



# POLICY BRIEFING 4/2010

# HAVING A SAY

This briefing outlines key information about the right of children to have a say in decisions affecting them. It calls on the UK Government and Northern Ireland Executive to put in place legislation, policies and procedures to support children's participation at both strategic levels and in individual cases.

This is the fourth in a series of 12 policy briefings published throughout 2010 to mark the 20th anniversary of the United Nations Convention on the Rights of the Child (UNCRC). These draw on issues addressed in the Northern Ireland Commissioner for Children and Young People (NICCY) reports: *Children's Rights: Rhetoric or Reality* (2008) and the *NICCY Rights Review* (2008), on the United Nations Committee on the Rights of the Child's Concluding Observations on the UK Government's report (2008) and on its General Comment No 12 (2009).

Campaign briefings will also be released each month. The purpose of these is to support children and young people to campaign for Government action to address key child rights violations in Northern Ireland.

NICCY was established in 2003 in accordance with the provisions of The Commissioner for Children and Young People (Northern Ireland) Order 2003. The principal aim of the Commissioner, as defined in article 6 of the Order, is to safeguard and promote the rights and best interests of children and young persons.

Please note that the use of the term *child* refers to a child or young person who falls within the remit of NICCY (up to 18 years or up to 21 years where they are care experienced or have a disability).

Childhood is a period of extraordinary growth and development, and children's capacity to consider information and make decisions evolves with age and experience. While children are generally presumed to lack competence to take sole responsibility for their actions, on becoming an adult at 18 they are legally considered to have developed the necessary decision-making capacities.

While this is generally the case, there are a number of situations in which legislation recognises that children may have capacity to make decisions on their own behalf. In some cases, age thresholds are set for certain decisions, while in other cases assessments are made of an individual child's competence to make decisions.

Irrespective of whether a child is competent to make a decision entirely on their own, article 12 of the UNCRC confers on them the right to express their views and to have them taken into account in decisions affecting them. This right requires Government action to support their engagement through developing structures, policies and procedures, and through ensuring that the voices of the most marginalised children are heard. It also requires decision-makers to listen to children's views with respect and consideration.

1. Government should continue to develop strategic approaches to participation ensuring that all Government departments and public bodies establish structures to consult with and include the views of children.
2. The NI Executive should develop, resource and implement a national advocacy strategy to ensure that children have the support to engage in making important decisions relating to them.
3. The NI Executive must ensure that children are provided with accessible complaints and appeals mechanisms to challenge decisions made by Government departments and public authorities.