of children in residential care had experienced a placement change.⁶³

The Health and Social Care Board (HSCB) has carried out a review of placements for children in care, with the view to making each placement more resilient and better able to meet changing needs.⁶⁴ It has been suggested that in implementing the findings of a review of residential care, smaller 4 - 6 bedded units will become the norm, with more targeted intensive support available within each unit.⁶⁵

Surveys conducted with children in care have found that contact with family and friends remains the most important issue to children, alongside feeling safe and stable within their placement (see *Northern Ireland NGO Alternative Report*, p.19). Children consulted with in

⁵⁶ 'Children's Social Care Statistics for Northern Ireland 2014/15', Department of Health, Social Services and Public Safety, 15th October 2015, p.31.

⁵⁷ *Ibid*, p.32.

⁵⁸ *Ibid*, p.33.

⁵⁹ *Ibid*, p.37.

⁶⁰ *Ibid*, p.18.

⁶¹ *Ibid*, p.18.

⁶² *Ibid*, p.18.

⁶³ *Ibid*, p.20.

⁶⁴ Department of Education, Department of Health Social Services and Public Safety, Department of Justice (2015) *First Composite CSE Implementation Plan Progress Report. 1st April 2015 to 30th September 2015*, p.31.

⁶⁵ *Ibid*, p.31.

secure care highlighted that their contact with their families and friends could be restricted, in terms of the number of phone calls they could make, who they could contact, or their contact with family and friends being supervised. However, the reasons behind these restrictions may be aimed at protecting the child from harm.⁶⁶

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should:

- Invest in effective early interventions to prevent children being taken into care and secure accommodation;
- Investigate the correlation between child poverty and children going into care;
- Take actions to reduce the number of placement changes experienced by children in care, ensuring that children enjoy safe, stable placements;
- Ensure children enjoy safe, beneficial contact with parents, relatives and carers;
- Introduce a statutory right to independent advocacy for children in care;
- Ensure that all children in care have their Article 12 rights upheld in all aspects of their lives;
- Ensure that secure accommodation is used as a measure of last resort, for the shortest appropriate period of time. Investigate the reasons why children are repeatedly admitted to secure accommodation, or spend lengthy periods in secure accommodation, and urgently address these issues;
- Encourage the recruitment of foster carers, particularly those that can care for siblings together.

Possible Questions

In Northern Ireland, when will the Government rigorously investigate the reasons why it has the highest numbers of children in care since the introduction of the Children (Northern Ireland) Order 1995, and what actions will be taken to address this?

In Northern Ireland, children in care that are not in foster care placements, such as children placed in residential care, are more likely to experience placement changes. What is the Government doing to ensure that children in all care placements enjoy safe, stable placements?

In Northern Ireland, what is the Government doing to ensure that all children in care have their Article 12 rights upheld in all aspects of their lives and will a statutory right to independent advocacy for children in care be introduced?

In Northern Ireland what is the Government going to do to address the repeated admission of children to secure care where they experience restrictions to their liberty?

14. Please provide further information on the measures taken or planned to meet the increase in demand for mental health-care services for children. Please include information on the human, technical and financial resources allocated to such services for prevention, early detection, treatment, recovery and reintegration, including to address child sexual abuse. Please explain how the best interests of the child are protected and how due consideration is given to the views of the child in cases of mental health treatment of children below the age of 16.

⁶⁶ Op Cit 54.

See: *Northern Ireland NGO Alternative Report*, p.16, 26 – 29

In NI the most recent official figures, which date from 1999, estimated that 20% of children under 18 years of age suffer significant mental health problems and that this comprises the commonest form of severe disability in childhood.⁶⁷ Research carried out with 752 children by youth@clc, CLC and Save the Children NI to inform the *Northern Ireland NGO Alternative Report* and *Northern Ireland Young People's Report to the United Nations Committee on the Rights of the Child* found that 27% of children surveyed stated they have had a concern about their mental health.⁶⁸

It is well recognised that factors associated with the conflict and with a society emerging from conflict have impacted severely on child and adolescent mental health in NI.⁶⁹ Research⁷⁰ highlights that, of those in NI suffering poor mental health, 15% is a direct result of the NI conflict as well as the ongoing impact of trans-generational trauma and poor mental health associated with living under paramilitary threat. The areas most impacted upon by the conflict are socially deprived, which serves to exacerbate the mental health impact of the conflict. Recent research into children and young people growing up in places of high religious segregation (commonly referred to in NI as interface communities) in Belfast has found that mental health problems remained a risk to the overall well-being of participants and was related to problems such as low self-esteem, anxiety, depressive feelings, and low mood. This was particularly problematic amongst the lower age group (11-14 years).⁷¹

There is an historic and ongoing failure to adequately resource child and adolescent mental health services (CAMHS) in NI. In NI in 2013/14, only £19.4m was allocated to CAMHS, which equates to 7.8% of the total planned mental health expenditure for that period,⁷² despite the fact that children and young people under 18 represent nearly 25% of Northern Ireland's population. There is currently no forensic inpatient paediatric psychiatric provision in NI and only limited inpatient adolescent facilities.⁷³ Children and young people with anorexia and complex mental health needs often have to be moved out of NI to access specialist mental health services which do not exist in NI, often at considerable cost (see *Northern Ireland NGO Alternative Report*, p.69). In addition, concerns exist around the lack of an overarching strategy for CAMHS in NI, resulting in inconsistent service provision and a lack of consistency in transition from CAMHS to adult mental health services (see *Northern Ireland NGO Alternative Report*, p.26 – 27).

Under 16s have been excluded from the scope of the new Mental Capacity Bill, which will extend to the criminal justice system. The Mental Health (Northern Ireland) Order 1986 will remain in place for children aged under 16 with mental health problems, including children with a learning disability. This is despite recognition that this legislation is not fit for purpose and in places is not compliant with the ECHR.⁷⁴ Under 16s will therefore be unable to access

⁶⁷ Chief Medical Officer (1999), Health of the public in NI: report of the Chief Medical Officer 1999: Taking care of the next generation. Belfast: DHSSPS.

⁶⁸ *Op Cit* 38.

⁶⁹ 'A Vision for a Comprehensive Child and Adolescent Mental Health Service – The Bamford Review' November 2005 p.15-16.

⁷⁰ 'Towards A Better Future: The Trans-generational Impact of the Troubles on Mental Health', Prepared for the Commission for Victims and Survivors by Ulster University, March 2015.

⁷¹ 'Growing Up On an Interface – Findings and Implications for the Social Needs, Mental Health and Lifetime Opportunities of Belfast Youth' Cummings, Shirlow, Browne, Dwyer, Merrilees, Taylor, March 2016, p.15.

⁷² Information received by CLC from the Health and Social Care Board, 17th February 2015.

⁷³ The Belfast Health Trust provides a regional in-patient service which currently has capacity for 25 young people.

⁷⁴ 'A Comprehensive Legislative Framework – The Bamford Review', August 2007, p.25.

the protections and safeguards contained in the new Mental Capacity Bill due to their age (see *Northern Ireland NGO Alternative Report*, p.27). Whilst the Mental Capacity Bill will amend the Mental Health (Northern Ireland) Order 1986, it will not provide equivalent safeguards and protections for under 16s as for over 16s. In CLC's legal opinion, the exclusion of under 16s from the protections and safeguards contained within the new legislation does not have the best interests of the child as a primary consideration.

Whilst the Mental Capacity Bill requires that when acts are taken, or decisions made, on behalf of persons aged 16 and over that lack capacity, that this must be done in the person's best interests,⁷⁵ the legislation does not completely reflect Article 3 CRC, in that when actions are taken, or decisions made, in relation to 16 and 17 year olds, their best interests are not identified as a primary consideration. By contrast, the Mental Health (Northern Ireland) Order 1986 which will apply to under 16s, will be amended to provide that when decisions are made in relation to under 16s, their best interests must be the primary consideration.⁷⁶ However, CLC is concerned that the amendments proposed to the Mental Health (Northern Ireland) Order 1986 in relation to determining the best interests of a child aged under 16 do not strongly enough reflect the right of the child to participate in taking decisions in their best interests, in line with Article 12 CRC.⁷⁷

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should:

- **Investigate the reasons behind the increase in suicide amongst children in NI and put in place specific, fully resourced measures to prevent suicide amongst children;**
- **Fully investigate the relationship between substance misuse and children's mental ill-health and ensure adequate support services are in place across NI;**
- **Ensure that all children with mental ill-health and/or learning disabilities have equal access to robust, children's rights compliant legislative protections and safeguards which will meet their needs and realise their rights;**
- **Urgently address the underfunding of CAMHS, ensuring that adequate funding is allocated to CAMHS provision which will meet the needs of all children at all levels including in schools, in the community, in transitioning to adult services and through the provision of services not currently available to children in NI;**
- **Prioritise research to identify the causes of children's mental ill-health in NI, including the legacy of the conflict, the experiences of vulnerable groups and a lack of opportunities ; take proactive measures to address the causes of mental health conditions and meet the needs of children at the earliest possible opportunity;**
- **Put in place a comprehensive regional framework for CAMHS, including transition, which has the best interests of the child as the primary consideration and ensures all services are available to all children.**

Possible Questions

Outside of Child and Adolescent Mental Health Service waiting lists, is up-to-date information collected, disaggregated and made available on the extent to which children within Northern Ireland have mental health concerns and/or a learning disability?

⁷⁵ Clauses 2 and 7.

⁷⁶ Clause 266. Schedule 8.

⁷⁷ Schedule 8, para.3B.

How will the significant underinvestment in Child and Adolescent Mental Health Services in Northern Ireland be addressed, ensuring equality of access to mental health services for children?

Why are under 16s excluded from the protections contained in the new Mental Capacity Bill in Northern Ireland, and given this exclusion, how will Government in Northern Ireland ensure that under 16s with mental ill-health and/or learning disabilities enjoy equal access to legislative protections and safeguards?

15. Please clarify whether sex and relationship education is provided in all education settings, including special schools for children with disabilities and special educational needs, and through education provided in the youth detention centres, such as young offender institutions and secure training centres. Please also clarify whether sex and relationship education includes information on how to access confidential sexual and reproductive health-care services, contraceptives, and support in cases of sexual abuse or exploitation.

See: *Northern Ireland NGO Alternative Report*, p.25

In NI, the Department of Education (DE) Circular 2013/16 requires that every school should have an up-to-date written policy on how it will address the delivery of Relationship and Sexuality Education (RSE). However, an inspection by the Education and Training Inspectorate in 2011 expressed concern that 20% of schools inspected at that time did not have an RSE policy.⁷⁸ Concerns have also been expressed by NGOs at the high number of schools which do not provide information on lesbian, gay or bisexual relationships as part of RSE, or in other parts of the school curriculum (see *Northern Ireland NGO Alternative Report*, p.59).

As referred to in the State Party's replies to the List of Issues,⁷⁹ the Council for Curriculum, Examinations and Assessment (CCEA) has produced guidance for DE on the delivery of RSE in primary and post-primary schools in NI.⁸⁰ However, the content of teaching and learning on RSE is a matter for each individual school to decide within the statutory curriculum.⁸¹

The Guidance on RSE produced by CCEA states that schools should challenge prejudicial attitudes, and that RSE should be inclusive of all differences regardless of race, age, disability, ethnicity, religion, culture, gender and sexual orientation.⁸² Schools are expected to ensure that young people are aware that use of homophobic language and homophobic bullying are not acceptable.⁸³ The Guidance also states that schools must ensure that young people with special educational needs (SEN) in mainstream schools have appropriate, accessible and relevant RSE and emphasises that pupils with SEN are more vulnerable to all forms of abuse and exploitation.⁸⁴

⁷⁸ 'Report of the Evaluation of Relationships and Sexuality Education in Post-Primary Schools' ETI, January 2011, p.5 & 7.

⁷⁹ *Op Cit* 11, para.60.

⁸⁰ DE Circular 2015/22, Relationship and Sexuality Education Guidance, para.2.

⁸¹ *Ibid*, para.4.

⁸² 'Relationship and Sexuality Education Guidance: An Update for Post-Primary Schools', CCEA, p.5-6, 'Relationship and Sexuality Education Guidance: An Update for Primary Schools', CCEA, p.5.

⁸³ 'Relationship and Sexuality Education Guidance: An Update for Post-Primary Schools', CCEA, p.15, 'Relationship and Sexuality Education Guidance: An Update for Primary Schools', CCEA, p.13 - 14.

⁸⁴ 'Relationship and Sexuality Education Guidance: An Update for Post-Primary Schools', CCEA, p.16, 'Relationship and Sexuality Education Guidance: An Update for Primary Schools', CCEA, p.14.

The Guidance on the delivery of RSE in post-primary schools, noting that evidence suggests young people are not obtaining information about sexual health, puberty, pregnancy and relationships in school, states that young people should have access to reliable, accurate and relevant information which reflects their age and maturity and must also know where to access a range of services if they need help or support.⁸⁵ In terms of providing support in cases of sexual abuse or exploitation, the Guidance on RSE highlights the obligations on teachers to refer cases of alleged abuse to the appropriate authorities.⁸⁶

However, this guidance is not enforceable and there is likely to be different approaches adopted to RSE across schools, relating to each school's own ethos. Both the Guidance on RSE for post-primary schools and primary schools outlines that on issues such as same-sex marriage or sexual orientation, or other 'sensitive' issues, individual schools may wish to deal with such issues differently. However, the Guidance is clear that pupils should not be denied the opportunity to explore such issues simply because a teacher feels uncomfortable discussing them.⁸⁷ It should also be noted that although RSE is a statutory component of the NI curriculum and there is no legislative provision permitting parental withdrawal from sex education, the Guidance on RSE states that parents or carers have a right to have their children educated in accordance with their wishes.⁸⁸ It is expected that parents will discuss with the school the potentially detrimental effect that this decision may have, but the guidance states that ultimately, the school must respect the wishes of the parent or carer.⁸⁹

Within the JJC, a 2015 Criminal Justice Inspectorate Northern Ireland (CJINI) inspection noted that health promotion was said to be 'accorded a high priority', with topics including 'sex and relationships' scheduled into programme timetables.⁹⁰ Although nursing staff contributed when there was a health care theme and were 'keen to develop this area of work', they 'felt constrained by time'.⁹¹ A genito-urinary clinic 'was offered regularly to the children, on a consent-only basis'.⁹²

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should take steps to improve RSE in schools and ensure that it is sensitive to the needs of all pupils, including LGB pupils.

Possible Questions

Noting the segregated nature of schools in Northern Ireland, and given that policies on Relationship and Sexuality Education are developed by schools, in line with their own ethos, what further actions does the Department of Education intend to undertake to ensure that consistent, comprehensive Relationship and Sexuality Education is delivered, which is CRC

⁸⁵ 'Relationship and Sexuality Education Guidance: An Update for Post-Primary Schools', CCEA, p.8.

⁸⁶ 'Relationship and Sexuality Education Guidance: An Update for Post-Primary Schools', CCEA, p.21, 'Relationship and Sexuality Education Guidance: An Update for Primary Schools', CCEA, p.18 - 19.

⁸⁷ 'Relationship and Sexuality Education Guidance: An Update for Post-Primary Schools', CCEA, p.19 - 20, 'Relationship and Sexuality Education Guidance: An Update for Primary Schools', CCEA, p.17 - 18.

⁸⁸ 'Relationship and Sexuality Education Guidance: An Update for Post-Primary Schools', CCEA, p.12, 'Relationship and Sexuality Education Guidance: An Update for Primary Schools', CCEA, p.9.

⁸⁹ 'Relationship and Sexuality Education Guidance: An Update for Post-Primary Schools', CCEA, p.13, 'Relationship and Sexuality Education Guidance: An Update for Primary Schools', CCEA, p.9.

⁹⁰ *Op Cit* 55, p.46.

⁹¹ *Ibid*, p.46.

⁹² *Ibid*, p.47.

compliant and sensitive to the needs of all pupils, such as LGB pupils, pupils with special educational needs, or children who have suffered, or who are vulnerable to abuse?

Within Northern Ireland, how is the delivery of Relationship and Sexuality Education being monitored to ensure that every school has a policy providing for this, which includes the provision of information on LGB relationships?

16. Please update the Committee on possible new legislation which is expected to replace the Child Poverty Act of 2010 and on its detailed content, as well as on how consultation with children and other stakeholders has been conducted in developing the legislation. Please indicate whether a child rights impact assessment has been conducted of the recent welfare reform, including the cap on household benefits and other reductions in benefits. Please also indicate the measures being taken to mitigate negative impact of this reform on the enjoyment of the rights of children, particularly those in vulnerable situations.

See: Northern Ireland NGO Alternative Report, p.29 - 31

The UK Government passed the Welfare Reform and Work Act 2016 earlier this year,⁹³ effectively repealing the Child Poverty Act 2010.⁹⁴ The new Act abolishes the statutory duty to eradicate child poverty by 2020, as well as the commitment to meet and report on progress against statutory child poverty targets. The 2016 Act instead focuses on progress against 'life chances' measures, such as reporting on the number of children living in workless households and educational attainment at age 16.⁹⁵ NGOs in NI are extremely concerned at the UK Government's decision to abolish the targets to end child poverty and to downgrade the importance of income levels on children's outcomes and their enjoyment of their rights. While the UK Government attempted to abolish the statutory duty to publish statistics on children in poverty, a defeat in the House of Lords⁹⁶ led the Government to amend the Welfare and Work Bill, and as a result, the Government remains legally obligated to publish child poverty statistics across the four income measures set out in the Child Poverty Act 2010. NGOs in NI urge the NIE to comply with this statutory duty, and begin to publish data on levels of persistent child poverty in this jurisdiction.⁹⁷ Measurement of persistent child poverty does not currently take place in NI and there is no set date for its introduction.

Following the introduction of the Northern Ireland (Welfare Reform) Act 2015, the social security system in NI faces significant changes.⁹⁸ Of particular concern to many NGOs is the 'benefits cap' introduced by the Welfare Reform and Work Act 2016, which limits the amount

⁹³ The Welfare Reform and Work Act 2016 received Royal Assent on 16th March 2016 and is due to come into force on 16th May 2016.

⁹⁴ Now cited as the Life Chances Act 2010.

⁹⁵ The Act also sets statutory requirements to report on progress towards reaching full employment (UK wide) and on the England-only apprenticeship scheme.

⁹⁶ The House of Lords passed an amendment to the Bill, urging the Government to retain the statutory duty to publish official statistics on child poverty. Although the Commons voted to overrule the Lords, soon afterwards, the Welfare Reform Minister, Lord Freud, published a government amendment that largely accepted the argument of the Lords original amendment.

⁹⁷ Persistent child poverty refers to children who have been in relative poverty for three of the past four years.

⁹⁸ The Northern Ireland (Welfare Reform) Act was fast-tracked through the House of Commons to enable implementation of welfare reforms in Northern Ireland, including reforms introduced in the Welfare Reform Act 2012 and those proposed in the Welfare Reform and Work Bill 2015 (now the Welfare Reform and Work Act 2016), as well as the mitigations agreed in A Fresh Start: The Stormont Agreement And Implementation Plan.

of benefits a family can receive, regardless of levels of need within the family.⁹⁹ This cap was recognised by a majority in the UK Supreme Court to be incompatible with the best interests principle under the CRC.¹⁰⁰ Families in NI will have their social security payments ‘capped’ at £20,000 a year. There is an average of 3.8 children present in households in NI impacted by the benefit cap, and large families will be most adversely affected.¹⁰¹

In recognition of the potential negative impact of the benefit cap on children and families in NI, short-term mitigation measures have been introduced through the Welfare Supplementary Payments Regulations (Northern Ireland) 2016. NGOs in NI welcome these mitigations, which have been developed based on the recommendations made by the Welfare Reform Mitigations Working Group.¹⁰² However, NGOs caution that these measures, which provide for families affected by the cap to receive a supplementary payment equal to the amount of lost benefit, are only available for those affected up to March 2020. The Department for Social Development anticipates that from April 2020 onwards, over 9,000 children in Northern Ireland will be affected by the cap.¹⁰³

Under the Welfare Reform and Work Act 2016, the NIE has a duty to produce a strategy “*which sets out the measures it proposes to take to ensure, as far as possible, that children in Northern Ireland do not experience socio-economic disadvantage*”. The Executive’s most recent Child Poverty Strategy, which was due before the NIA in April 2014, was published in March 2016.¹⁰⁴ While the fact that the Child Poverty Strategy had finally been published is to be welcomed, NGOs were disappointed to see the Strategy introduced on the eve of the dissolution of the NIA in advance of upcoming elections, which did not allow for Assembly debate on, or scrutiny over, the new Strategy. Many of the Key First Actions set out in the strategy are retrospective and cover actions and initiatives which have already come to their conclusion. NGOs call on the NIE to urgently update the Child Poverty Strategy with forward-looking actions which will effectively address child poverty in NI.

The Northern Ireland Executive should:¹⁰⁵

- **Improve data collection in NI on children living in poverty and measure levels of persistent poverty;**
- **Update the NI Child Poverty Strategy with proactive and meaningful measures to protect all children and families from poverty, taking into consideration the**

⁹⁹ The Welfare Reform and Work Act 2016 also places a freeze on benefits over the next four years, and limits the support families can receive through Child Tax Credits.

¹⁰⁰ *R (on the application of SG and others (previously JS and others)) (Appellants) v Secretary of State for Work and Pensions (Respondent)* [2015] UKSC 16. However, the Court ultimately decided that the UNCRC could not be relied on in a case involving sex discrimination under Article 14 of the European Convention.

¹⁰¹ Department for Social Development, Northern Ireland Benefit Cap Information Booklet, March 2016.

¹⁰² The recommendation made in the Welfare Reform Mitigations Working Group Report (January 2016) were accepted in full by the Northern Ireland Executive and are resourced with £585 million from Executive funds over a four year period.

¹⁰³ *Op Cit* 101.

¹⁰⁴ Northern Ireland Executive, Delivering Social Change - The Executive’s Child Poverty Strategy, March 2016.

¹⁰⁵ In the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the Northern Ireland Executive appoint a representative to the Social Mobility and Child Poverty Commission to garner expertise, share best practice and improve delivery on child poverty outcomes. The Welfare Reform and Work Act 2016 has since repurposed the Social Mobility and Child Poverty Commission, renaming it the Social Mobility Commission, with a specific remit to promote and advise on social mobility in England.

impact of budget cuts and Welfare Reform on children and low-income families, including disabled children and their families.

NGO Recommendations

Within the Northern Ireland NGO Alternative Report, NI NGOs recommended that the NIA and NIE should:

- **Urgently address the poor living standards of Traveller children through immediate provision of sufficient, safe and culturally appropriate accommodation;**
- **Urgently address the multiple disadvantages suffered by Traveller children and put a strategy in place with targets and time bound actions to remove all obstacles to the enjoyment and realisation of rights by Traveller children;**
- **Urgently address the link between disability and poverty and the difficulties faced by families in sourcing care and support so that they can work and assist disabled young people to find and maintain employment.**

Possible Questions:

Given the potential impact of budget cuts and Welfare Reform on vulnerable children and low-income families, please explain how the Northern Ireland Executive intends to update, build upon and implement the Child Poverty Strategy to ensure it is comprehensive, costed and integrated, with proactive, meaningful, timed and measured actions set out in order to protect all children and families from poverty?

How many children in Northern Ireland are living in persistent poverty? Please explain why these figures are not published in Northern Ireland despite the statutory duty to do so?

17. Please provide further information on the measures taken to prevent child homelessness, including for children above the age of 16. Please clarify the measures taken to prevent children from being placed in temporary accommodation by public authorities for prolonged periods of time before having access to permanent accommodation.

See: Northern Ireland NGO Alternative Report, p.21

Under Article 21 of the Children (Northern Ireland) Order 1995, duties are placed on HSC Trusts to provide accommodation to a 'child in need' that requires accommodation as a result of there being no person who has parental responsibility for them; their being lost or having been abandoned; or the person who has been caring for them being prevented (whether or not permanently, and for whatever reason) from providing that child with suitable accommodation or care. Regional Good Practice Guidance on meeting the accommodation and support needs of 16 – 21 year olds has been developed in NI by the Housing Executive and HSC Trusts.¹⁰⁶ Concerns remain however that HSC Trusts are not consistently meeting their obligations to provide accommodation to homeless children. This concern is supported by CLC's legal casework which continues to receive calls in respect of a failure to prevent child homelessness, especially in respect of 16 and 17 year olds.

¹⁰⁶ March 2014.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should:

- Ensure that HSC Trusts comply with their legal obligations with respect to homeless children.

Possible Questions

What steps are being taken in Northern Ireland to prevent child homelessness especially among 16 and 17 year olds?

What steps are being taken in Northern Ireland to ensure that accommodation is consistently provided for homeless children? What additional resources have been allocated to address this issue?

18. Please provide information on the efforts to end the segregation in education in schools in Northern Ireland and to end academic selection for post-primary education on the basis of transfer tests.

See: *Northern Ireland NGO Alternative Report*, p.36

In relation to academic selection for post-primary education in NI, we note that the State Party, in its replies to the List of Issues, highlights that statutory guidance on post-primary transfer (2009) states decisions on admission should not be based on perceived academic ability and that Boards of Governors in all post-primary schools are legally required to have regard to this guidance in drawing up their admissions criteria.¹⁰⁷ However, despite this statutory guidance, which is not enforceable, schools continue to set their own selection tests and are responsible for their own admissions procedures (see *Northern Ireland NGO Alternative Report*, p.36). Schools may continue to use academic criteria for selection and Grammar schools continue to select children based on tests taken at age 11.¹⁰⁸

Children in NI are educated mainly in separate schools with only 7% of children attending “integrated” schools.¹⁰⁹ Integrated schools are schools established to educate Protestant and Catholic children and children of all faiths and none together on a daily basis. Their pupil body, staff and management structures all reflect this mix. The failure of the Government to plan for and resource the establishment of integrated schools, despite the statutory duty to encourage and facilitate the development of integrated education, has meant that the *status quo* of segregated education has been preserved (see *Northern Ireland NGO Alternative Report*, p.36).

The UK Government response to the List of Issues states that there is no forced segregation in schools in NI and that a system of parental preference is in place. It also refers to funding for the Northern Ireland Council on Integrated Education to assist stakeholders to further develop the integrated sector.¹¹⁰ In practice, however, a key impediment to the growth of integrated schools is the way in which DE plans for future need, which assumes no growth in the integrated sector. In June 2014, an integrated school which had been refused permission to increase its enrolment to meet demand judicially reviewed this decision. The

¹⁰⁷ *Op Cit* 11, para.82.

¹⁰⁸ Two separate test procedures have been adopted by the grammar school sector, the Association for Quality Education (AQE) Common Entrance Assessments and the GL Assessment Test.

¹⁰⁹ http://www.deni.gov.uk/16-schools-integratedschools_pg.htm 53 241

¹¹⁰ *Op Cit* 11, para.81.

judgment found that DE's approach to planning for schools assumes no growth in the integrated sector and is, "*the opposite of encouraging and facilitating*" as required by the statutory duty.¹¹¹ The school subsequently resubmitted its request to increase its enrolment to meet demand, which was again refused by the DE. A second legal challenge against this decision has been lodged.

In recent years, the DE has prioritised a policy of 'shared education'. A Shared Education Bill has just completed its passage through the NIA which defines shared education as the education together of those of different religious belief, including reasonable numbers of both Protestant and Catholic children or young people; and those who are experiencing socio-economic deprivation and those who are not, which is secured by the working together and co-operation of two or more education providers.¹¹² Unlike integrated education therefore, shared education only involves collaboration between two or more schools of different types and from different sectors, for example, in sharing facilities or teachers for the delivery of certain joint initiatives or classes. It does not involve any change in the ethos or the character of the schools involved. The children who participate in shared education projects do not attend the same school together on a daily basis as children do when they attend integrated schools. As such, NGOs are concerned that shared education falls short of integrated education (see Northern Ireland NGO Alternative Report, p.36). In addition, concerns have been expressed that the Shared Education Bill places a stronger legal duty on DE to "*encourage, facilitate and promote shared education*"¹¹³ than that which exists with regards to integrated education.

In January 2016, the DE appointed a panel of two persons to conduct a six month review of integrated education. The terms of reference of the review, however, make it clear that the focus is not solely on integrated schools but rather it is in fact to consider the "*development of a more integrated education system*" implying the consideration of shared education projects also.¹¹⁴ NGOs are concerned that this Review is currently considering whether or not the DE should continue to have a legal duty to encourage and facilitate integrated education.

As part of the Stormont House Agreement (December 2014), the UK Government pledged up to £500 million of new capital funding to support shared and integrated education over 10 years.¹¹⁵ An initial announcement regarding the allocation of the first £43 million of these monies has recently been made and includes funding for three existing integrated schools.¹¹⁶ There is concern, however, around how such monies are to be allocated as between shared and integrated education and the criteria and processes to be adopted.

¹¹¹ *Drumragh Integrated College's Application* [2014] NIQB 69.

¹¹² Clause 2.

¹¹³ Clause 3.

¹¹⁴ <https://www.deni.gov.uk/sites/default/files/publications/de/terms-of-reference-review-of-the-planning-growth-and-development-of-integrated-education.pdf>

¹¹⁵ Stormont House Agreement – Financial Annex, December 2014.

¹¹⁶ <http://www.wired.gov.net/wg/news.nsf/articles/Northern+Ireland+Office+Villiers+signals+fresh+start+for+integrated+education+in+Northern+Ireland+23032016133000?open>

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should:

- Abolish the system of unregulated academic selection and legislate for a non-academic, CRC compliant transfer system from primary to post primary education;
- Plan and adequately resource the development of integrated schools

Possible Questions

What plans exist in Northern Ireland to introduce legislation that will completely prohibit academic selection for post-primary education and introduce a CRC compliant transfer system from primary to post-primary education?

Within Northern Ireland, how does the Government intend to plan for growth in integrated schools to meet parental demand and how will the Government ensure adequate capital funding is allocated to integrated schools from monies pledged in the Stormont House Agreement for shared and integrated education?

19. Please explain how the best interests of the child are taken into account as a primary consideration in decisions involving migrant, asylum-seeking or refugee children, including with respect to age assessment, refugee status and residency permits. Please clarify how the asylum instruction on assessing age is consistent with the State party's overall policy to treat an age-disputed individual as a child until the assessment is completed (see CRC/C/GBR/5, para. 226).

See: *Northern Ireland NGO Alternative Report*, p.13, 32, 39 – 41

NI's population has changed in recent years, with the numbers of persons born outside of the UK or Republic of Ireland increasing significantly (see *Northern Ireland NGO Alternative Report*, p.77 – 78). The numbers of children born in NI to parents from abroad is also rising. In 2013, there were 24,277 births registered in NI, with 10.1% of births to mothers who were not born in NI, elsewhere in the UK or in the Republic of Ireland, the highest figure on record.¹¹⁷ This percentage remained the same in 2014.¹¹⁸ Immigration and asylum laws apply uniformly across the UK and are not devolved from the UK Government to the NIA and NIE. Concerns have been raised in NI around the lack of provision of independent, accessible advice services in relation to immigration and asylum issues, with Government funding for these services having been withdrawn.

Those seeking asylum and those whose claims of asylum have failed can receive financial support for themselves and their children, but these levels of support have historically been very small and concerns have been expressed that they do not meet the needs of families and leave them vulnerable to poverty. This situation has deteriorated further since August 2015, when a new single standard rate of financial support for both adults and children was introduced by the UK Government, meaning that levels of support for single parent asylum-seekers and families were substantially reduced.¹¹⁹ In addition, the current Immigration Bill

¹¹⁷ 'Registrar General Northern Ireland Annual Report 2013' Northern Ireland Statistics and Research Agency, November 2014, p.4.

¹¹⁸ 'Registrar General Northern Ireland Annual Report 2014' 2013' Northern Ireland Statistics and Research Agency, July 2015, p.22.

¹¹⁹ 'Asylum support: accommodation and financial Support for asylum seekers' House of Commons Briefing Paper, October 2015, p.3 and 7 – 8.

passing through the UK Parliament proposes to restrict the availability of financial support for failed asylum-seekers only to those asylum-seekers (including families) who are destitute and face a 'genuine obstacle' to leaving the UK. Refused asylum-seeker families not meeting these criteria would have no support.¹²⁰ Concerns also exist around the adequacy of housing and the provision of healthcare services for migrants and asylum seekers in NI (see *Northern Ireland NGO Alternative Report*, p.39 – 40).

Section 55 of the Borders, Citizenship and Immigration Act 2009 provides that, in discharging functions in relation to immigration, asylum or nationality, the Home Secretary must make arrangements for ensuring that those functions are discharged having regard to the need to safeguard and promote the welfare of children who are in the UK. The Supreme Court has found that the spirit, if not the precise language of Article 3(1) CRC has been translated into UK law through this Act.¹²¹ Concerns have been expressed as to how current proposals to remove support for failed asylum-seeker families can comply with this provision.

The numbers of newcomer children registered in schools in NI have risen substantially in the last ten years. In 2004/5, there were 2,056 newcomer pupils at schools across NI. By 2014/15, this figure had risen to 11,565.¹²² This has been accompanied by an increase in the range of languages spoken and in the range of prior educational experiences of these children. Research¹²³ has found that some schools face challenges relating to the limited formal educational experiences of some newcomer pupils. These pupils have been identified as being mainly from the Somali and Roma communities, whose numbers have risen significantly over the last five years. NGOs have expressed concern that current education policy on newcomer children does not directly address these issues and needs to be reviewed, given that these groups are amongst the most recent arrivals to NI (see *Northern Ireland NGO Alternative Report*, p.32).

Specific data on the numbers of asylum seekers in NI is sparse and inconsistent. It is also difficult to confirm the number of unaccompanied children entering NI (see *Northern Ireland NGO Alternative Report*, p.39). Currently, unaccompanied children in NI are referred to social services.¹²⁴ The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 has placed an obligation on the HSCB to make arrangements to enable an independent guardian to be appointed to assist, represent and support unaccompanied children entering NI who are at risk of harm or who may be victims of trafficking.¹²⁵ However, as outlined within the State Party's replies to the List of Issues, the Independent Guardian Service required by the legislation has yet to be established, despite this legislative obligation.¹²⁶

Larne House, the immigration holding centre in NI, does not hold children, but age disputes have been known to occur.¹²⁷ In such circumstances, the young person remains in Larne House until they are interviewed by immigration officers. If they appear to be under 18,

¹²⁰ *Ibid*, p.17.

¹²¹ *ZH (Tanzania) (FC) v. Secretary of State for the Home Department*, [2011] UKSC 4, para.23.

¹²² http://www.deni.gov.uk/index/32_statisticsandresearch_pg/32-statistics_and_research_statistics_on_education_pg/32_statistics_and_research

¹²³ 'The integration of newcomer children with interrupted education into Northern Ireland schools – A Belfast based case study' Northern Ireland Strategic Migration Partnership, September 2014, p.16.

¹²⁴ 'By their side and on their side: Reviewing the evidence for guardianship for separated children in Northern Ireland' Ravi KS Kohli, Helen Connolly, Helen Beckett, University of Bedfordshire and NICCY, February 2014, p.52 - 54.

¹²⁵ Section 21.

¹²⁶ *Op Cit* 11, para.88.

¹²⁷ 'Report on an unannounced inspection of a short-term holding facility at Larne House' HM Chief Inspector of Prisons, 18th November 2013, p.7.

social services are contacted although reports note that children can then go missing from care.¹²⁸

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should:

- Take measures to address discrimination against all groups of children, in schools and the community;
- Review the Supporting Newcomer Pupils policy and the Inclusion and Diversity Service; produce guidelines in relation to children with limited formal educational experience and adequately fund support for them;
- Provide support for Newcomer children to learn English before they start school and put in place measures for 16 – 18 year olds who are not in school to learn English;

In addition, within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the UK Government and NIA and NIE should:

- Increase financial support for families and children seeking asylum and those who have failed in their asylum claims; ensure that refugees receive prompt access to adequate benefits and supports;
- Grant asylum seeking parents and refused asylum seekers who cannot return to their country of origin permission to work;
- Provide adequate benefits to all migrant families, to ensure that they are not vulnerable to poverty. The condition that a claimant must be living in the UK for three months before being eligible to access child benefit and child tax credit should be reversed and a crisis fund to assist destitute migrants and asylum seekers should be made permanent;
- Provide adequate housing to families and children seeking asylum, or those whose claims have been rejected, in order to protect the health and welfare of these children;
- Ensure that all children in Northern Ireland have free access to all healthcare, regardless of their or their parents' status. Free maternity healthcare should be provided to all;
- Collate and publish disaggregated statistical data on the number of children seeking asylum in Northern Ireland and the number of children who are granted asylum, including those whose age is disputed;
- Ensure widespread and ongoing training for all public officials to ensure that all victims of child trafficking are identified. The threshold for confirming that a child has been a victim of trafficking should be reviewed and the reasons for the low number of referrals investigated.

Possible questions

Given the vulnerability of asylum-seeker families, or families which have failed in their asylum claims, to poverty, what does the UK Government and Northern Ireland Executive intend to do to protect the best interests of the child and protect children from poverty. Will they reverse the reductions and proposed withdrawals of support?

¹²⁸ *Ibid*, p.11 – 12.

Noting the withdrawal of funding for independent, accessible, expert immigration advice what does the Northern Ireland Executive intend to do to ensure that children in immigration cases have access to such services?

Recognising the increased diversity of newcomer children coming to Northern Ireland, when will education policy and service provision for newcomer children be reviewed, updated and resourced to take account of the needs of all newcomer children, including children with limited formal educational experience and special educational needs, and what additional supports will be put in place for such children?

Given the legislative requirement to do so, when will an Independent Guardianship Service in Northern Ireland be established to assist, represent and support unaccompanied children entering Northern Ireland who are at risk of harm, or who may be victims of trafficking?

20. Please provide information on progress made in raising the minimum age of criminal responsibility, developing a broad range of alternative measures to detention for children in conflict with the law and ensuring that such children are never tried as adults in ordinary courts. Please also inform the Committee about progress made in establishing a juvenile justice system in Northern Ireland, the overseas territories and Crown dependencies. Please update the Committee on the design of Secure Colleges (see CRC/C/GBR/5, para. 263), highlighting how they will be made compatible with the Convention.

See: *Northern Ireland NGO Alternative Report*, p.43 – 45

In NI international standards of juvenile justice have not been implemented despite a commitment in the Hillsborough Agreement (Peace Process) that there would be a review of how children are processed at all stages of the criminal justice system, including detention, to ensure compliance with international obligations and best practice.¹²⁹ The Youth Justice Review subsequently reported in September 2011, but NGOs and statutory inspectorate bodies have expressed concern at the non-implementation and dilution of the recommendations of the Youth Justice Review by Government.¹³⁰

Some NGOs have further expressed concern as to whether the youth justice system within NI can be perceived as separate and distinct from the criminal justice system as it applies to adults as a result of the youth justice system being aligned with the Northern Ireland Prison Service. Concerns have also been expressed at the further delay in implementing change to ensure a CRC compliant youth justice system as a consequence of the establishment of a 'scoping study', which NGOs believe serves only to distract from recommendations for reform of the youth justice system which have yet to be implemented.

In NI the minimum age of criminal responsibility (MACR) is 10 years of age. This is an extremely contentious issue in NI and the raising of the MACR faces significant political opposition.

Many children in NI are remanded in custody whilst accused of criminal offences. A serious issue is the use of legislation (the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE)) that allows the PSNI to refuse bail to a child, including on the basis that they ought to be detained in their own interests.¹³¹ The rate of admissions under this legislation to

¹²⁹ 'Agreement at Hillsborough Castle' 5th February 2010, section 1.7.

¹³⁰ 'Monitoring of Progress on Implementation of the Youth Justice Review Recommendations' Criminal Justice Inspector Northern Ireland, December 2015, p.63.

¹³¹ Article 39, Police and Criminal Evidence (Northern Ireland) Order 1989.

the JJC almost trebled between 2008/9 and 2013/14.¹³² The YJA has stated that the proportion of transactions within the JJC attributed to PACE has decreased, from 44% in 2013/14 to 36% in 2014/15. Between 2013/14 and 2014/15 the actual number of PACE transactions was reported to have decreased by 29%. Figures for 2014/15 indicate that there were 233 PACE admissions to the JJC, compared to 326 in 2013/14. However, the YJA has indicated that this was in part due to the refusal of PACE admissions to the JJC between August and October 2014.¹³³ The admissions figure for 2014/15 is also broadly similar to the number of admissions in 2011/12 and 2012/13.¹³⁴

The application of PACE in NI disproportionately affects children in care¹³⁵ and often results in such children being detained inappropriately in the JJC, due to a lack of appropriate alternative accommodation. Information supplied to CLC by the YJA indicates that from October 2014 until September 2015, there were 254 admissions to the JJC under PACE with 111 of these admissions relating to looked after children (LAC).¹³⁶ The proportion of young people detained within the JJC who are in care should be seen in the context of the number of children in Northern Ireland in care overall. At 30th September 2014, 2,163 children who were looked after in Northern Ireland had been continuously in care for more than a year, the highest recorded figure since 2002. This represented a rate of 50 children per 10,000 of the population aged under 18.¹³⁷ These figures, whilst not directly comparable, would suggest that being placed in the JJC is alarmingly more likely for a child in care than it is for a child not in care, given that children in care represent a relatively small proportion of the overall number of children within NI, but represent a large proportion of children within the JJC. This contrast is even more stark whenever one considers that in 2013/14, 53% of children in care were aged under 11,¹³⁸ meaning that a large proportion within care are below the MACR and could not be charged with an offence that would lead to their being detained within the JJC under PACE or on remand.

In many cases, children detained under PACE are released on bail once their case is heard in court and they do not receive custodial sentences. In September 2015, the YJA estimated that over the last five years, the PACE conversion rate (i.e. whether the young person detained under PACE will be released or will be further detained on remand or sentence) has remained largely consistent at around 50% each year i.e. half of the young people admitted to the JJC on PACE are released.¹³⁹ NGOs believe that custody is not being used as a measure of last resort, a concern also previously raised by CJINI.¹⁴⁰

¹³² *Op Cit* 55, p.18.

¹³³ Youth Justice Agency Annual Workload Statistics 2014/15, 25th September 2015, p.5 – 6 and 13.

¹³⁴ *Ibid*, p.13.

¹³⁵ In 2011, 227 children were detained in the JJC under PACE, with 77 of these children being from care homes. In 2012, this figure rose to 229 children, with 76 children from care homes. In 2013, 315 children were detained in the JJC under PACE, with 139 children from care homes. In 2014, 245 children were detained the JJC under PACE, with 95 children coming from care homes (Information received from Department of Justice, January 2015).

¹³⁶ Information received by CLC from Youth Justice Agency, 8th December 2015. Figures are provisional and may be subject to change.

¹³⁷ 'Children in Care in Northern Ireland 2013-14 Statistical Bulletin', Department of Health, Social Services and Public Safety, 18th June 2015, p.9.

¹³⁸ *Ibid*, p.12.

¹³⁹ *Op Cit* 133, p.13.

¹⁴⁰ 'An announced inspection of Woodlands Juvenile Justice Centre', Criminal Justice Inspection Northern Ireland, November 2011, p. 4, 'An Announced Inspection of Woodlands Juvenile Justice Centre' Criminal Justice Inspection Northern Ireland, May 2015.

A large number of children detained under PACE are detained due to breach of bail conditions.¹⁴¹ NGOs have expressed concerns that bail conditions imposed on children are unrealistic and are difficult to uphold due to the number of conditions and their complexity. In addition, PACE detentions to the JJC are much higher in areas which are geographically closer to the JJC than in areas further away. CJINI has raised serious concerns at this trend, which it describes as a “*postcode expediency*”.¹⁴²

In its replies to the List of Issues, the State Party suggests that in NI, the DoJ is taking steps to address reasons for overuse of remand in custody.¹⁴³ Both the Youth Justice Review and a review of Bail law in NI by the Law Commission have made recommendations aimed at addressing these issues. In its most recent inspection monitoring progress on implementation of the Youth Justice Review’s recommendations published in December 2015, CJINI found that many of the Youth Justice Review’s recommendations around the overuse of remand and PACE had not been achieved.¹⁴⁴ New bail legislation to provide for these reforms has yet to be taken forwards.

In NI, a variety of options exist to divert children from the formal court process. However, NI NGOs are deeply concerned that many children accepting diversion within the criminal justice system will not have received independent legal advice before doing so. Whilst these are not convictions, they are recorded on a young person’s criminal record for certain periods of time and can potentially be disclosed as part of a future criminal records check.

Whilst children in conflict with the law are normally dealt with by the Youth Court in NI, children may still be tried in the adult Crown Court for serious offences, such as homicide.¹⁴⁵

Within the State Party report to the Committee, it is suggested that children held in custody in NI are accommodated in a purpose-built child centred facility.¹⁴⁶ Whilst this has been the position since 1st November 2012, with Hydebank Wood Young Offenders Centre (now known as Hydebank Wood College) having ceased to be used for the detention of under 18s, under current legislation it is still possible to detain children in Hydebank Wood, alongside young adults. NGOs have urged the DoJ to bring forward legislation to completely prohibit the detention of children in Hydebank Wood alongside adults, but this has yet to be progressed.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should:

- **Ensure that all relevant international standards are integrated into youth justice legislation, policy and practice, implementing commitments made under the Hillsborough Agreement;**
- **Substantially raise the minimum age of criminal responsibility;**
- **Legislate to ensure that custody is used as a measure of last resort;**

¹⁴¹ For example, in 2013, 315 children were detained in the JJC under PACE, with 52% of these children initially detained for breach of bail conditions (Information received from Department of Justice, January 2015).

¹⁴² *Op Cit* 55, p.6.

¹⁴³ *Op Cit* 11, para.93.

¹⁴⁴ *Op Cit* 130, p.29, 32, 46 and 48.

¹⁴⁵ Criminal Justice (Children) Northern Ireland Order 1998, Article 17

¹⁴⁶ *Op Cit* 17, para.262.

- Provide a range of appropriate accommodation and support across NI to ensure that children, particularly children in the care, are not remanded in custody inappropriately;
- Ensure that children's bail conditions are proportionate, relevant, realistic and understood by the child;
- Bring forward legislation reforming the law relating to bail for children, as recommended by the NI Law Commission;
- Ensure that all children in contact with the criminal justice system receive independent legal advice;
- Prohibit through legislation the detention of children alongside adults in all circumstances;
- Ensure that arrangements for the retention and disclosure of criminal records of children are compliant with international standards;
- Reform legislation to ensure that no child under 18 is tried in an adult court;
- Address the issue of delay in children's cases through the introduction of end-to-end statutory time limits.

Possible Questions

Given the worrying relocation of the youth justice system within Northern Ireland with the adult Northern Ireland Prison Service, what actions are intended to ensure that the youth justice system is separate and distinct from the criminal justice system as it applies to adults, in compliance with the CRC, and is perceived as such?

When will legislation be introduced in Northern Ireland that ensures that custody is only ever used as a measure of last resort for children in conflict with the law, and never as a result of the child not being offered alternative accommodation?

What actions are being taken to introduce a range of appropriate accommodation options and supports across Northern Ireland to ensure that children, particularly children in the care system, are not placed in custody inappropriately?

When will legislation reforming the law relating to bail for children be introduced in Northern Ireland?

When will legislation prohibiting the detention of children alongside adults within the criminal justice system be introduced in Northern Ireland?

What reforms are planned to the system for retaining and disclosing criminal records in Northern Ireland, to ensure compliance with international standards?

What actions are being taken to ensure that children in Northern Ireland who come in contact with the criminal justice system have access to independent legal advice at all stages in the criminal process and before they admit to any criminal offence or agree to any form of diversion?

What actions are being taken to raise the minimum age of criminal responsibility in Northern Ireland?

21. Please provide information on progress made in abolishing the possibility of a life sentence, referred to as detention during Her Majesty's pleasure or detention for life or by similar terms, for offences committed while the offender was under the age of 18.

Within its replies to the List of Issues, the State Party suggests that under sentencing legislation in NI, anyone convicted of an offence when aged under 18 must not be sentenced to life imprisonment and that instead, the courts have a range of custodial options.¹⁴⁷ Under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998, a person convicted of an offence who appears to the court to have been a child at the time the offence was committed is not be sentenced to imprisonment for life. The child can instead be sentenced to a specific period in custody, and may then be released on licence.¹⁴⁸ Under the Criminal Justice (Northern Ireland) Order 2008, children may also be subject to indeterminate custodial sentences. Under this sentence, the court sets a period of at least 2 years in custody as the minimum period of this sentence, following which the child may be released on licence. Once released, the person remains on licence for the rest of their life, unless they successfully apply for the licence to cease to have effect.¹⁴⁹

22. With respect to the concluding observations on the report submitted by the State party under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/GBR/CO/1), please update the Committee on the measures taken or planned to implement its recommendations. Please also update the Committee on any follow-up to the recent inquiries on child sexual abuse and exploitation, including child sexual exploitation by gang groups in Rotherham (Jay inquiry) and sexual abuse by the clergy (Goddard inquiry).

See: *Northern Ireland NGO Alternative Report*, p.41 – 43

In 2011, Barnardo's NI published research highlighting that child sexual exploitation (CSE) was occurring throughout Northern Ireland and suggesting high levels of risk of CSE. From a sample of 1,102 cases known to social services, around 70% of whom were looked after children, CSE was identified as an issue of concern for almost one in seven and almost one in five were assessed to be at significant risk of sexual exploitation.¹⁵⁰

A 2013 police operation, Operation Owl, found that 13 children accounted for 10% of all 'missing persons' reports, while 40 children had been reported missing more than 25 times in 16 months. The risk of CSE was identified as a key issue for most of the young people involved in Operation Owl. A PSNI investigation into 22 young people's cases was initiated and it was reported that the 22 children concerned had been reported missing 437 times.¹⁵¹ An Inquiry into CSE was then launched in September 2013. As highlighted within the State Party's replies to the List of Issues, a thematic review of some of the 22 young people's cases investigated by the PSNI was conducted by the Safeguarding Board for Northern Ireland (SBNi). The thematic review was published in December 2015.¹⁵²

The Inquiry into CSE found that few reliable figures exist to measure the extent of CSE in Northern Ireland. From the data available, between 100 and 145 children were identified as

¹⁴⁷ *Op Cit* 11, para.98.

¹⁴⁸ Article 46, Criminal Justice (Children) (Northern Ireland) Order 1998.

¹⁴⁹ Article 13, 18 and 22, Criminal Justice (Northern Ireland) Order 2008.

¹⁵⁰ 'Not a world away – the sexual exploitation of children and young people in Northern Ireland' Dr Helen Beckett, Barnardo's, October 2011, p.22, 32.

¹⁵¹ 'Child Sexual Exploitation in Northern Ireland – Report of the Independent Inquiry' Kathleen Marshall, November 2014, p.9, 23 – 24, 66.

¹⁵² Pinkerton, J., Bunting, L., Hayes, D., Lazenbatt, A. (2015) *Getting Focused and Staying Focused: 'Looked After Children', Going Missing and Child Sexual Exploitation. A Thematic Review*, Belfast: Safeguarding Board for Northern Ireland

being at significant risk of CSE. However, the number actually experiencing CSE is likely to be significantly higher.¹⁵³

Following publication of the CSE Inquiry Report, DE, DoJ and DHSSPS each produced an implementation plan. These were combined in a composite plan listing actions in response to the CSE Inquiry recommendations.¹⁵⁴ The DHSSPS leads a cross-departmental Implementation Group established to develop a regional CSE strategy. Following a process of consultation and Ministerial approval, it is anticipated that the final strategy will be published in June 2017.¹⁵⁵ This delay is a cause for concern, given that the CSE Inquiry Report was published in November 2014.

It has also been reported that HSC Trusts are working to establish specialist fostering services aimed at providing a safe place where an assessment of need can be carried out when a child is at risk/ suspected to be the subject of CSE.¹⁵⁶ The CSE Inquiry highlighted that growing awareness of CSE is likely to be followed by increased referrals and services must be prepared to respond.¹⁵⁷ It has been reported that the HSCB is progressing development of an Integrated Care Pathway to promote greater understanding of, and access to, support services for those who have suffered or been exposed to trauma, including CSE, and that there has been additional investment in the Barnardo's 'Safe Choices' service.¹⁵⁸

Children in care may be particularly vulnerable to CSE. However, staff and children in care told the CSE Inquiry that children in care felt stigmatised by the focus upon them in relation to CSE.¹⁵⁹ The Inquiry was clear that the use of restraint or secure care must not be regarded as everyday responses to situations in children's homes and recommended that children with experience of CSE should be involved in discussions about what a safe space for them should be like, drawing on models of good practice.¹⁶⁰ It has been reported that a number of activities have been undertaken to consider how 'safe spaces' could be developed for children and young people at risk of, subject to, or recovering from CSE.¹⁶¹

In addition, a Historical Institutional Abuse Inquiry in NI is currently investigating if there were systemic failings by institutions or the state in their duties towards those children in their care between the years of 1922 - 1995.¹⁶² The Inquiry is due to conclude its investigations by mid-July 2016 and to deliver its report in January 2017.¹⁶³ However, concerns have been raised around the scope of the Inquiry, relating to the fact that it will only examine abuse occurring in institutions, and not in communities or the home. In addition, concerns have been raised at a decision to include abuse which occurred at the Kincora Boy's Home in Belfast within the scope of the Historical Institutional Abuse Inquiry, rather than within the scope of the Independent Inquiry into Child Sexual Abuse (the Goddard Inquiry). These concerns relate to allegations which have been made that MI5 was involved in covering up the sexual abuse of children in order to protect an intelligence-gathering operation it ran in the 1970s and it

¹⁵³ *Op Cit* 151, p.14.

¹⁵⁴ Department of Education, Department of Health Social Services and Public Safety, Department of Justice (2015) *The Marshall Implementation Plan: Tackling Sexual Exploitation in Northern Ireland. Composite Plan*, March 2015.

¹⁵⁵ *Op Cit* 64, p.16.

¹⁵⁶ *Ibid*, p.10.

¹⁵⁷ *Op Cit* 151, p.137 - 139.

¹⁵⁸ *Op Cit* 64, p.18.

¹⁵⁹ *Op Cit* 151, p.60.

¹⁶⁰ *Ibid*, p.15.

¹⁶¹ *Op Cit* 64, p.8 – 9.

¹⁶² http://www.hiainquiry.org/index/acknowledgement_forum/terms-of-reference.htm

¹⁶³ Chair of the Historical Institutional Abuse Inquiry (2015) *Statement, Wednesday 4th November 2015*.

has been suggested that these allegations can only be examined through a full public inquiry, which would have powers to compel witnesses to attend and produce documents. A recent judicial review challenging the decision to include abuse at Kincora within the scope of the Historical Institutional Abuse Inquiry was unsuccessful.¹⁶⁴ In addition, it has recently been reported by the media that national security grounds have been used to refuse the production of documents relating to a child psychiatrist who abused children in Belfast during the 1970s.¹⁶⁵ Further the media have also reported that a Public Interest Immunity (PII) application, on the grounds disclosure of information could damage the public interest, has also recently been lodged by the Northern Ireland Office¹⁶⁶ to withhold documents linked to the disappearance and death of a girl aged 15 in 1994 from being accessed as part of inquest proceedings. Decisions in respect of PII are normally made after private hearings. PII certificates are normally granted in cases where concerns around national security have been raised, such as the protection of police intelligence gathering techniques, or to protect the identity and lives of those passing information to the police.¹⁶⁷ The UK government has previously been granted PII in conflict legacy cases but the media report concerns as to why PII should be at play in the death of a missing child. Lawyers for the family of the deceased child in this case raised concerns about the effect of PII in this case.¹⁶⁸ The coroner has the final decision as to whether a PII application is granted in this case, and has yet to deliver a ruling.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should:

- **Collect comprehensive data on the extent of CSE in NI;**
- **Support existing and further develop, comprehensive services to support victims of CSE;**
- **Collect consistent and comparable data on children going missing from care;**
- **Put in place strategies and measures that require and support schools to teach children consistent messages about online safety and put in place mechanisms to provide similar messages to parents;**
- **Begin a public health campaign to raise awareness of CSE;**
- **Ensure restraint is only used as a measure of last resort, exclusively to prevent harm to the child and never as a response to CSE;**
- **Ensure secure accommodation is used as a measure of last resort and for the shortest appropriate period of time;**
- **Take measures to strengthen the rights of all children, but particularly children in care, to express their views in relation to how they should be protected from CSE.**

Possible questions

Does the Northern Ireland Executive intend to establish an Inquiry with full powers into child abuse as a result of systemic failings by institutions or the state in their duties towards those children in their care post 1995?

¹⁶⁴ <https://www.amnesty.org.uk/press-releases/kincora-fight-truth-goes-despite-court-decision-amnesty>

¹⁶⁵ <http://www.theguardian.com/uk-news/2016/mar/31/northern-ireland-dr-morris-fraser-report-alleges-cover-up>

¹⁶⁶ <http://www.belfasttelegraph.co.uk/news/northern-ireland/secret-files-in-arlene-arkinon-inquest-name-possible-suspect-and-false-witness-34459177.html>

¹⁶⁷ <http://www.bbc.co.uk/news/uk-northern-ireland-35564196>

¹⁶⁸ *Op Cit* 166

Does the Northern Ireland Executive intend to establish an Inquiry with full powers into child abuse of children by clergy in communities and parishes?

What steps have been taken to implement the recommendations of the Inquiry into Child Sexual Exploitation and the Thematic Review of Child Sexual Exploitation in Northern Ireland and when will the recommendations be fully implemented?

What additional resources have been allocated, beyond monies already allocated to children's services, to protect children from Child Sexual Exploitation in Northern Ireland?

What measures are being taken in Northern Ireland to ensure that comprehensive data on the extent of Child Sexual Exploitation is collected?

What measures are being taken in Northern Ireland to ensure that a comprehensive public health campaign takes place to raise awareness of Child Sexual Exploitation?

When will 'safe spaces' be established in Northern Ireland for children at risk of, or who have been the victims of, Child Sexual Exploitation?

Noting the Committee's previous Concluding Observation from 2008 (CRC/C/GBR/CO/4, para.29), can the State Party assure the Committee that national security grounds will not be used to stop the full disclosure of information which would be relevant to any form of investigation or inquiry into the abuse or death of children in Northern Ireland?

Part III

Data, statistics and other information, if available

1. Please provide up-to-date information on the consolidated budget regarding children and social sectors, if possible by indicating the percentage of each budget line in terms of the total national budget and gross national product and geographic allocation.

See: *Northern Ireland NGO Alternative Report*, p.9 – 10.

The majority of funding available to the NIE comes from a 'block grant' from the UK Government. The NIE decides how money is allocated, in terms of spending on children and social sectors. In delivering its budget for 2016 - 17, the NIE acknowledges that the UK Government's targets around deficit reduction have impacted the amount of funding available for public services at the UK level and ultimately affects the allocation for NI.¹⁶⁹ The NIE has stated that funding levels will decline in real terms in 2016-17 and over the coming years, restricting budgets for the delivery of services.¹⁷⁰ The Education Minister has described the resource budget for education in 2016 - 17 as "challenging" with a 0.8% reduction in school budgets (amounting to around £10 million)¹⁷¹ and with the education resource budget falling by 3.8% (£72.1 million).¹⁷² Whilst the budget for health was protected for 2016 - 17, it has also been stated that the Department of Health and its arms lengths

¹⁶⁹ 'Budget 2016 -17' Northern Ireland Executive, January 2016, p.18.

¹⁷⁰ *Ibid*, p.20.

¹⁷¹ <http://www.northernireland.gov.uk/news-de-020316-education-minister-confirms>

¹⁷² Budget 2016 – 17, Department of Education, 9th March 2016, para.9.

bodies will have to identify substantial savings in order to supplement the additional budget allocation and deliver services within the available budget.¹⁷³

In NI the amounts of money spent on children are usually not specified nor disaggregated from total expenditure.¹⁷⁴ In 2016, NICCY published research which analysed spending on children in NI in 2012/13. This found that £2.28 billion (22%) of departmental expenditure was for services for children, young people and their families. The research estimated that, on average, £5,175 was being spent on every child and young person in Northern Ireland annually, with the majority spent by the Departments of Education and Health. This analysis was of services where the beneficiaries were only children and their families, however.¹⁷⁵ The report also acknowledged that organisational barriers existed in undertaking the analysis and that it was difficult to determine how money was spent.¹⁷⁶ In reflecting on the research, the report suggested that further analysis would require further commitment from officials, a clear understanding of the benefits of such analysis by officials, a change in the way that budgets are currently categorised, and the adoption of an agreed method to facilitate comparisons with other jurisdictions.¹⁷⁷

The impact of austerity is a significant priority for NGOs, who believe that children's rights are being jeopardised.¹⁷⁸ Child rights impact assessments are not conducted in making budgetary allocations.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the UK Government should ensure that resources are allocated to the maximum extent possible and analyse spending on children across each jurisdiction of the State party. In addition, NI NGOs recommended that the NIA and NIE should allocate resources to the maximum extent possible for the implementation of children's rights, establish mechanisms to enable disaggregated analysis of spending on children and ensure child rights impact assessments are conducted.

Possible questions

What mechanisms are being established in Northern Ireland to collect data and enable disaggregated analysis of spending on children and young people?

What mechanisms are being put in place in Northern Ireland to ensure child rights impact assessments are conducted when budgetary allocations are made?

How will the Northern Ireland Executive ensure that resources are allocated to the maximum extent possible for the implementation of children's rights, in the context of reducing budgets for the delivery of services?

2. Please provide, if available, updated statistical data, disaggregated by age, sex, ethnic and national origin, geographic location and socioeconomic status, for the past three years, on:

¹⁷³ *Op Cit* 169, p.72.

¹⁷⁴ 'Children's Budgeting in Northern Ireland: An Exploratory Study' Dr Helga Sneddon, March 2014, p.11

¹⁷⁵ 'Fund-Mapping: The Investment of Public Resources in the Wellbeing of Children and Young People in Northern Ireland', Kemp, Ohlson, Raja, Morpeth, Axford, NICCY, October 2015, p.9.

¹⁷⁶ *Ibid*, p.12.

¹⁷⁷ *Ibid*, p.14 – 15.

¹⁷⁸ Consultation workshop, 13th November 2014.

(a) The number of antisocial behaviour orders and civil injunction and dispersal orders issued against children under the Anti-social Behaviour, Crime and Policing Act of 2014;

See: *Northern Ireland NGO Alternative Report*, p.16 - 17.

In NI, the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014 relating to anti-social behavior orders (ASBOs), civil injunctions and dispersal orders do not apply. Instead, ASBOs in Northern Ireland can be imposed on children aged 10 and over under the Anti-Social Behaviour (Northern Ireland) Order 2004 if the court is satisfied that the child has acted in a way that has caused, or was likely to cause “*harassment, alarm or distress*”.¹⁷⁹ The subjective nature of this definition of anti-social behavior has caused concern, as has the fact that reporting restrictions do not automatically apply in ASBO proceedings, and are, under the relevant legislation, instead at the discretion of the courts.¹⁸⁰ This is particularly concerning in this jurisdiction where non-state forces continue to operate and to ‘police’ ‘anti-social behaviour’ in certain areas. Under the NI legislation, ASBOs can also be made on an interim basis, prior to determining the application for a full ASBO. This can be done without notice being given to the defendant.¹⁸¹

Figures provided by the PSNI, one of the bodies within NI with the power to apply for an ASBO against a child, show that from 2012 until June 2015, 11 full ASBOs were made against under 18s. All 11 ASBOs were made against male children. 7 full ASBOs were made against children aged 10 – 15.¹⁸² 1 interim ASBO was made against a child in 2013 and 2 in 2014.¹⁸³

Worryingly, a breach of an ASBO, which is a civil order, remains a criminal offence with a potential custodial sentence if breached.¹⁸⁴ Between 2012 – 2015, the PSNI recorded 151 breaches of ASBOs by children. In 79 instances, the PSNI took further action, such as the child being prosecuted for breach of an ASBO.¹⁸⁵

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIE and NIA should legislate to prohibit the use of ASBOs against children.

Possible Questions

Further to the recommendation of the Committee in 2008 (CRC/C/GBR/CO/4, para.80), when will the NIA legislate to abolish the application of ASBOs to children?

(b) The number of incidents where taser guns, attenuating energy projectiles and rubber or plastic bullets were used against children;

See: *Northern Ireland NGO Alternative Report*, p.15.

¹⁷⁹ Article 3.

¹⁸⁰ Article 8.

¹⁸¹ Article 4.

¹⁸² Information received from PSNI, 10th February 2016.

¹⁸³ Information received from PSNI, 16th March 2016.

¹⁸⁴ Article 7, *Anti-Social Behaviour (Northern Ireland) Order 2004*.

¹⁸⁵ Information received from PSNI, 16th March 2016. These figures may be subject to change and are not final validated statistics.

The PSNI introduced Tasers for use in Northern Ireland in 2008 despite a complete lack of independent medical evidence on the use of Tasers and in particular their impact on children, including children with disabilities and mental health needs. A recent inquest into the death of a man in England in 2013 concluded that the use of a Taser to restrain him was a factor in the man's death. Following the inquest verdict, an independent review has been ordered by the National Police Chiefs Council into the safety of Tasers.¹⁸⁶ NGOs believe their use against children should be immediately prohibited.

Within its replies to the List of Issues, the State Party sets out that in NI between 2012 and 2015, Tasers were used between 5 - 10 times per year on children.¹⁸⁷ These figures show that Tasers were used¹⁸⁸ in NI against children on 5 occasions in 2012, 10 in 2013, 9 in 2014 and on 6 occasions in 2015.¹⁸⁹

We note that within the State Party report to the Committee, the UK Government refers to Tasers as "*less lethal*" weapons.¹⁹⁰ The PSNI classifies Tasers as 'less lethal' weapons with a lower test for deployment than for plastic bullets (AEPs).¹⁹¹ The test as to whether a Taser should be discharged is a lesser test than that for the discharge of conventional firearms including plastic bullets, suggesting that Tasers will not be used in place of conventional firearms, but rather **before** conventional firearms or plastic bullets would be used. CLC has raised and continues to raise serious concerns about the 'less-lethal' nature of the Taser especially in the absence of medical evidence regarding their impact on children.

Despite the fact that 9 children in NI were killed by rubber and plastic bullets, and medical evidence which states that AEPs are potentially more lethal than their predecessors,¹⁹² the PSNI continues to use Attenuating Energy Projectiles (AEPs) in NI. NGOs believe that AEPs should never be used against children or in public order situations where children are present. Within its replies to the List of Issues, the State Party sets out that in NI between 2012 and 2015, AEPs were used between 0 – 9 times per year on children.¹⁹³ These figures show that AEPs were used¹⁹⁴ against children 9 times in 2013, 5 times in 2014 and 3 times in 2015.¹⁹⁵

As the Committee will be aware, a number of clear recommendations have been made by both the Committee on the Rights of the Child and the UN Committee against Torture in relation to the use of plastic bullets in NI. In 2002, the Committee on the Rights of the Child

¹⁸⁶ <http://www.bbc.co.uk/news/uk-england-manchester-33464348>

¹⁸⁷ *Op Cit* 11, para.120.

¹⁸⁸ The use of a Taser refers not only to a Taser being fired at a child, but also being drawn/aimed/red dotted/stun drive (Information received from PSNI, 10th February 2016).

¹⁸⁹ Information received from PSNI, 10th February 2016. 2015 figures refer to the period from 1st April 2015 until 30th September 2015 and are provisional and subject to change.

¹⁹⁰ *Op Cit* 17, para.254.

¹⁹¹ The AEP has been defined as 'non-lethal' i.e. a lesser threat than Taser. However the PSNI has informed CLC that the test for the use of AEPs is higher than that for Taser "*The test for the use of AEPs in all situations is "absolute necessity", i.e. the same as for conventional firearms... PSNI considers AEP launchers and AEPs to be firearms and treats them as such in terms of the threshold for use, accountability, and reporting, etc.*" (Source: Correspondence between the Children's Law Centre and the PSNI, 15th April 2009).

¹⁹² In 2007, a study conducted by a group of doctors at four hospital emergency departments in Northern Ireland suggested that in fact the AEPs have actually caused more harm than the plastic bullets used previously (Maguire K et al 'Injuries caused by the attenuating energy projectile: the latest less lethal option' in *Emergency Medicine Journal* 2007; 24;103-105)

¹⁹³ Para.120.

¹⁹⁴ The use of an AEP here includes AEPs being pointed and fired (Information received from PSNI, 10th February 2016).

¹⁹⁵ Information received from PSNI, 10th February 2016. 2015 figures refer to the period from 1st April 2015 until 30th September 2015 and are provisional and subject to change.

expressed concern at the continued use of plastic bullets (baton rounds) as a means of riot control in NI, on the basis that they cause injuries to children and may jeopardise their lives. The Committee urged that the use of plastic baton rounds as a means of riot control be abolished,¹⁹⁶ following the recommendation of the Committee against Torture in 1999.¹⁹⁷

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIE and NIA should prohibit the use of Tasers and AEPs against children and in all circumstances where children are present and at risk of being harmed.

Possible Questions

Further to the recommendation of the Committee in 2008 (CRC/C/GBR/CO/4, para.31) when will the use of devices such as AEPs and Tasers against children be totally prohibited, including in the policing of public order situations in Northern Ireland where children are present and at risk of harm?

(c) *The number of stop-and-search checks carried out on children;*

Within its replies to the List of the Issues, the State Party highlights that in NI the number of under-18s stopped and searched under all police powers fell from 5,065 in 2012 to 4,505 in 2014.¹⁹⁸ However, from 1st April 2015 to 30th September 2015, 3,269 under 18s were stopped, searched or questioned, suggesting that figures may rise in 2015.¹⁹⁹

In NI, children still represent a disproportionately high proportion of persons stopped and searched by the PSNI. Between 1st April 2013 and 31st March 2014, 5,482 under 18's were stopped, searched or questioned by the PSNI, representing 16.82% of the overall number of persons stopped, searched or questioned.²⁰⁰ Between 1st April 2014 and 31st March 2015, 4,330 under 18s were stopped and searched, or stopped and questioned, representing 16% of the overall number of persons stopped and searched or stopped and questioned.²⁰¹ The PSNI has also previously reported that there was a 9.6% increase in the number of stop and searches involving young people in 2013/14 compared to 2011/12.²⁰²

In addition, serious concerns exist around the fact that some children who are subject to 'stop and search' by the PSNI are below the minimum age of criminal responsibility.²⁰³

¹⁹⁶ *Op Cit* 49, paras.27 – 28.

¹⁹⁷ United Nations Committee against Torture, Report of the Committee against Torture, A/54/44, 26th June 1999, para.77(d).

¹⁹⁸ *Op Cit* 11, para.118(c)

¹⁹⁹ Information supplied by PSNI, 10th February 2016. These figures are provisional and subject to change. All persons may not necessarily have been stopped, searched or questioned, but may have been in the presence of a stop and search.

²⁰⁰ Statistics Branch, Police Service of Northern Ireland, http://www.psni.police.uk/2013-14_fy_stop_and_search_report__internet_.pdf

²⁰¹ 'Stop and Search Statistics – Financial Year 2014/15, 1st April 2014 to 31st March 2015', Police Service of Northern Ireland, 28th May 2015, p.2.

²⁰² 'Children and Young People's contact with Police – Five Year Trend Analysis', Police Service of Northern Ireland, March 2015, p.18.

²⁰³ The NIPB has noted that stop and search of very young children continues to occur, with 12 children aged 10 and under being stopped and searched in 2011/12 and 14 being stopped and searched in 2012/13 ('Human Rights Annual Report 2013' Northern Ireland Policing Board, p.38).

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the PSNI should ensure that children under the age of 10 are never subject to 'stop and search' and fully investigate the reasons why children are disproportionately subject to 'stop and search'.

Possible Questions

Why do children in Northern Ireland represent a disproportionately high number of persons subject to 'stop and search' and what actions are being taken to address this by the PSNI?

Why are children below the minimum age of criminal responsibility subject to 'stop and search' in Northern Ireland and what actions are being taken to end this practice?

What training is given to the PSNI in relation to children's rights?

(d) The number of child victims of violence carried out by non-State actors involved in paramilitary-style attacks in Northern Ireland;

See: *Northern Ireland NGO Alternative Report*, p.15.

Paramilitary-style attacks are usually carried out by Loyalist or Republican non-state forces on members of their own communities as 'punishment'. Within its replies to the List of Issues, the State Party outlines that in 2012, 6 children were victims of such attacks, with 3 victims in 2013 and 5 in 2014.²⁰⁴ The PSNI has indicated that between 1st April 2015 and 30th November 2015, 1 child was recorded as a casualty of a paramilitary style attack.²⁰⁵

It should be noted that these statistics only include those incidents that are brought to the attention of police and some incidents may not have been reported. Research has shown that children and young people report fear of, or actual experience of, paramilitary threat.²⁰⁶ The Northern Ireland Association for the Care and Resettlement of Offenders provides statistics for the number of people forced into exile out of their communities by non-state groups. In 2009 they recorded 850 such cases.²⁰⁷ NGOs emphasise the serious threat paramilitaries continue pose to children in NI.

In November 2015, it was agreed that the UK Government would release an additional £25 million over the next five years to tackle continuing paramilitary activity in NI, after the NIE agrees a strategy to address continuing paramilitary activity. This funding will be matched by the NIE.²⁰⁸

²⁰⁴ *Op Cit* 11.

²⁰⁵ Information received from PSNI, 10th February 2016. These figures are provisional and subject to change.

²⁰⁶ McAlister, S., Scraton, P. and Haydon, D. (2009) 'Childhood in Transition: Experiencing Marginalisation and Conflict in Northern Ireland, Belfast: QUB/ Save the Children/ Princes Trust; Harland, K. (2011) 'Violent Youth Culture in Northern Ireland: Young Men, Violence and the Challenges of Peacebuilding', *Youth and Society*, Vol 43, No. 2, p414 - 432 ; McAlister, S. and Carr, N. (2014) 'Experiences of Youth Justice: Youth Justice Discourses and their Multiple Effects', *Youth Justice*, Vol. 14, No. 3, p241 – 254.

²⁰⁷ http://www.niacro.co.uk/filestore/documents/current_issues/CSI_response_Oct_2010.pdf

²⁰⁸ 'A Fresh Start: The Stormont Agreement and Implementation Plan', Northern Ireland Executive, November 2015, para.8.2 – 8.3.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIE and NIA should intensify efforts to address paramilitary attacks against children, ensuring that children feel confident enough to report such attacks to the police.

Possible Questions

What steps do the Northern Ireland Assembly and Northern Ireland Executive intend to take to address continuing paramilitary attacks, or fear and/or threat of such attacks against children, including through any new strategy to address paramilitary activity, and what level of funding will these efforts receive? How much funding will be ring-fenced for work to protect children?

(e) The number and proportion of care leavers having access to employment, education, training and adequate housing;

See: *Northern Ireland NGO Alternative Report*, p.20

In NI, the Children (Leaving Care) Act (Northern Ireland) 2002 amended the Children (Northern Ireland) Order 1995 to place duties on HSC Trusts to support young people who are leaving care. For 16 and 17 year olds, who have been 'looked after' children for prescribed periods of time, these duties include preparing a pathway plan for the child and appointing a personal adviser, who should act as an advocate for the child or young person.²⁰⁹ However, surveys carried out by the Voice of Young People in Care (VOYPIC) between 2011 – 2013 suggested that a number of young people aged over 16 felt that they could not talk to their personal adviser, with a number also not being aware of their pathway plan.

Between 1st April 2014 – 31st March 2015, there were 289 care leavers aged 16 - 18 in NI, an increase on the previous two years.²¹⁰ 14% of care leavers aged 16 - 18 in 2014/15 had a statement of special educational needs (SEN), 5% lower than the proportion in 2013/14 (19%). This represented a higher proportion than the general school population however.²¹¹ In 2012/13, the proportion of care leavers aged 16 – 18 with a statement of SEN was 22%, compared to 4% of the general school population in Northern Ireland at that time.²¹²

A Personal Education Plan (PEP) should be completed for every looked after child, recording both the child's educational history, and identifying actions that should be taken to help the child fulfil their potential. Only 42% of care leavers aged 16 - 18 in 2014/15 had a completed PEP,²¹³ though this was a substantial increase on the previous year.²¹⁴ In 2014/15, 25% of care leavers left care with 5 GCSE's²¹⁵ (grades A*-C) or higher, an increase of 4% from 2013/14. The figure of 25% for 2014/15 compares very unfavourably with almost 79% achieving 5 GCSEs grades A* - C amongst general school leavers. 26% left care with

²⁰⁹ Article 34A, Children (Northern Ireland) Order 1995.

²¹⁰ 'Northern Ireland Care Leavers 2014/15', Department of Health, Social Services and Public Safety, 14th January 2016, p.10.

²¹¹ *Ibid*, p.13.

²¹² 'Northern Ireland Care Leavers 2012/13', Department of Health, Social Services and Public Safety, p.10.

²¹³ *Op Cit* 210, p.17.

²¹⁴ 'Northern Ireland Care Leavers 2013/14', Department of Health, Social Services and Public Safety, p.17.

²¹⁵ GCSE stands for General Certificate in Secondary Education. GCSEs are an academic qualification awarded for specified subjects. GCSE exams are generally taken by children in NI across a range of subjects at age 16.

no qualifications, compared with 1% of general school leavers.²¹⁶ Of the care leavers aged 16 – 18 for whom information was available in 2014/15, 61% were in education or training, 19% were unemployed, 8% were in employment (compared to 11% of 16 – 18 year olds in the general population), and 12% were economically inactive through caring responsibilities or sickness/disabilities.²¹⁷ These figures were broadly similar in 2013/14²¹⁸ and 2012/13.²¹⁹ In 2013/14, around 80% of young care leavers whose last placement was foster care were in education, training or employment,²²⁰ with this figure being around 90% in 2012/13.²²¹

In 2014/15, 37% of care leavers aged 16 - 18 were still living with their former foster carers. 19% were living with their parents, with 18% living independently. 11% of care leavers were living in supported accommodation and the remaining 15% of care leavers were divided between residential accommodation, living with friends, custody and other accommodation.²²² These figures were again broadly similar in 2013/14.²²³

HSC Trusts are also under legal duties to keep in touch with formerly looked after children after they turn 18. The appointment of a personal adviser must continue and the pathway plan for the young person must be kept under review.²²⁴ During the year ending 31st March 2015, there were 201 young people in Northern Ireland, who had been in care on 1st April 2012, and who reached their 19th birthday during the year ending 31st March 2015. This was a decline of 16% on the previous year.²²⁵

Amongst those care leavers aged 19 in contact with the HSC Trusts in 2014/15, 31% were living in independent accommodation, with 33% living with former foster carers (a significant increase on 2012/13 and 2013/14). 16% were living with their parents, relatives or friends and 15% were in supported lodgings. 5% of care leavers aged 19 were in other forms of accommodation, including custody.²²⁶

Excluding care leavers who were not in contact with their HSC Trust and whose economic activity was not known, 66% of care leavers aged 19 in 2014/15 were in education, employment or training.²²⁷ In 2014/15, 84% of those care leavers whose last placement type had been in foster care were in education, employment or training, compared to between 30% to 57% for all other placement types, such as residential care or independent living. 89% of 19 year olds currently living with their former foster carers were in education, employment or training, compared to between 30% to 76% of those living in all other placement types.²²⁸ Similar results in relation to foster care were also reported in 2013/14²²⁹ and 2012/13.²³⁰

²¹⁶ *Op Cit 210*, p.19.

²¹⁷ *Ibid*, p.23.

²¹⁸ *Op Cit 214*, p.23.

²¹⁹ *Op Cit 212*, p.24.

²²⁰ *Op Cit 214*, p.24.

²²¹ *Op Cit 212*, p.21.

²²² *Op Cit 210*, p.17.

²²³ *Op Cit 214*, p.17.

²²⁴ Article 34D, Children (Northern Ireland) Order 1995.

²²⁵ *Op Cit 210*, p.26 and p.50, Table 9.

²²⁶ *Ibid*, p.32.

²²⁷ *Ibid*, p.34.

²²⁸ *Ibid*, p.37.

²²⁹ *Op Cit 214*, p.37.

²³⁰ 'Northern Ireland Care Leavers Aged 19, 2012/13', Department of Health, Social Services and Public Safety, p.15.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIE and NIA should extend support for care leavers up to the age of 25.

Possible questions:

Within Northern Ireland, why do care leavers aged 16 – 18 continuously underachieve in education, compared to their peers, and what is being done to address this?

Within Northern Ireland, why do children whose last placement in care was in foster care outperform other groups of children aged 16 – 18 leaving care in education, or in terms of accessing employment or training, and what can be done to improve attainment levels in education and levels of access to employment or training for children in other placements?

What can be done to improve access to education, employment and training for care leavers aged 19 whose last placement type was not foster care, or who are not residing with former foster carers within Northern Ireland?

(f) *The number of girls subjected to female genital mutilation;*

See: *Northern Ireland NGO Alternative Report*, p.22

Difficulties have been noted in identifying the prevalence of female genital mutilation (FGM), due to the hidden nature of the crime.²³¹ This is reflected in the lack of data presented within the State Party replies to the List of Issues on the number of girls subjected to FGM in NI. NI NGOs have expressed concern at a lack of coordinated action on combating FGM in NI, and have highlighted the need for increased awareness-raising of the issue of FGM.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIE and NIA should:

- **Ensure one government department in NI co-ordinates the development of an FGM action plan;**
- **Ensure training is provided to develop the competence, knowledge and awareness of multi-disciplinary frontline staff from education, health, police and the voluntary sector to ensure all victims of FGM are identified and supported;**
- **Collect data on the level of FGM in NI and raise awareness of FGM in schools, health and social services and faith communities, encouraging reporting of FGM.**

Possible Questions

What action is being taken to collect data in respect of female genital mutilation of children in Northern Ireland?

What training is provided within Northern Ireland for professionals in education, health, police and the voluntary sector to help ensure that all child victims of female genital mutilation are identified and supported and what resources have been allocated to this?

²³¹ 'Multi Agency Practice Guidelines: Female Genital Mutilation' NI Executive, 2014, p.6.

What actions are being taken to raise awareness of female genital mutilation of children within Northern Ireland and encourage reporting of it?

What resources are being allocated across all services in Northern Ireland to address female genital mutilation, and which Government Department has responsibility for this?

(g) Mental health-care services for children, including: the number of children with mental health needs; the number of children on the waiting list for child and adolescent mental health-care services; average waiting times for specialist outpatient care; and the number of children with mental health needs admitted to adult wards of psychiatric hospitals, treated in assessment and treatment units, and detained in police cells;

See: *Northern Ireland NGO Alternative Report*, p.26 – 29

See response to Question 14 above

In NI the most recent official figures, which date from 1999, estimated that 20% of children under 18 years of age suffer significant mental health problems and that this comprises the commonest form of severe disability in childhood.²³² CLC believes that this figure may be higher. Research carried out with 752 children by youth@clc, CLC and Save the Children NI found that 27% of children surveyed stated they have had a concern about their mental health.²³³ The NIE does not provide disaggregated data in respect of mental health care services for children. Children living in areas most impacted by the conflict in NI, which are also areas of high socio economic need, are particularly vulnerable with regards to their mental health.

NI has one regional in-patient child and adolescent mental health service (the Beechcroft Regional Child and Adolescent Mental Health Inpatient Unit) which currently has capacity for 25 young people. In 2014/15, there were 156 admissions to this unit.²³⁴ The average length of stay within the unit during 2014/15 was 62.4 days,²³⁵ a slight reduction on 2013/14²³⁶ and similar to levels in 2012/13.²³⁷ There were 29 compulsorily detentions upon admission of children to hospitals during 2014/15, a slight increase on 2013/14,²³⁸ but slightly lower than levels reported in 2012/13.²³⁹

In February 2016, it was reported that there were 2,079 children waiting for an autism spectrum assessment in NI, with children waiting up to 94 weeks for a diagnosis in the Belfast HSC Trust area.²⁴⁰ It was also reported that since 2010, the number of referrals for autism assessments has nearly doubled from 1,500 to 2,800. In response to this, the Health Minister announced £2 million in additional funding per year for autism services in NI.²⁴¹

²³² Chief Medical Officer (1999), *Health of the public in NI: report of the Chief Medical Officer 1999: Taking care of the next generation*. Belfast: DHSSPS.

²³³ *Op Cit* 38.

²³⁴ 'Hospital Statistics – Mental Health and Learning Disability, 2014/15', September 2015, p.14.

²³⁵ *Ibid*, p.18.

²³⁶ 'Hospital Statistics – Mental Health and Learning Disability, 2013/14', November 2014, p.17.

²³⁷ 'Hospital Statistics – Mental Health and Learning Disability, 2012/13', p.16.

²³⁸ *Op Cit* 236, p.21.

²³⁹ *Op Cit* 237, p.18.

²⁴⁰ <http://www.belfasttelegraph.co.uk/news/northern-ireland/2000-northern-ireland-children-wait-up-to-20-months-for-autism-diagnosis-34412995.html>

²⁴¹ <http://www.bbc.co.uk/news/uk-northern-ireland-35573008>

Children continue to be admitted to and treated on adult psychiatric wards in NI. From January 2012 until December 2012 there were 91 admissions of children to adult psychiatric wards in Northern Ireland.²⁴² In 2014, 19 children were admitted to adult psychiatric wards.²⁴³ This is despite a commitment from the DHSSPS in 2009 that the Department would make age appropriate mental health detention of children a priority.²⁴⁴ The new Mental Capacity Bill does not explicitly prohibit the admission and treatment of children aged 16 and 17 or children aged under 16 on adult psychiatric wards.

Children in contact with the criminal justice system in Northern Ireland often have mental health concerns. CJINI has reported in 2015 that many of the children who enter the JJC are in poor physical and mental health.²⁴⁵ The Minister of Justice stated in November 2015 that in recent months, the proportion of children in the JJC with mental health concerns has fluctuated between 45% and 64%, and that at that time, 21% of YJA cases in the community were known to CAMHS.²⁴⁶

Information obtained by CLC highlights that between 1st January 2011 and 31st December 2013, the place of safety power under the Mental Health (Northern Ireland) Order 1986²⁴⁷ was applied by PSNI in relation to 7 children aged 17. A police station was used on 7 occasions as a place of safety during this period for children.²⁴⁸

Possible Questions

Within Northern Ireland, what budget is allocated to child and adolescent mental health services, what percentage does this represent of the total mental health budget, and what percentage does this represent of the total health budget?

Noting that the last official figures date from 1999 in Northern Ireland, when does the Government intend to collect comprehensive disaggregated data in respect of the number of children with mental-health needs?

What steps will be taken in Northern Ireland to prohibit the admission and treatment of children on adult psychiatric wards?

(h) Children facing relative income poverty, absolute poverty and combination of income poverty and material deprivation after housing costs (in absolute number and proportion among all children);

The latest child poverty data available for NI is from 2013/2014. At that time there were approximately 112,000 children in relative poverty after housing costs, which represented 26% of children in NI, an increase of four percentage points from the previous year. There were approximately 131,500 children in absolute poverty after housing costs, which represented 30% of children in Northern Ireland, again an increase of four percentage points

²⁴² Response to CLC Freedom of Information Requests to the five Health and Social Care Trusts.

²⁴³ Information obtained by CLC through response to freedom of information request to the DHSSPS, 11th March 2015.

²⁴⁴ Commitment by the Department of Health, Social Services and Public Safety Officials in Letter to CLC from Dr Maura Briscoe, 18th February 2009, at Mental Health and Mental Capacity Legislation Roundtable – Law Centre NI 27th February 2009 and CLC Mental Health Seminar, 21st October 2009.

²⁴⁵ *Op Cit* 55, p.42.

²⁴⁶ Answer to AQW 50675/11-16 (tabled 10th November 2015).

²⁴⁷ Under Article 130 of the 1986 Order, a police constable may remove a person to a place of safety where they appear to them to be suffering from a mental disorder and to be in immediate need of care or control, and if he thinks it necessary to do so in the interests of that person or for the protection of other persons. The person is detained in the place of safety in order to be medically examined.

²⁴⁸ Information received from PSNI, 24th March 2014.

from the previous year. There were approximately 53, 400 children falling below thresholds of low income and material deprivation, which represented 12% of children in Northern Ireland.²⁴⁹

(i) Child malnutrition, including undernutrition and overnutrition and micronutrition deficiencies;

In 2013/14, childhood obesity levels for Primary 1 pupils (aged 4 – 5) in NI were 5.8% for girls and 4.2% for boys. For year 8 pupils (aged 11 – 12), obesity rates were 6.7% for girls and 8.5% for boys. However, Primary 1 obesity was 86% higher in the most deprived areas compared to the least deprived areas. The inequality gap for year 8 pupils was 62% between the most deprived areas and the least deprived areas.²⁵⁰

(j) Number of children using food banks;

The Department for Social Development does not record either the number of food banks in operation in NI or the number of people who have used food banks.²⁵¹ However, some of the food banks operating in NI monitor their own usage, which provides an indication of the numbers of children accessing emergency food. In the 12 months prior to April 2015, 7,571 children in NI received three days' emergency food from Trussell Trust food banks alone, an increase from 5,224 children the year before and from 884 children between April 2012-2013.²⁵²

(k) The number of homeless children, including those placed in temporary accommodation, such as a bed and breakfast, for more than six weeks;

See: *Northern Ireland NGO Alternative Report* p.21 and 66

See response to Question 17 above.

(l) The number of children with disabilities and special educational needs who attend mainstream schools, attend special classes or units in mainstream or special schools, or are out of school, disaggregated, if possible, by the type of impairment and disorder;

See: *Northern Ireland NGO Alternative Report* p.31 – 38

In March 2016, it was reported that approximately 74,750 children in Northern Ireland are registered as having SEN. This is 22% of the entire school population and represents an increase of nearly 25,000 since 2003/4. Statements of SEN are held by 16,500 children.²⁵³

Significant investment is required to implement the right to an effective education for children with SEN and disabilities. Pupils with SEN are increasingly being educated in mainstream

²⁴⁹ Northern Ireland Statistics and Research Agency, Households Below Average Income Northern Ireland, 2013-14.

²⁵⁰ Health Inequalities in Northern Ireland: Key Facts 2015, DHSSPS.

²⁵¹ See Northern Ireland Assembly Question [AQW 52840/11-16](#)

²⁵² Trussell Trust statistics are available at www.trusselltrust.org. Statistics from Trussell Trust demonstrate the number of children to whom the Trussell Trust foodbanks have given three days' emergency food. These are not necessarily unique users. On average, people need two foodbank vouchers in a year.

²⁵³ 'Annual enrolments at schools and at funded pre-school education in Northern Ireland, 2015/16' Department of Education, March 2016, p.11.

schools, with only approximately 5,200 pupils attending special schools and 1,700 in learning support centres attached to mainstream schools.²⁵⁴

A significant proportion of children with SEN require health services to enable access to the curriculum. There is no mandatory legal duty upon the health services to provide for the educational needs of children if requested to do so by the education authorities. As a result, there is a lack of cooperation between health and education authorities in the provision made for children with SEN both in mainstream and in special schools, resulting in delays in or refusals of service provision for vulnerable children. In 2013/14 only 31.5% of children with a statement of SEN achieved 5 A* - C GCSEs. 58.6% of children with SEN who did not have a statement achieved 5 A* - C GCSEs, in comparison to 84.7% of children without SEN.²⁵⁵

Concerns have also been raised that children with SEN and disabilities are routinely 'informally' excluded from school in NI, with such exclusions not formally documented or reported to the education authorities, resulting in a lack of data being available. CLC's casework indicates cases of unlawful exclusions in relation to children with a learning difficulty, based on resource shortfalls or delay/failure to identify the child's needs and plan interventions to enable school attendance and inclusion. NGOs are further concerned that formal suspension is being used to punish and exclude children with SEN and disabilities when specialist support is the appropriate response (see *Northern Ireland NGO Alternative Report*, p.33 – 34).

Concerns are also emerging around the allocation of services based on 'equity' (treating all children the same and allocating standard amounts of resource), without sufficient regard to the need to ensure the promotion of equality of opportunity for children with SEN and disabilities based upon individual need.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIE and NIA should:

- **Allocate additional resources to enable inclusion and access and reduce the effect of a child's social background and minimise the impact of disability on their achievement within school;**
- **Ensure that children out of school receive timely, quality alternative education; increase the level of provision and the breadth of courses available and provide education which takes account of a child's SEN;**
- **End 'informal' exclusions from school, which particularly affect children with disabilities and SEN, for whom additional support should be provided; introduce an appeals mechanism against formal suspensions and exclusions and monitor the number and groups of children who experience informal exclusions;**
- **Ensure that health and education bodies cooperate in meeting the needs of children with SEN through the introduction of a robust enforceable statutory duty to cooperate;**

²⁵⁴ *Ibid*, p.11.

²⁵⁵ 'Qualifications and Destinations of Northern Ireland School Leavers 2013/14' Department of Education, May 2015.

Possible Questions

What additional resources are being provided in Northern Ireland to ensure that children with special educational needs and disabilities enjoy the right to an effective education, given that increasing numbers of children are being identified as having special educational needs?

In relation to the development of new policies designed to provide regional consistency in resource allocation to children with special educational needs in Northern Ireland, what steps have been taken to ensure resources are allocated in a manner which will recognise individual needs?

What actions are being taken to ensure that children with special educational needs and disabilities are not unlawfully informally or formally excluded from schools in Northern Ireland?

What actions are being taken in Northern Ireland to ensure that health and education authorities cooperate in providing services for children to ensure their right to an effective education?

(m) The number of children in conflict with the law prosecuted in youth courts, prosecuted in adult courts, and diverted from prosecution;

See: *Northern Ireland NGO Alternative Report*, p.44 – 45

See response to Question 8 above

Children in conflict with the law in NI are generally prosecuted through a Youth Court system. However, children in NI may still be tried in the Crown Court.²⁵⁶ In 2014, there were 2,050 youth defendants disposed of within the Youth Court. This represents a 9% decrease from the total number of youth defendants disposed of in 2013 (2,256).²⁵⁷ In turn, the number of youth defendants disposed of in 2013 represented a 9% decrease on the number disposed of in 2012 (2,486).²⁵⁸ In relation to the number of children prosecuted in adult courts, in 2014, 30 young people were sent for trial in the Crown Court,²⁵⁹ compared to 32 in 2013,²⁶⁰ and 43 in 2012.²⁶¹

In NI, a variety of options exist to divert children from the formal court process. These include informed warnings,²⁶² restorative cautions²⁶³ and diversionary youth conferences²⁶⁴ and are available where a child admits their involvement in the offence. As outlined above, whilst these diversionary measures are not convictions, they are recorded on a young person's criminal record for certain periods of time and can potentially be disclosed as part of a future criminal records check. NGOs are concerned that many children accepting

²⁵⁶ Criminal Justice (Children) Northern Ireland Order 1998, Article 17

²⁵⁷ 'Judicial Statistics 2014', Northern Ireland Courts and Tribunal Service, June 2015, p.86.

²⁵⁸ 'Judicial Statistics 2013', Northern Ireland Courts and Tribunal Service, June 2014, p.85.

²⁵⁹ Op Cit 257, p.87.

²⁶⁰ Op Cit 258, p.86.

²⁶¹ 'Judicial Statistics 2012', Northern Ireland Courts and Tribunal Service, June 2013, p.85.

²⁶² An informed warning is administered by the PSNI and involves a child being warned about their future conduct.

²⁶³ These may involve the child meeting the victim to discuss the impact of the offence on them.

²⁶⁴ Diversionary youth conferences are facilitated by the YJA. When the YJA receives a youth conference referral, it will make arrangements for a youth conference to be held. At the conference, a suggested youth conference plan will be agreed, which is then sent to the Public Prosecution Service for approval. Once approved, the young person is required to complete the elements within the plan within a given time period.

diversion within the criminal justice system will not have received independent legal advice before doing so, and may not fully appreciate the implications of accepting diversion.

Over a four year period from 2012 until 2015, the PSNI administered informed warnings on 2114 occasions to children aged 10 – 17 in NI. 2488 restorative cautions were administered to children aged 10 – 17 over the same period.²⁶⁵ The YJA publishes statistics relating to the number of referrals it receives from the Public Prosecution Service in relation to children diverted from the formal court process as well as children referred to it having gone through the formal court process.²⁶⁶ In 2014/15, the YJA received 1563 referrals relating to 873 children, from both the Public Prosecution Service (which would relate to diversionary measures) and the courts. This compared to 1846 referrals relating to 977 children in 2013/14 and 1675 referrals relating to 1039 children in 2012/13.²⁶⁷ In 2014/15, 42% of these referrals related to diversionary measures, compared to 47% in 2013/14 and 51% in 2012/13.²⁶⁸

NGO Recommendations

In the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the NIA and NIE should ensure that all children in contact with the criminal justice system receive independent legal advice;

Possible Questions

What measures are being taken by the authorities in Northern Ireland to ensure that children being detained in, or otherwise attending police stations (e.g. to be interviewed voluntarily) access legal advice?

What measures are being taken by authorities in Northern Ireland to ensure that children being offered diversionary disposals access independent legal advice before accepting such measures, given that these may be disclosed as part of a future criminal records check?

When do authorities in Northern Ireland intend to begin collecting and publishing disaggregated data on the numbers of children accessing independent legal advice whilst detained in, or otherwise attending police stations (e.g. to be interviewed voluntarily) and before accepting diversionary measures?

(n) *The number of children subjected to solitary confinement or segregation in custody and the length of such confinement or segregation;*

As the Committee will be aware, in March 2015, the UN General Assembly Human Rights Council considered a report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment which raised a number of concerns about children deprived of their liberty. A particular issue was the use of solitary confinement as a disciplinary or 'protective' measure. In accordance with the views of the Committee against Torture, the Subcommittee on Prevention of Torture, and the Committee on the Rights of the Child, the Special Rapporteur affirmed that "*the imposition of solitary confinement, of any*

²⁶⁵ Information received from PSNI, 15th March 2016.

²⁶⁶ 'Annual Workload Statistics 2014/15', Youth Justice Agency, 25th September 2015, p.14. The YJA highlight that these figures do not reflect the number of plans/orders made by PPS or the courts, as young people may withdraw their consent and therefore be given another disposal, or an agreement can be reached at the conference for no further action to be taken against the young person i.e. a plan is not required.

²⁶⁷ *Ibid*, p.14.

²⁶⁸ *Ibid*, p.15.

duration, on children constitutes cruel, inhuman or degrading treatment or punishment or even torture".²⁶⁹ The Special Rapporteur argued that, because of the unique vulnerability of children deprived of their liberty, specific attention should be paid to practices and issues such as segregation, the organisation and administration of detention facilities, disciplinary sanctions, opportunities for rehabilitation, the training of specially qualified personnel, family support and visits, the availability of alternative measures, and adequate monitoring and oversight.²⁷⁰

Children detained within custody at the JJC in NI can be separated from others within their residential group, normally by going to their bedroom. CJINI has suggested that this is done in an effort to reduce tensions. It has reported that in 2013 - 14, there were 571 single separations, compared to 643 in 2012 and 725 in 2011.²⁷¹ CJINI has previously reported on the JJC imposing a restricted regime in 2014, involving children being locked in their rooms for periods of time in response to incidents, in order to reassert control and provide respite to staff.²⁷²

Children in secure care at the Lakewood Regional Secure Care Centre consulted with in the development of the *Northern Ireland NGO Alternative Report* suggested that separations are used within the Centre, with young people sent to their rooms for periods of time, as an alternative to employing restraint. The South Eastern HSC Trust, which has responsibility for the provision of the Regional Secure Care Service at Lakewood, has confirmed that if a young person requires time and space to calm they may be asked to move to one of the lounge areas within Lakewood or their bedroom. In addition, when young people arrive in Lakewood, they are separated from other young people within the Centre for the first 24 hours. The South Eastern HSC Trust has provided numerous reasons for this practice, such as the lack of opportunity for young people to be gradually introduced to secure care until the point of their admission, and that young people are usually admitted to Lakewood in a state of crisis. They state that the young person will be gradually introduced to the other young people individually, or in a small group when they are physically and emotionally ready as assessed by staff. Other factors are also considered e.g. any increased risks within the resident group, or previous relationships that may be of concern when young people know one another prior to admission. The South Eastern HSC Trust states that the length of time for admission/introductions to be completed does not usually extend beyond the first 24 hours following admission (this is approximate) and may be less. One young person consulted within Lakewood discussed being separated as a response to mental health concerns. The South Eastern HSC Trust has stated that on occasions some of the young people admitted to secure care have significant mental health issues that require additional specialist supports and provision and that intensive supports, including short time away from other young people may be required.²⁷³

Possible Questions

When do authorities in Northern Ireland intend to begin collecting and publishing disaggregated data on the numbers of children subjected to solitary confinement or segregation in all places of deprivation of liberty and the length of such confinement or segregation?

²⁶⁹ Méndez, J.E. (2015) *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, A/ HRC/ 28/ 68, 5 March 2015, para.44.

²⁷⁰ *Ibid*, para.17.

²⁷¹ *Op Cit* 55, p.27.

²⁷² *Ibid*, p.28.

²⁷³ *Op Cit* 54.

What measures are being taken in Northern Ireland to ensure that children deprived of their liberty within the juvenile justice centre, secure care and mental health or learning disability facilities are not subject to solitary confinement, or are unnecessarily subject to practices such as separation and isolation as a disciplinary or protective measure?

(o) The number of children involved in sexual exploitation, pornography and trafficking, and the number of those children who were provided with access to recovery and social reintegration services.

See: *Northern Ireland NGO Alternative Report*, p.20 – 23, 40 – 43

See response to Question 22 above

There is no single mechanism in NI to record sexual exploitation or abuse of children. The Child Protection Register in each HSC Trust Area of NI lists every child in that area who has been abused, or who is at risk of being abused, and is subject to a child protection plan. At 31st March 2015, there were 1,969 children listed on the Child Protection Register in Northern Ireland.²⁷⁴ This was an increase on the numbers of children on the child protection register at 31st March 2014, (1,914) which had been the lowest number of children on the register since 2007.²⁷⁵ Sexual abuse was recorded as the least likely cause of a child being placed on the child protection register however.

NSPCC research however shows that there were 1,182 recorded sexual offences against children under the age of 18 in 2012/13 in NI. A fifth (236) were rapes or attempted rapes and nearly two-thirds (769) were sexual assaults or sexual activity with a child. The research found that the number of recorded offences and the offence rate had been increasing but that official statistics do not reflect the actual number of offences committed.²⁷⁶ In January 2014, the NSPCC also highlighted that in 2012 – 13, 377 sexual offences were recorded against under 10s, a 20% rise on the previous year.²⁷⁷ The NSPCC has recently obtained figures from the PSNI that indicate that of the 2,692 victims of sex offences in NI in the 2014/15 period, 733 (27%) were children aged 11 and under. 1,516 people under the age of 18 were recorded as being the victim of sexual crime over this period. 1,141 were girls and 374 were boys (in one case, gender was recorded as being unknown). The NSPCC state that this represented a 53% rise since 2011/12, which could be due to more young people having the confidence to come forward and an increased awareness of sexual abuse. However, the NSPCC added that the figure may not reflect the full number of children that have been abused, due to children being afraid to come forwards.²⁷⁸ 12 children were identified as being victims of abuse through prostitution and pornography offences in NI from 2012 – 2015.²⁷⁹ The Northern Ireland Sexual Assault Referral Centre (SARC),²⁸⁰ which opened in May 2013, had received 502 referrals by June 2014, 42% of which concerned under 18s.²⁸¹

²⁷⁴ 'Children's Social Care Statistics for Northern Ireland 2014/15', DHSSPS, 15th October 2015, p.15.

²⁷⁵ 'Children's Social Care Statistics Northern Ireland 2013/2014' DHSSPS, 16th October 2014, p.6

²⁷⁶ <http://www.nspcc.org.uk/globalassets/documents/research-reports/how-safe-children-2014-indicator-04.pdf>

²⁷⁷ <http://www.belfasttelegraph.co.uk/news/northern-ireland/child-sex-crimes-on-the-increase-29910119.html>

²⁷⁸ <http://www.bbc.co.uk/news/uk-northern-ireland-35762552>

²⁷⁹ Data for 2015 is up to 30th November 2015. Figures may be subject to change. Information supplied by PSNI, 10th February 2016.

²⁸⁰ This is a regional centre for Northern Ireland as a whole.

²⁸¹ *Op Cit* 151, p.53.

The National Referral Mechanism (NRM) introduced in 2009 established a multiagency framework for the agencies involved in trafficking cases. Figures suggest that the incidence of trafficked children in NI is small, with NI repeatedly making the lowest number of referrals to the NRM of any UK jurisdiction.²⁸² In 2015, NI referred 53 cases, the lowest number within the UK, representing 1.6% of the total number of cases referred. 13 referrals (25%) related to exploitation of minors.²⁸³ DoJ officials have estimated that two thirds of all victims are not identified through the NRM mechanism however.²⁸⁴ Challenges identified in this area include age disputes, children's reluctance to discuss their background and the possibility they may go missing from care.²⁸⁵ It is suggested that the threshold to confirm a case of child trafficking remains high, and that under-estimation of the extent of the problem occurs as a result. The need for enhanced training for professionals has also been highlighted to help identify victims of trafficking.

NGO Recommendations

Within the *Northern Ireland NGO Alternative Report*, NI NGOs recommended that the UK Government, NIE and NIA should:

- **Reduce delay in criminal cases involving child victims and witnesses; take steps to ensure that cross examination of children takes account of their age and vulnerabilities; safeguard the rights of child defendants to a fair trial;**
- **Ensure widespread and ongoing training for all public officials to ensure that all victims of child trafficking are identified. The threshold for confirming that a child has been a victim of trafficking should be reviewed and the reasons for the low number of referrals investigated.**

Possible questions

Given the increasing numbers of children being identified as victims of sexual crime in Northern Ireland, what actions are being taken to reduce the numbers of children suffering sexual abuse?

Given the increasing numbers of children being identified as victims of sexual crime in Northern Ireland, what additional resources and supports are being put in place for children going through the criminal justice process?

Given the low number of referrals made to the UK National Referral Mechanism what steps are being taken in Northern Ireland to ensure that all child victims of trafficking are identified?

²⁸² 'National Referral Mechanism Statistics – End of Year Summary 2014' National Crime Agency, 19th January 2015.

²⁸³ 'National Referral Mechanism Statistics – End of Year Summary 2015' National Crime Agency, 11th February 2016.

²⁸⁴ 'Amending Clause 12 of the Human Trafficking and Exploitation Bill - Policy Briefing Paper', NICCY and the Law Centre NI, 30th September 2014, p.2.

²⁸⁵ 'Separated children and child trafficking in Northern Ireland' Barnardo's Northern Ireland, NSPCC, September 2011, p.3.

ANNEX 1

2. Please update the Committee on the process of developing a bill of rights for the United Kingdom, including on how the process has involved consultation with children, civil society organizations and national human rights institutions in the State party, and how the bill will affect the protection of the rights of the child in accordance with the Convention, as compared to the Human Rights Act of 1998

Possible Questions

Given the importance of the Human Rights Act 1998 for the protection of rights in Northern Ireland, in a society transitioning from conflict, and given the obligations under the Good Friday/Belfast Agreement, how can the UK Government justify undermining human rights protections in Northern Ireland through the proposed repeal of the Human Rights Act 1998?

When will the UK Government proceed to legislate for a Bill of Rights for Northern Ireland, in compliance with its obligations under the Good Friday/Belfast Agreement, incorporating the principles and provisions of the CRC?

3. In the light of the Convention not being incorporated into the domestic law of the State party, please explain what progress has been made to give full effect to the Convention at the levels of the State and of each of the four nations, including measures taken to guarantee domestic remedies for breaches of the principles and rights provided under the Convention.

Possible Questions

When will the CRC be incorporated comprehensively into domestic legislation within Northern Ireland, including the provision of remedies for breaches of the principles and rights under the CRC?

When will a statutory and enforceable child rights impact assessment process be developed to ensure that legislation and policy affecting children in Northern Ireland is CRC compliant?

4. Please inform the Committee about the steps taken by the State party to ensure that the Children's Commissioners in England, Wales, Scotland and Northern Ireland are independent, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) and mandated, inter alia, to receive and investigate complaints from or on behalf of children concerning violations of their rights.

Possible Questions

When does the Northern Ireland Executive intend to bring forward amendments to the Commissioner for Children and Young People (Northern Ireland) Order 2003 to ensure that NICCY is Paris Principles compliant?

5. Please explain why children under the age of 18, or under the age of 16 in Northern Ireland, are excluded from age-discrimination legislation or from proposals for such laws.

Possible Questions

What is the legal justification for the exclusion of children aged under 16 from Age Discrimination (Goods, Facilities and Services) legislation in Northern Ireland?

When will the Northern Ireland Executive bring forward legislation prohibiting age discrimination in the provision of goods, facilities and services for all ages, including children aged under 16, in full compliance with their obligations under the CRC?

7. Please explain the measures taken to protect children, in particular Muslim children, from stigmatizing effects of the counter-terrorism measures.

Possible Questions

Noting the absence of Northern Ireland specific data within the State Party's replies to the List of Issues, within Northern Ireland, how many children are stopped and searched or stopped and questioned under powers contained within the Terrorism Act 2000 or the Justice and Security (Northern Ireland) Act 2007 and what proportion of the overall numbers of persons stopped and searched or stopped and questioned under these powers does this represent?

8. Please provide further information on the measures taken to ensure children's access to justice and the representation of children in civil and criminal proceedings in the context of cuts in the provision of free legal aid.

Possible Questions

Recognising children as autonomous rights holders, in need of special protection, what measures have the Northern Ireland Executive taken to protect children's right to access justice in the context of proposed cuts to legal aid?

When will legal aid be made available for children seeking representation at education tribunals in Northern Ireland?

What measures are being taken by the authorities in Northern Ireland to ensure that children being detained in, or otherwise attending police stations (e.g. to be interviewed voluntarily) access legal advice?

What measures are being taken by authorities in Northern Ireland to ensure that children being offered diversionary disposals access independent legal advice before accepting such measures, given that these may be disclosed as part of a future criminal records check?

9. Please explain why a youth parliament has not been established in Northern Ireland, and why support to the Funky Dragon in Wales has been withdrawn, resulting in its dissolution. Please explain the progress made in this area in the overseas territories and Crown dependencies.

Possible Questions

What steps are being taken currently to establish a youth assembly within Northern Ireland?

Given the serious concerns raised by NGOs and children in Northern Ireland that their voices are not heard in the development of policy, what steps are being taken to ensure that children's views are heard and taken into account by Government in Northern Ireland, in compliance with section 75 of the Northern Ireland Act 1998?

10. Please update the Committee on initiatives in England, Wales, Scotland and Northern Ireland to lower the voting age to 16.

Possible questions

What reason can the UK Government offer for not lowering the voting age to 16 for elections within its legislative competency?

Given that the power to set the voting age in Northern Ireland for elections to the Northern Ireland Assembly is vested in the UK Secretary of State for Northern Ireland, when does the Secretary of State for Northern Ireland intend to make provision to allow children aged 16 to vote in elections to the Northern Ireland Assembly in compliance with the will of the Northern Ireland Assembly?

11. Please provide information on how the State party intends to fulfil its obligation to remove all legal defences for corporal punishment of children in the home and all other settings throughout the State party, including the Crown dependencies and overseas territories.

Possible Questions

When will the Northern Ireland Assembly provide children with equal protection from assault by removing the defence of 'reasonable punishment' from Northern Ireland law in cases of corporal punishment of children?

Within Northern Ireland, when will a universal, agreed and fully resourced programme relating to all ages of children be introduced to assist parents in understanding appropriate alternatives to physical punishment?

12. Please provide further information on how the use of restraint is prohibited or restricted in education, custody, mental health, welfare and immigration institutions, both residential and non-residential, throughout the State party. Please also explain how compliance with such prohibition and restriction is monitored.

Possible questions:

When will a comprehensive review of the use of restraint in all settings in Northern Ireland be conducted, in line with the Committee's recommendation of 2002?

When will steps be taken to ensure that children aged under 16 with mental ill health and/or learning disabilities have equal access to children's rights compliant safeguards and protections in relation to the use of restraint?

What steps are being taken in Northern Ireland to ensure that restraint is only ever used as a measure of last resort, to prevent harm to the child or others, across all settings?

13. Please provide information on the causes of the recent increase in children placed in care. Please explain to the Committee why, reportedly, many children in care face frequent transfers, and provide information on measures that have been taken or envisaged in order to ensure stability and continuity of child placement. Please also provide information on measures taken to ensure that children in care have regular contact with their families when it is in their best interests.

Possible Questions

In Northern Ireland, when will the Government rigorously investigate the reasons why it has the highest numbers of children in care since the introduction of the Children (Northern Ireland) Order 1995, and what actions will be taken to address this?

In Northern Ireland, children in care that are not in foster care placements, such as children placed in residential care, are more likely to experience placement changes. What is the Government doing to ensure that children in all care placements enjoy safe, stable placements?

In Northern Ireland, what is the Government doing to ensure that all children in care have their Article 12 rights upheld in all aspects of their lives and will a statutory right to independent advocacy for children in care be introduced?

In Northern Ireland what is the Government going to do to address the repeated admission of children to secure care where they experience restrictions to their liberty?

14. Please provide further information on the measures taken or planned to meet the increase in demand for mental health-care services for children. Please include information on the human, technical and financial resources allocated to such services for prevention, early detection, treatment, recovery and reintegration, including to address child sexual abuse. Please explain how the best interests of the child are protected and how due consideration is given to the views of the child in cases of mental health treatment of children below the age of 16.

Possible Questions

Outside of Child and Adolescent Mental Health Service waiting lists, is up-to-date information collected, disaggregated and made available on the extent to which children within Northern Ireland have mental health concerns and/or a learning disability?

How will the significant underinvestment in Child and Adolescent Mental Health Services in Northern Ireland be addressed, ensuring equality of access to mental health services for children?

Why are under 16s excluded from the protections contained in the new Mental Capacity Bill in Northern Ireland, and given this exclusion, how will Government in Northern Ireland ensure that under 16s with mental ill-health and/or learning disabilities enjoy equal access to legislative protections and safeguards?

15. Please clarify whether sex and relationship education is provided in all education settings, including special schools for children with disabilities and special educational needs, and through education provided in the youth detention centres, such as young offender institutions and secure training centres. Please also clarify whether sex and relationship education includes information on how to access confidential sexual and reproductive health-care services, contraceptives, and support in cases of sexual abuse or exploitation.

Possible Questions

Noting the segregated nature of schools in Northern Ireland, and given that policies on Relationship and Sexuality Education are developed by schools, in line with their own ethos, what further actions does the Department of Education intend to undertake to ensure that consistent, comprehensive Relationship and Sexuality Education is delivered, which is CRC

compliant and sensitive to the needs of all pupils, such as LGB pupils, pupils with special educational needs, or children who have suffered, or who are vulnerable to abuse?

Within Northern Ireland, how is the delivery of Relationship and Sexuality Education being monitored to ensure that every school has a policy providing for this, which includes the provision of information on LGB relationships?

16. Please update the Committee on possible new legislation which is expected to replace the Child Poverty Act of 2010 and on its detailed content, as well as on how consultation with children and other stakeholders has been conducted in developing the legislation. Please indicate whether a child rights impact assessment has been conducted of the recent welfare reform, including the cap on household benefits and other reductions in benefits. Please also indicate the measures being taken to mitigate negative impact of this reform on the enjoyment of the rights of children, particularly those in vulnerable situations.

Possible Questions:

Given the potential impact of budget cuts and Welfare Reform on vulnerable children and low-income families, please explain how the Northern Ireland Executive intends to update, build upon and implement the Child Poverty Strategy to ensure it is comprehensive, costed and integrated, with proactive, meaningful, timed and measured actions set out in order to protect all children and families from poverty?

How many children in Northern Ireland are living in persistent poverty? Please explain why these figures are not published in Northern Ireland despite the statutory duty to do so?

17. Please provide further information on the measures taken to prevent child homelessness, including for children above the age of 16. Please clarify the measures taken to prevent children from being placed in temporary accommodation by public authorities for prolonged periods of time before having access to permanent accommodation.

Possible Questions

What steps are being taken in Northern Ireland to prevent child homelessness especially among 16 and 17 year olds?

What steps are being taken in Northern Ireland to ensure that accommodation is consistently provided for homeless children? What additional resources have been allocated to address this issue?

18. Please provide information on the efforts to end the segregation in education in schools in Northern Ireland and to end academic selection for post-primary education on the basis of transfer tests.

Possible Questions

What plans exist in Northern Ireland to introduce legislation that will completely prohibit academic selection for post-primary education and introduce a CRC compliant transfer system from primary to post-primary education?

Within Northern Ireland, how does the Government intend to plan for growth in integrated schools to meet parental demand and how will the Government ensure adequate capital

funding is allocated to integrated schools from monies pledged in the Stormont House Agreement for shared and integrated education?

19. Please explain how the best interests of the child are taken into account as a primary consideration in decisions involving migrant, asylum-seeking or refugee children, including with respect to age assessment, refugee status and residency permits. Please clarify how the asylum instruction on assessing age is consistent with the State party's overall policy to treat an age-disputed individual as a child until the assessment is completed (see CRC/C/GBR/5, para. 226).

Possible questions

Given the vulnerability of asylum-seeker families, or families which have failed in their asylum claims, to poverty, what does the UK Government and Northern Ireland Executive intend to do to protect the best interests of the child and protect children from poverty. Will they reverse the reductions and proposed withdrawals of support?

Noting the withdrawal of funding for independent, accessible, expert immigration advice what does the Northern Ireland Executive intend to do to ensure that children in immigration cases have access to such services?

Recognising the increased diversity of newcomer children coming to Northern Ireland, when will education policy and service provision for newcomer children be reviewed, updated and resourced to take account of the needs of all newcomer children, including children with limited formal educational experience and special educational needs, and what additional supports will be put in place for such children?

Given the legislative requirement to do so, when will an Independent Guardianship Service in Northern Ireland be established to assist, represent and support unaccompanied children entering Northern Ireland who are at risk of harm, or who may be victims of trafficking?

20. Please provide information on progress made in raising the minimum age of criminal responsibility, developing a broad range of alternative measures to detention for children in conflict with the law and ensuring that such children are never tried as adults in ordinary courts. Please also inform the Committee about progress made in establishing a juvenile justice system in Northern Ireland, the overseas territories and Crown dependencies. Please update the Committee on the design of Secure Colleges (see CRC/C/GBR/5, para. 263), highlighting how they will be made compatible with the Convention.

Possible Questions

Given the worrying relocation of the youth justice system within Northern Ireland with the adult Northern Ireland Prison Service, what actions are intended to ensure that the youth justice system is separate and distinct from the criminal justice system as it applies to adults, in compliance with the CRC, and is perceived as such?

When will legislation be introduced in Northern Ireland that ensures that custody is only ever used as a measure of last resort for children in conflict with the law, and never as a result of the child not being offered alternative accommodation?

What actions are being taken to introduce a range of appropriate accommodation options and supports across Northern Ireland to ensure that children, particularly children in the care system, are not placed in custody inappropriately?

When will legislation reforming the law relating to bail for children be introduced in Northern Ireland?

When will legislation prohibiting the detention of children alongside adults within the criminal justice system be introduced in Northern Ireland?

What reforms are planned to the system for retaining and disclosing criminal records in Northern Ireland, to ensure compliance with international standards?

What actions are being taken to ensure that children in Northern Ireland who come in contact with the criminal justice system have access to independent legal advice at all stages in the criminal process and before they admit to any criminal offence or agree to any form of diversion?

What actions are being taken to raise the minimum age of criminal responsibility in Northern Ireland?

22. With respect to the concluding observations on the report submitted by the State party under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/GBR/CO/1), please update the Committee on the measures taken or planned to implement its recommendations. Please also update the Committee on any follow-up to the recent inquiries on child sexual abuse and exploitation, including child sexual exploitation by gang groups in Rotherham (Jay inquiry) and sexual abuse by the clergy (Goddard inquiry).

Possible questions

Does the Northern Ireland Executive intend to establish an Inquiry with full powers into child abuse as a result of systemic failings by institutions or the state in their duties towards those children in their care post 1995?

Does the Northern Ireland Executive intend to establish an Inquiry with full powers into child abuse of children by clergy in communities and parishes?

What steps have been taken to implement the recommendations of the Inquiry into Child Sexual Exploitation and the Thematic Review of Child Sexual Exploitation in Northern Ireland and when will the recommendations be fully implemented?

What additional resources have been allocated, beyond monies already allocated to children's services, to protect children from Child Sexual Exploitation in Northern Ireland?

What measures are being taken in Northern Ireland to ensure that comprehensive data on the extent of Child Sexual Exploitation is collected?

What measures are being taken in Northern Ireland to ensure that a comprehensive public health campaign takes place to raise awareness of Child Sexual Exploitation?

When will 'safe spaces' be established in Northern Ireland for children at risk of, or who have been the victims of, Child Sexual Exploitation?

Noting the Committee's previous Concluding Observation from 2008 (CRC/C/GBR/CO/4, para.29), can the State Party assure the Committee that national security grounds will not be used to stop the full disclosure of information which would be relevant to any form of investigation or inquiry into the abuse or death of children in Northern Ireland?

Part III

Data, statistics and other information, if available

1. Please provide up-to-date information on the consolidated budget regarding children and social sectors, if possible by indicating the percentage of each budget line in terms of the total national budget and gross national product and geographic allocation.

Possible questions

What mechanisms are being established in Northern Ireland to collect data and enable disaggregated analysis of spending on children and young people?

What mechanisms are being put in place in Northern Ireland to ensure child rights impact assessments are conducted when budgetary allocations are made?

How will the Northern Ireland Executive ensure that resources are allocated to the maximum extent possible for the implementation of children's rights, in the context of reducing budgets for the delivery of services?

2. Please provide, if available, updated statistical data, disaggregated by age, sex, ethnic and national origin, geographic location and socioeconomic status, for the past three years, on:

(a) The number of antisocial behaviour orders and civil injunction and dispersal orders issued against children under the Anti-social Behaviour, Crime and Policing Act of 2014;

Possible Questions

Further to the recommendation of the Committee in 2008 (CRC/C/GBR/CO/4, para.80), when will the NIA legislate to abolish the application of ASBOs to children?

(b) The number of incidents where taser guns, attenuating energy projectiles and rubber or plastic bullets were used against children;

Possible Questions

Further to the recommendation of the Committee in 2008 (CRC/C/GBR/CO/4, para.31) when will the use of devices such as AEPs and Tasers against children be totally prohibited, including in the policing of public order situations in Northern Ireland where children are present and at risk of harm?

(c) The number of stop-and-search checks carried out on children;

Possible Questions

Why do children in Northern Ireland represent a disproportionately high number of persons subject to 'stop and search' and what actions are being taken to address this by the PSNI?

Why are children below the minimum age of criminal responsibility subject to 'stop and search' in Northern Ireland and what actions are being taken to end this practice?

What training is given to the PSNI in relation to children's rights?

(d) The number of child victims of violence carried out by non-State actors involved in paramilitary-style attacks in Northern Ireland;

Possible Questions

What steps do the Northern Ireland Assembly and Northern Ireland Executive intend to take to address continuing paramilitary attacks, or fear and/or threat of such attacks against children, including through any new strategy to address paramilitary activity, and what level of funding will these efforts receive? How much funding will be ring-fenced for work to protect children?

(e) The number and proportion of care leavers having access to employment, education, training and adequate housing;

Possible questions:

Within Northern Ireland, why do care leavers aged 16 – 18 continuously underachieve in education, compared to their peers, and what is being done to address this?

Within Northern Ireland, why do children whose last placement in care was in foster care outperform other groups of children aged 16 – 18 leaving care in education, or in terms of accessing employment or training, and what can be done to improve attainment levels in education and levels of access to employment or training for children in other placements?

What can be done to improve access to education, employment and training for care leavers aged 19 whose last placement type was not foster care, or who are not residing with former foster carers within Northern Ireland?

(f) The number of girls subjected to female genital mutilation;

Possible Questions

What action is being taken to collect data in respect of female genital mutilation of children in Northern Ireland?

What training is provided within Northern Ireland for professionals in education, health, police and the voluntary sector to help ensure that all child victims of female genital mutilation are identified and supported and what resources have been allocated to this?

What actions are being taken to raise awareness of female genital mutilation of children within Northern Ireland and encourage reporting of it?

What resources are being allocated across all services in Northern Ireland to address female genital mutilation, and which Government Department has responsibility for this?

(g) Mental health-care services for children, including: the number of children with mental health needs; the number of children on the waiting list for child and adolescent mental health-care services; average waiting times for specialist outpatient care; and the number of children with mental health needs admitted to adult wards of psychiatric hospitals, treated in assessment and treatment units, and detained in police cells;

Possible Questions

Within Northern Ireland, what budget is allocated to child and adolescent mental health services, what percentage does this represent of the total mental health budget, and what percentage does this represent of the total health budget?

Noting that the last official figures date from 1999 in Northern Ireland, when does the Government intend to collect comprehensive disaggregated data in respect of the number of children with mental-health needs?

What steps will be taken in Northern Ireland to prohibit the admission and treatment of children on adult psychiatric wards?

(l) The number of children with disabilities and special educational needs who attend mainstream schools, attend special classes or units in mainstream or special schools, or are out of school, disaggregated, if possible, by the type of impairment and disorder;

Possible Questions

What additional resources are being provided in Northern Ireland to ensure that children with special educational needs and disabilities enjoy the right to an effective education, given that increasing numbers of children are being identified as having special educational needs?

In relation to the development of new policies designed to provide regional consistency in resource allocation to children with special educational needs in Northern Ireland, what steps have been taken to ensure resources are allocated in a manner which will recognise individual needs?

What actions are being taken to ensure that children with special educational needs and disabilities are not unlawfully informally or formally excluded from schools in Northern Ireland?

What actions are being taken in Northern Ireland to ensure that health and education authorities cooperate in providing services for children to ensure their right to an effective education?

(m) The number of children in conflict with the law prosecuted in youth courts, prosecuted in adult courts, and diverted from prosecution;

Possible Questions

What measures are being taken by the authorities in Northern Ireland to ensure that children being detained in, or otherwise attending police stations (e.g. to be interviewed voluntarily) access legal advice?

What measures are being taken by authorities in Northern Ireland to ensure that children being offered diversionary disposals access independent legal advice before accepting such measures, given that these may be disclosed as part of a future criminal records check?

When do authorities in Northern Ireland intend to begin collecting and publishing

disaggregated data on the numbers of children accessing independent legal advice whilst detained in, or otherwise attending police stations (e.g. to be interviewed voluntarily) and before accepting diversionary measures?

(n) The number of children subjected to solitary confinement or segregation in custody and the length of such confinement or segregation;

Possible Questions

When do authorities in Northern Ireland intend to begin collecting and publishing disaggregated data on the numbers of children subjected to solitary confinement or segregation in all places of deprivation of liberty and the length of such confinement or segregation?

What measures are being taken in Northern Ireland to ensure that children deprived of their liberty within the juvenile justice centre, secure care and mental health or learning disability facilities are not subject to solitary confinement, or are unnecessarily subject to practices such as separation and isolation as a disciplinary or protective measure?

(o) The number of children involved in sexual exploitation, pornography and trafficking, and the number of those children who were provided with access to recovery and social reintegration services.

Possible questions

Given the increasing numbers of children being identified as victims of sexual crime in Northern Ireland, what actions are being taken to reduce the numbers of children suffering sexual abuse?

Given the increasing numbers of children being identified as victims of sexual crime in Northern Ireland, what additional resources and supports are being put in place for children going through the criminal justice process?

Given the low number of referrals made to the UK National Referral Mechanism what steps are being taken in Northern Ireland to ensure that all child victims of trafficking are identified?

ANNEX 2

LIST OF ABBREVIATIONS

AEPs – Attenuating Energy Projectiles

ASBOs – Anti-Social Behaviour Orders

CAMHS – Child and Adolescent Mental Health Services

CCEA – Council for the Curriculum, Examinations and Assessment

CJINI – Criminal Justice Inspectorate Northern Ireland

CLC – Children’s Law Centre

CSE – Child Sexual Exploitation

DE – Department of Education

DHSSPS – Department of Health, Social Services and Public Safety

DoJ – Department of Justice

ECHR – European Convention on Human Rights

ECNI – Equality Commission for Northern Ireland

FGM – Female Genital Mutilation

HSC Trusts – Health and Social Care Trusts

HSCB – Health and Social Care Board

JJC – Juvenile Justice Centre

JSA – Justice and Security (Northern Ireland) Act 2007

MACR – Minimum Age of Criminal Responsibility

NI – Northern Ireland

NIA – Northern Ireland Assembly

NICCY - Northern Ireland Commissioner for Children and Young People

NIE – Northern Ireland Executive

NIPB – Northern Ireland Policing Board

NIYF – Northern Ireland Youth Forum

NRM – National Referral Mechanism

OFMDFM - Office of the First Minister and Deputy First Minister
PACE – Police and Criminal Evidence (Northern Ireland) Order 1989

PII – Public Interest Immunity

PSNI – Police Service of Northern Ireland

RSE – Relationship and Sexuality Education

SBNI – Safeguarding Board for Northern Ireland

SC – Save the Children

SEN – Special Educational Needs

SENDIST – Special Educational Needs and Disability Tribunal

TACT – Terrorism Act 2000

VOYPIC – Voice of Young People in Care

YJA – Youth Justice Agency