

Children's Rights Impact Assessment



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Introduction

Ensuring that children's rights are respected in law and policy and implemented at all levels of government demands a continuous process of child impact assessment which predicts the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights, and child impact evaluation, evaluating the actual impact of implementation. This process needs to be built into government at all levels and as early as possible in the development of policy (UNCRC GC No 5: 45).

In Northern Ireland, there is currently no comprehensive or systematic means of assessing the impact of legislation or policy on children and young people's rights nor is there any statutory or legal obligation to undertake children's rights proofing of law and policy despite recommendations from the Committee and the requirements of Article 4 from the United Nations Convention on the Rights of the Child).¹ In light of this situation, this booklet provides a step by step account of how to conduct a children's rights impact assessment (CRIA). It begins by outlining *what* is meant by a children's rights impact assessment, *why* this type of evaluation is necessary and *how*, given the specific focus on the issue of rights, this assessment process can provide a more robust, transparent and evidence-based approach to policy development and law making in Northern Ireland.

In light of the absence of a Northern Ireland based tool which can child proof policies and proposals for the predicted impact on children and young people's rights, the second section of the guide provides a template consisting of a series of questions identifying the type of information needed to effectively evaluate a policy/legislative proposal and where this information can be found on the NICCY database and on related websites. It is important at the outset to note that this template is based on the children's right impact assessment model developed by Laura Paton and Gillian Munro from the Office of the Scottish Commissioner for Children and Young People (SCCYP). The main section of the guide is divided into five headings to match those detailed on the actual child impact assessment form which will be used to make the assessment. For illustrative purposes this form can be found in Appendix 1.

¹ The only current strategy to evaluate the potential impact of policies on children's rights is in the form of S.75 of the Northern Ireland Act 1998, and concerns have been expressed regarding the effectiveness of this legislation.



1.1 “What” is a children’s rights impact assessment?

Child Impact Assessments (CIA) have traditionally been used to assess how policy decisions (whether making new or amending current policy), legislation, organisation and administrative changes, current practice (such as the implementation of policy) or changes in practice planning decisions and budgetary allocation, can affect the welfare of children and young people. Whether these assessments are undertaken by a policy maker or by a governing body, their aim is to prompt policy makers to review and revise decisions or proposals, to better accommodate children and young people’s interests and needs.

In keeping with the Commissioner’s statutory remit to promote and safeguard the rights of children and young people, the children right’s impact assessment form enables policies, practices and legislation to be uniformly evaluated on the basis of a number of key questions which are focused specifically around the issue of rights.² This means that the analysis is not only consistent and systematic, but it also ensures that anyone who uses this model is aware of what standards the policy should be assessed against (in terms of legislation and research) and where to access this information. At the same time, it is important to note that the questions contained in the CIA form are essentially illustrative and that other questions raising specific issues of pertinence to the proposal being assessed *should be included* where appropriate. In promoting it’s use to outside organisations, children’s rights impact assessments can also usefully raise awareness of children’s and young peoples rights generally and thus help centre a rights based approach at the core of future decision and policy making.

1.2 “Why” are Children’s Right Impacts Assessments important?

While children’s rights often form part of a child impact assessment, NICCY has followed the children’s rights impact assessment model developed by the Scottish Commissioner for Children and young people (SCCPY) in choosing to sharpen its approach to child impact assessments by developing a *children’s rights impact assessment*.³ In its report on children’s rights impact assessments,

² It should be noted that this model sets out minimum of what should be asked during the children’s rights impact assessment process and thus the questions and information required for particular policies may have to be adapted or expanded on depending on what is being assessed.

³ CIA are used in various countries around the world and can be tailored according to the legislative context of that country. In their National Strategy for the Implementation of the CRC, the Swedish parliaments for example, require that all national government decisions affecting children are subjected to a child impact assessment. The Flemish government has developed an even more rigorous model for child impact analysis in passing a decree obliging that every draft parliamentary Act must be child impact assessed. Draft Acts can only be approved by the Flemish government if it is accompanied by a child impact statements drawn up in accordance wit the provisions of the Act. The National Children’s Office in Dublin have also commissioned research on impact assessments which is due to be published soon and contains a literature review and a review of international practice on child impact statements as well as a review of proofing mechanism in the south of Ireland.



the SCCYP noted that these assessments were necessary for several reasons, namely;

- 1) The overarching need to ensure children and young people's rights and interests are respected and upheld in decision making processes is enshrined in the UN Committee on the Rights of the Child which requires governments to conduct child impact assessments to ensure that all the provisions of the Convention are respected in legislation and policy development/delivery at all levels of government: *"(this) demands a continuous process of child impact assessment (predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights. This process needs to be built into government at all levels and as early as possible in the development of policy"*.⁴ Children's rights and interests are often forgotten and the very rationale for the Convention was that children require special protection: while children possess human rights just as any other human being does, they require additional measures to guarantee enjoyment of those rights. As the preamble to the Convention states, *"the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection"*. This statement has been endorsed by almost every nation in the world – the Convention remains the most widely ratified human rights treaty.
- 2) Despite comprising a substantial proportion of the global population, children and young people have traditionally been largely invisible in government decision-making. While the profile of children's issues has improved in recent years (evidenced, for example, by the creation of children's commissioners or ombudspersons in many jurisdictions), children remain disenfranchised and often powerless in decision and policy making processes.
- 3) Whereas adults have comparatively ready access to legal redress, complaints mechanisms or other procedures or fora in which to air their grievances should their rights be infringed, such procedures often explicitly exclude children, or at least are rendered inaccessible or inappropriate. With no right to vote in the United Kingdom, no officially recognised role to play in government structures or in the democratic process⁵ and a limited ability to influence government agendas or the media, children are effectively powerless. Other mechanisms, therefore,

⁴ CRC/GC/2003/5 paragraph 45.

⁵ Children and young people under the age of 21 are prohibited from becoming a Member of the UK (section 7, Parliamentary Elections Act 1695) Parliaments.



must exist to ensure their rights, interests and views are taken into account in decision making and in the development of law and policy.

- 4) The vulnerable position children are placed within is further underscored by the way the development and delivery of the very services on which children rely most – health, education, early years provision, youth work – are liable to fragmentation and are often compartmentalised across government departments.

Finally, child impact assessments are a key mechanism for implementing the United Nations Convention on the Rights of the Child (CRC). Article 3 of the CRC, to which the UK is a Party, requires that in all actions concerning children, their best interests shall be a primary consideration. This basic principle applies whether the actions are taken by “*public or private social welfare institutions, courts of law, administrative authorities or legislative bodies*”. Article 4 of the CRC goes on to say that, “*States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.*”

The jurisprudence of the Committee on the Rights of the Child, the monitoring body for the CRC, suggests that State Parties can use child impact assessments as a means of going some way towards fulfilling their obligations under Articles 3 and 4. In 2003, the Committee published comments on ‘general measures of implementation’ of the CRC, stating that:

*“Ensuring that the best interests of the child are a primary consideration in all actions concerning children (art. 3(1)), and that all the provisions of the Convention are respected in legislation and policy development and delivery at all levels of government demands a continuous process of child impact assessment (predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights) and child impact evaluation (evaluating the actual impact of implementation). This process needs to be built into government at all levels and as early as possible in the development of policy”*⁶

In recent years, the UK’s Joint Committee on Human Rights endorsed the Convention and the Committee’s recommendation that policies be assessed for

⁶ General Comment No. 5, *General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)* CRC/GC/2003/5 at para 45.

⁷ Joint Committee on Human Rights, *The UN Convention on the Rights of the Child: Tenth Report of Session 2002-03* at para 27.

⁸ Joint Committee on Human Rights, *The Government’s Response to the Committee’s Tenth Report of Session 2002-03 on the UN Convention on the Rights of the Child: Eighteenth Report of Session 2002-03* at para 12.

⁹ Cited in the SCCYP report on child impact assessments due to be published on the SCCYP website in October 2006.



their impact on children when it said that the “*presence [of child impact assessments] in the explanatory notes to a Bill would be a sign of the Government’s genuine commitment to place the best interests of the child at the heart of policy.*”⁷ The Joint Committee believes that child impact assessments are crucial to realising the government’s stated objective of organising services around the needs of children⁸ and cites another report which recommended that consideration be given to “*subjecting all policy initiatives and legislation to a child impact assessment*”.⁹

Conducting children’s rights impact assessments is therefore important to:

- promote and raise awareness of children’s rights;
- ensure children’s rights and interests are taken into account at the earliest possible stage in policy development;
- embed children’s rights and issues in the minds of decision and policy makers;
- involve children and young people in the development of policies that affect them;
- hold policy makers accountable for the decisions they take that affect children and young people;
- and to mitigate any negative impacts which policies may have on children;
- in the case of government, to break through departmental barriers and encourage the co-ordination of agendas in, for example, health, social care and justice;
- raise awareness of the UN Convention on the Rights of the Child and other relevant international instruments, reminding authorities of their CRC obligations and encouraging policy makers to ensure policies are CRC compliant; and
- provide a public commentary on the implementation of children’s rights and the UNCRC in Northern Ireland, and inform the UK’s report to the UN Committee on the Rights of the Child.¹⁰

¹⁰ Under Article 44 of the CRC, State Parties to the Convention must make periodic reports to the UN Committee on the Rights of the Child on their compliance with the Convention’s provisions. The UK’s next report is due by 15th July 2007.



1.3 “How” do you decide whether to carry out a Children’s Right Impact Assessment?

The decision whether or not to carry out an impact assessment will be guided by considerations such as:

- if a policy or proposed law falls within a priority area, it should be assessed;
- issues that impact on most children or which are very serious breaches of rights
- issues NICCY has received a lot of complaints about
- issues that fall within the remit of our statutory duties.



THE CHILDREN'S RIGHTS IMPACT ASSESSMENT MODEL EXPLAINED

SECTION 1: SETTING THE GENERAL CONTEXT

To place the children's rights impact assessment in context, each assessment should begin by outlining the particular organisations' remit and legislative basis. For example, NICCY's legislative context would read as follows:

1.1 NICCY's Statutory Obligation

The Office of Commissioner for Children and Young People (NICCY) was created in accordance with 'The Commissioner for Children and Young People (Northern Ireland) Order' 2003 to provide an independent voice to promote and protect the rights of children and young people in Northern Ireland and to represent their interests. The principal aim of the Commissioner is to 'safeguard and promote the rights and best interests of children and young persons' within Northern Ireland (NI). The Commissioner is further tasked to 'keep under review the adequacy and effectiveness of law and practice relating to the rights and welfare of children and young persons'. NICCY's legislation gives it a clear mandate to carry out reviews under Article 7(2) – the adequacy and effectiveness of law and practice relating to the rights and welfare of children and young people; the adequacy and effectiveness of services provided for children and young people by relevant authorities; we also have the power to review advocacy, complaints, inspection and whistle-blowing arrangements of relevant authorities; and we have the power to carry out formal investigations under Article 16 of the NICCY Order.

When conducting a children's rights impact assessment on a proposed policy, it is important that the appropriate Articles under (in this case) the 'Commissioner for Children and Young People (NI) Order 2003' are cited to establish the legislative powers under which the Commissioner can take action. For example, a consultation on the Department of Education's new admissions arrangements for post-primary schools should state:

The Department of Education's Consultation on New Admissions Arrangements for Post-Primary Schools clearly falls within the remit of NICCY, according to Article 7 (1) (2) (3) (4a,b) of The Commissioner for Children and Young People (Northern Ireland) Order 2003. NICCY therefore welcomes the opportunity to respond to this Consultation.



The Commissioner must exercise their powers in the best interests of all children and young people in Northern Ireland who are under 18 years of age, or under 21 if they are disabled or have at any time been in the care of, or looked after by, a local authority.

1.2 Describing the proposal

Before any assessment can be properly carried out, a thorough understanding of the proposal or decision being assessed is essential. With this in mind, the impact assessment should begin with a description of the proposal and its aims.

Consideration should be given to:

- what are the specific goals of the proposal;
- who initiated the proposal;
- who has responsibility for implementation of the proposal;
- which agencies or service providers will be affected by the proposal;

Consideration should also be given to who will monitor the policy and is adequate funding been ring fenced to ensure its implementation. The UNCRC Committee has expressed concern over the allocation of resources towards the implementation of children's rights with the UK Government. In 2002 the Committee recommended that the UK Government,

"...undertake an analysis of all sectoral and total budgets across the State party and in the devolved administrations in order to show the proportion spent on children, identify priorities and allocate resources to the "maximum extent of...available resources". (CRC/C/15/Add.188 para 11)

In the UK's Governments report to the Committee which is due to be submitted in July 2007 it is recommended in the UNCRC Committee's Guidelines on Periodic Reports, that the UK Government provides information regarding:

- The proportion of the budget devoted to social expenditures for children, including health, welfare and education, at the central, regional and local levels;
- Arrangements for budgetary analysis enabling the amount and proportion spent on children to be clearly identified. The steps taken to ensure that all competent national, regional and local authorities are guided by the best interests of the child in their budgetary decisions and evaluate the priority given to children in their policy making; and,
- The measures taken to ensure that children, particularly those belonging to the most disadvantaged groups are protected against the adverse effects of economic policies, including the reduction of budgetary allocation in the social sector. (CRC/C/58 para 20)



The key issues relating to section 1 therefore are to:

- 1. Outline NICCY's statutory obligation**
- 2. What is being proposed? (aim, objective of the proposal)**
- 3. Who initiated the proposal? (i.e. Northern Ireland government?
And who will implement the proposal and monitor it (i.e. local
authorities, police, health boards?)**
- 4. Is adequate funding available?**



SECTION 2: SETTING THE LEGISLATIVE CONTEXT

From a children’s rights perspective, the assessment of the proposal should begin by asking how the policy/proposal complies with the CRC.¹¹ In their excellent overview of the CRC the SCCYP noted that:

“The CRC sets out the fundamental human rights that all children around the world, without discrimination, are entitled to. It sets out minimum benchmarks in rights for children rather than ‘best practice’; countries are thus encouraged to exceed the standards laid out in the Convention, but should not fall short of its basic requirements.

The Convention in the UK: The CRC was passed by the UN General Assembly in 1989 and ratified by the UK in 1991. Ratification commits the UK to bringing its law, policy and practice into line with the Convention. Whilst not directly enforceable in the UK courts in the way that the European Convention on Human Rights now is, it should be noted that the European Court of Human Rights increasingly makes reference to the CRC in its judgments as a common standard amongst member states¹² and section 2 of the Human Rights Act 1998 obliges UK courts to take account of European jurisprudence in making their own decisions. Furthermore, domestic courts in the UK are also beginning to make reference to the CRC in its own right in their judgments.¹³

The Committee on the Rights of the Child

Article 43 of the CRC established a Committee to monitor the extent to which State Parties comply with their obligations under the Convention. Two years after ratifying the CRC, State Parties are required to submit an initial report to the Committee on the Rights of the Child, detailing the measures they have taken to give effect to the Convention rights and the progress made on the enjoyment of those rights. Thereafter, State Parties make a periodic report to the Committee every five years. Following an examination of the report and questioning of a delegation representing the State Party, the Committee, currently comprised of 18 experts on children’s rights drawn from all over the world, issues its concluding observations. These observations include criticism – or praise - of the State Party’s performance in complying with the Convention, and recommendations for improvement.

¹¹ See Chapter One of the Queen’s report available at www.niccy.org.uk entitled ‘Children’s Rights in Northern Ireland’ for further information on the difficulties ratifying the CRC into UK domestic law.

¹² For example, in *A v United Kingdom*, 23 September 1998, No. 100/1997/884/1096, para 22.

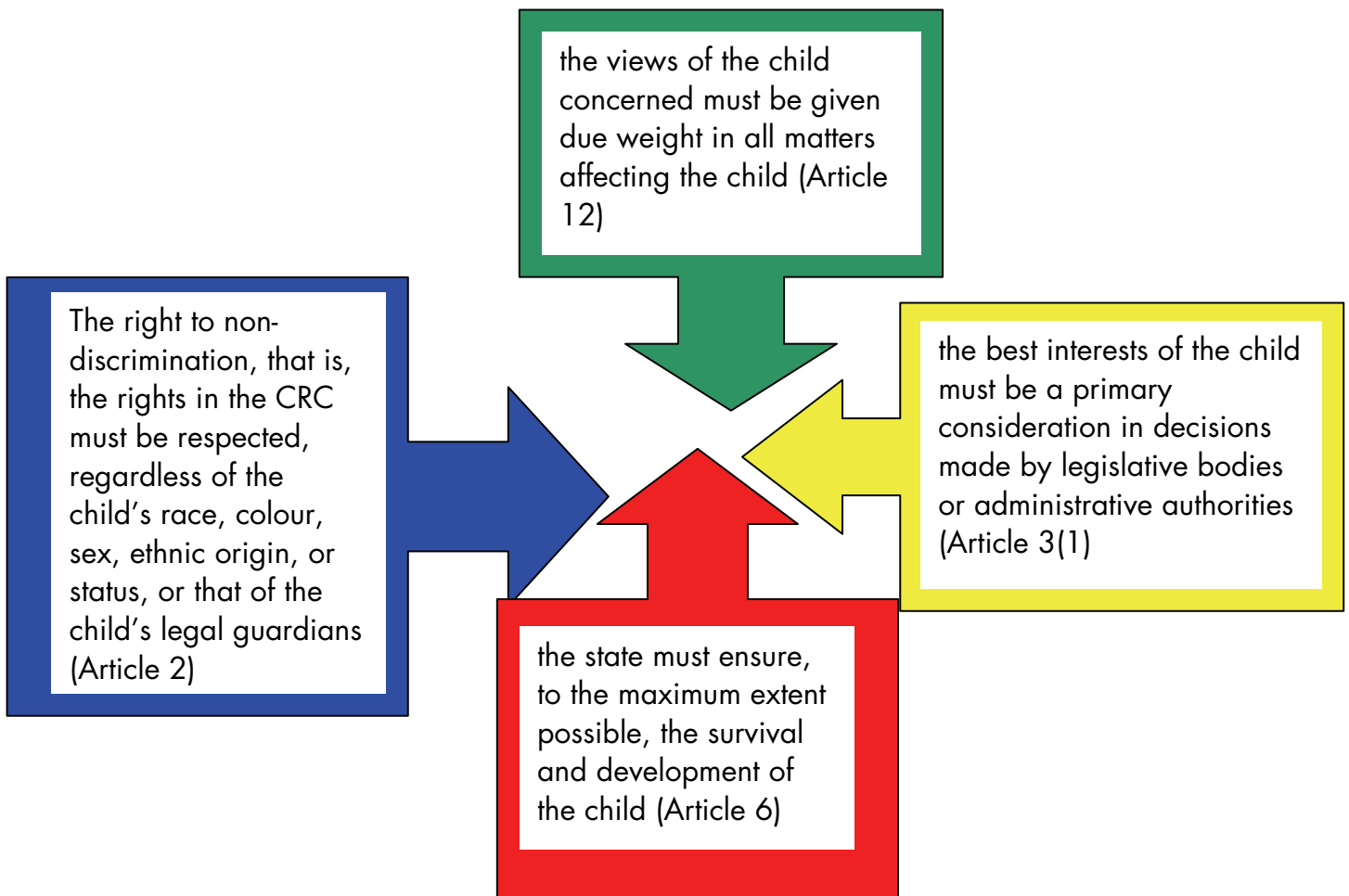
¹³ For example, in *R v Secretary of State for the Home Department. ex parte Howard League for Penal Reform* (2003) 1 FLR 484.



The State Party is then obliged to detail the steps taken to comply with this recommendation in its next report to the Committee.

The UK's initial report was submitted to the Committee in 1994 and its second report in 1999.¹⁴ In relation to each report, the Committee issued concluding observations which made numerous criticisms of the UK's implementation of the CRC. Most of the Committee's comments relate to the UK's performance as a whole, although some comments are specific to Northern Ireland".¹⁵

In addition to the CRC articles which relate **specifically** to the issue/s currently being impact assessed, it is important to bear in mind the four general principles underpinning the convention, namely that:



¹⁴ The UK's next report, a combined third and fourth periodic report, is due on 15th July 2007.

¹⁵ The information contained in this box is taken from the SCCYP report on child impact assessments due to be published on the SCCYP website in October 2006.



It may also be useful to look at general comments periodically made by the Committee on thematic issues as these comments provide a useful indication of the Committee's interpretation of the Convention rights. Reference should also be made reports submitted to annual study days on key issues of children's rights as determined by the Committee. Consideration should also be given to the concluding comments made by the Committee in relation to the UK and, where relevant, the observations regarding implementation of the CRC in other State Parties. In regards to research and policy updates, these can be obtained by looking at press releases received by NICCY on issues affecting children and young people and by consulting the ARK database¹⁶ which archives survey data from 16 year olds living in Northern Ireland on a wide range of issues in addition to offering the option of conducting key word searches in a large ARK database of qualitative studies examining issues around children and the conflict.

2.1 Local legislation

In addition to evaluating the proposed policy against the CRC, reference should also be made to Section 75 of the Northern Ireland Act 1998, equality impact assessments (EQIA) currently being carried by the Equality Commission on all public sector policies to analyse their impact against nine equality categories (religious belief, political opinion, age group, age, marital status, sexual orientation, gender, disability and dependency) in line with section 75, Northern Ireland Act 1998.¹⁷

It is also important to refer to the 2006 Children's Strategy¹⁸ and the Bill of Rights by the NI Human Rights Commission both of which constitute enforceable legislation directed at protecting and promoting children's best welfare and needs.

Where appropriate, reference may also be made to other legislation, laws, standards and policies especially if these are relevant to a specific issue. For example, a policy relating to looked after children should consult the Children (Northern Ireland) Order 1995, which is the

¹⁶ For the ARK website see www.ark.ac.uk/qual/conflict

¹⁷ An EQIA is an assessment of how a policy may impact on the nine equality categories relating to religion, political opinion, age, gender, race, disability, marital status, adults with dependents and sexual orientation. For an example of an equality impact assessment in relation to the nine categories under section 75 see <http://www.belfast-harbour.co.uk/thumbnails/downloads/Equality-Impact-Assessment-Procurement-Policy.pdf>

¹⁸ The draft Children's strategy included a commitment to impact assess new polices and legislation 'The proofing of new polices and legislation to ascertain the impact on the rights and best interests of children and young people and take appropriate action' (p40). However, this proofing process is confined only to new polices and legislation and excludes existing polices and legislation. The associated time frame, short to medium i.e. between one and six years, would appear to be for the actual proofing of polices and legislation rather than the development of a proofing tool and as such it is difficult to understand as polices and legislation should be proofed throughout the lifetime of the strategy.



principal statute governing the care, upbringing and protection of children in Northern Ireland.

As well as existing legislation or policies, the proposal should be assessed against any published targets, outcomes or goals for children and young people. For example, a policy proposal relating to suicide among young men in north Belfast should be assessed against the extent to which it contributes towards the government's 2006 taskforce suicide prevention strategy for Northern Ireland. Similarly, a policy which is likely to have implications (either directly or indirectly) on children from low socio-economic groups should refer to the national government targets on child poverty and specifically Tony Blair's 1999 pledge to eradicate child poverty by 2020. As well as refereeing national targets, it may also be necessary to refer to regional targets. For example, legislation concerning the welfare of children should refer to the DHSSPS Strategy for Children in Need, whereas reference to the Education and Libraries (NI) Order 1986 would be appropriate on a policy proposal relating to bullying or issues concerning school transport and statutory school walking distances. When evaluating how well a proposal relates to local or national targets it may be useful to consult statistics from the census¹⁹ and from the 2006 ten year Children's Strategy as one means of check listing how well the proposal takes account of the unique regional characteristics of Northern Ireland.

2.2 Other European and international legislation

The SCCYP also advises that reference should be made to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). In an overview of this legislation the SCCYP report states that whilst this legislation was 'ratified by the UK in 1951, the ECHR was only incorporated into domestic law in the UK via the Human Rights Act 1998. While children's rights are not explicitly referred to in the ECHR, the rights that are set out apply just as much to children as to adults. As a result, public authorities in the UK must comply with the ECHR when acting in respect to children'.²⁰ In carrying out an impact assessment, it will, therefore, be essential to consider whether the proposal being assessed complies with or promotes ECHR rights. In doing so, regard should also be had to any relevant case law of the European Court of Human Rights. Other instruments or statements emanating from the Council of Europe may also be relevant to an impact assessment, including, for example,

¹⁹ See <http://www.nicensus2001.gov.uk> and <http://www.nisranew.nisra.gov.uk/Census/start.html> for census statistics.

²⁰ As an aside, it is interesting to note that since the passing of the 1998 HRA, NCB have pressed the government to state on the front of each new Bill statements of compatibility with the ECHR. They also recommend that if the government published a complementary child impact assessment of compatibility it would demonstrate their commitment to fulfilling their obligations under the CRC.



the European Social Charter or the comments and recommendations of the Council of Europe's Commissioner for Human Rights.²¹

The key issues relating to section 2 therefore are:

- 1. Which articles of the UNCRC are relevant?**
- 2. How does it relate to other initiatives: does it seek to fulfil any targets set, for example, by government?**
- 3. Does the policy contravene any other known legislative document (i.e. ECHR)?**
- 4. How does it relate to other initiatives? For example, does it seek to fulfil any targets set for example by national or local government?**

²¹ Although not yet published, NCB in England are currently working on a child impact assessment which focuses on how legislative changes impact on children's rights. Child impact assessments of draft Bills and Bills produced using the framework of the UNCRC, the ECHR, the Children Act 1989 and the 5 holistic outcomes for children in the Children's Bill. The outcome of this project will be the development of a Child Impact assessment model for the Children's Commissioner and for equivalent structures in the developed administrations.



SECTION 3: SETTING THE RESEARCH CONTEXT

To assess the impact of a policy from a children’s rights perspective, it will be necessary to gather background information relating to the nature of the proposal and who it will affect. The fifteen priority areas which NICCY has set for office (based on the research commissioned to Queen’s University in 2004 and the a consequent period of public consultation with key stakeholders) provide a useful starting point.²²

| NICCY Priority Areas for Action | | | | |
|---|---|--|---|---|
| Implementation and Civil Liberties | | | | |
| <ul style="list-style-type: none"> • Having your say • Knowing Your Rights • Implementation of the UNCRC | | | | |
| Education | Play and leisure | Health, material well-being and environment | Family life and alternative care | Youth Justice |
| Special educational needs | Facilities for leisure for all children and young people and the development of a Play strategy | Mental Health and children and young people | Safeguarding children and young people | Children, Young People and Crime |
| Bullying | | Poverty | | |
| Road safety & School transport | | Children and Young People with disabilities | Physical Punishment | Children, Young People and the troubles |
| | | Risk-taking behaviour | | |

3.1 Additional Information

Further information on these specific priority areas and other issues relating to children’s rights more generally, can be gathered from a variety of sources such as the Queen’s report, the Shout report, consultation responses, completed research projects/reviews, information gleaned from our participation work with children and young people, and from inquires and case work logged on the CHASS database and other relevant databases such as ERIC, BIDS, SOSCAT all of which can be assessed via the Queen’s library website. For up-to-date information on research and statistics concerning different aspects of children and young people’s lives, it may also be useful to consult journals

²² These priorities will guide NICCY’s work over a three year period from 2005-2007.



published in the QCAT database system, statutory and voluntary organisations and the Northern Ireland Life and Times Survey and Economic and Social Data Service²³. If you need further information on social care or children living in families you may wish to consult the research in practice website²⁴ or if you want to search for general information on children you may want to look at the social science research unit²⁵ or if you need specific information on health, education or welfare you may find the eppi-centre website useful²⁶.

In addition, it may be useful to consult any information or policy proposals emanating from the BINNOG and ENOC group meetings. All of the Commissioners collaborate with other commissioners in England, Scotland and Wales (as a BINNOG group) and with other European Commissioners as an ENOC group to develop collective positions on key policy and legislative issues. To date common areas of interest include issues relating to asylum seeking and refugee children, reporting to the United Nations Committee on the Rights of the Child, and common research areas, e.g. bullying.

It is vitally important that the discussion in Section Three outlines, in a very clear and concise manner, the extent to which the proposal being assessed meets the applicable CRC standards in the Articles outlined in Section 2.

The key questions for Section 3 are:

1. Does the policy fall within NICCY's priority areas?

2. What background information is available from the Queen's research, NICCY's complaints procedures, CHASS database and/or research/consultations to help evaluate this proposal?

²³These are available at : <http://www.data-archive.ac.uk/findingData/browsebySubject.asp> and <http://www.esds.ac.uk/findingData/niltTitles.asp>

²⁴ www.rip.org.uk

²⁵ <http://ioewebserver.ioe.ac.uk/ioe/cms/get.asp?cid=1352>

²⁶ <http://eppi.ioe.ac.uk/cms/>



SECTION 4: CONSULTATION

If utilised effectively and monitored adequately, Article 12 of the UNCRC and Section 75 of the Northern Ireland Act provide a useful framework for ensuring that children and young people are consulted about decisions that affect their lives. Section 75 of the Northern Ireland Act places a duty on public bodies to engage in *direct public consultation with those affected by their policies*, including people of different ages, race and disability.²⁷ By law, children and young people therefore have a right to be consulted and have their views taken into consideration in relation to any policy or proposal which could affect their lives.

Children make up a significant proportion of the Northern Ireland population but research shows that they often only have limited opportunity to comment or consider policies which affect their lives. In most instances, adults act as advocates for children's views. This results in children having decisions made about them without their views being adequately taken account of or their needs properly considered.

4.1 Vulnerable Children

If a proposal affects a particular group of children or young people, a decision must be made as to whether to consult with that group specifically, rather than – or in addition to – children generally. The Queen's report contains one of the most up to date sources of information on issues relating to, and research conducted with, vulnerable groups of children.²⁸ The decision on whether to engage in further consultation with a particular group of children will depend on the extent to which this group has already been involved in research, the amount of time needed to negotiate, assess, and the extent to which high quality meaningful consultation can take place given the proviso that most consultations must be completed within a three month period.

- Children and young people with mental health illnesses
- Children and young people with special needs
- Children and young people in care i.e. residential, foster
- Children and young people in poverty
- Children and young people in custody and in secure accommodation
- Children and young people at risk from paramilitaries
- Children and young people who are refugees/asylum seekers
- Children and young people who are carers

²⁷ However, the inadequate monitoring of Section 75 equality standards to date, the absence of an accompanying plan to action the goals of the Children's strategy and the fact that the UNCRC has not yet been incorporated into domestic law and is thus not directly enforceable, would suggest that this legislation may fall short of its goal to bring about a child centered participative culture within Northern Ireland.

²⁸ Conducting a word search on the Queen's report can retrieve information quickly and effectively.



- Children and young people who are travellers
- Children and young people who experience rural isolation
- Children and young people physical/learning disabilities
- Children and young people from ethnic minorities
- Children and young people who are gay/lesbian/bisexual.
- Young mothers/fathers

4.2 Children Generally

The publication 'An Analysis of Research Conducted with School Children' (Davey et al 2004) which details the responses 12,000 children and young people gave when asked about issues they considered unfair in their lives may provide some useful insights on whether the proposed policy is relevant to the children's concerns generally²⁹.

With regards to policies where there are competing interests it may be necessary to determine whether the best interests of some children are being promoted over those of others and if this is being done for legitimate reasons. Where a proposal is found to have a negative impact on children or on a particular group of children, consideration should be given as to whether other compensatory measures could be suggested to mitigate any negative affects. Where we believe that the aim of the proposal is justified, but the means are unlawful, we may suggest alternatives methods of achieving the aims which take into account children's rights.

It may also prove useful to consult relevant stakeholders and/or experts who have a thorough knowledge of and expertise in the subject matter of the proposal, or children's rights generally, particularly where existing research is limited.

4.3 The Consultation Process

The consultation process may need to be broadened if insufficient research literature exists on the target group of children and young. Following the lead given by the SCCYP, we would also recommend that when consulting with children and young people or with other stakeholders, it will be useful to ask:

- what they think of the proposal and its aims;
- what they think will be the effect of the proposal;
- if necessary, how they think the proposal could be improved; and
- whether they are aware of other means of achieving the aims of the proposal that will reduce an adverse impact or will lead to the greater promotion of children's rights.

²⁹ This report can be downloaded from the NICCY website www.niccy.org



Consultation with both children and stakeholders, could take the form of focus group interviews, one to one interviews, surveys or peer research by children and young people depending on the proposal being assessed

Further consultation with children and young people can be arranged through:

- Youth Panel
- Youth Panel Intranet Survey/Discussion Forum
- Questionnaire distributed by participation officers
- Web survey/Discussion forum
- The participation network (made up of NIYF, CiNI, YCNI, STC)

The key questions relating to section 4 are:

- 1. Which groups of children will be affected by the proposal?**
- 2. How might the proposal positively affect this group?**
- 3. How might the proposal negatively affect this group?**
- 4. Has there been any consultation in the development of the policy with children or stakeholders?**
- 5. Is the Steering Group made up of a representative sample of interested parties?**



SECTION 5: RECOMMENDATIONS

Recommendations are integral to the assessment process. Following the example given by SCCYP, NICCY would strongly recommend that the following questions are answered.

- Is the proposal the best means of achieving its aims, taking into account children's rights?
- Has the 'do-nothing' option been considered?
- If a potential adverse impact is identified, can the policy be delivered in a different way?
- What compensatory measures may be needed to avoid/mitigate a negative impact on children and young people's rights?
- Does the assessment have any gaps in information, data collection or expertise?
- Is further research required or consultation needed to investigate impacts on the rights of diverse/vulnerable children and young people?
- Are follow-up evaluation/monitoring of the proposal/its implementation required?

5.1 Conclusions

After reviewing the evidence and as a result of having completed a step by step analysis of the proposal from a children's rights perspective, an informed decision should be made as to whether:

- the proposal should not go ahead;
- that the proposal should be reviewed so that it better takes into account the rights of children and young people;
- that the proposal should go ahead, but should be amended;
- that compensatory measures should be taken to mitigate adverse impact on children; or
- That further research or consultation is required.

The key questions for section 5 include:

- 1. What action/s might mitigate any adverse impact or are there alternative policies that might better serve the interests of children?**
- 2. What recommendations should be made?**



SECTION 6: DISSEMINATION AND FOLLOW UP

Copies of the assessment should be sent to those responsible for initiating the proposal, relevant stakeholders and to anyone who assisted in the assessment, such as those taking part in any consultation. It is vital that feedback to children and young people is written in a child friendly manner.

6.1 Follow Up

It may also be necessary to follow up the extent to which the recommendations made as a result of the children's rights impact assessment have been taken into account or acted upon. Where this has not been done and a negative impact was identified during the assessment process, further action may be required in terms of follow-up research or further consultation with children and young people or other stakeholders.

The key questions arising from Section 6 include:

- 1. Is it necessary to monitor the implementation of the proposal?**
- 2. Is further research needed to assess the impact of the proposal on children once it has been implemented?**
- 3. Have the recommendations made as a result of the CRIA been considered or acted upon?**

Once a children's rights impact assessment is completed, a decision must be made as to whether the proposal should be accepted or whether the implementation needs to be reviewed at a later date. Depending on the outcome of this decision, the CRIA can be filed in the folders 'Children's Rights Impact Assessments – Completed' or 'Children Right's Impacts Assessments Under Review' both of which are stored on the 'R' drive.



Appendix 1

CHILDREN'S RIGHTS IMPACT ASSESSMENT

SECTION 1: SETTING THE GENERAL CONTEXT

Outline NICCY's statutory obligation (see para 1.1)

What is being proposed? (aim, objective of the proposal)

- Policy**
- Legislation**
- New**
- Existing**

Who initiated the proposal and who will implement it (i.e. local authorities, police, health boards?)

Is there a list of organisations that are being consulted and is this list representative?

YES **NO**

Is there specific information on the time scale needed to implement this proposal?

YES **NO**

Is the timescale a matter for concern?

YES **NO**

Will the proposal be monitored?

YES **NO**

Is the issue of funding addressed?

YES **NO**



SECTION 2: SETTING THE LEGISLATIVE CONTEXT

Which articles of the UNCRC are relevant? (List in order of relevancy remembering the four overarching principles of the convention i.e. article 12 (right to be heard), 6 (right to survival and development), 3 (best interest), and 2(non-discrimination).

Does the policy contravene any other known legislative document (i.e. ECHR)

How does it relate to other government targets?

SECTION 3: SETTING THE RESEARCH CONTEXT

Does the policy fall within NICCY's priority area? If yes, please update steps NICCY has taken to address this issue?

Yes **No**



What background information is available from the Queen’s research, NICCY’s complaints procedures, CHASS database and/or consultations to help evaluate this proposal?

In addition to consulting the relevant databases in the QCAT library and other web related sources, please tick that you have consulted:

- | | | | |
|----------------------|--------------------------|--|--------------------------|
| Queen’s report | <input type="checkbox"/> | Information from participation work | <input type="checkbox"/> |
| Shout report | <input type="checkbox"/> | Consultation responses | <input type="checkbox"/> |
| NICCY inquires | <input type="checkbox"/> | Case work logged on the CHASS database | <input type="checkbox"/> |
| Research/reviews | <input type="checkbox"/> | UNCRC Concluding Observations | <input type="checkbox"/> |
| Research in practice | <input type="checkbox"/> | ARK Database | <input type="checkbox"/> |
| EPPI-Centre Database | <input type="checkbox"/> | Social Science Research Unit | <input type="checkbox"/> |

SECTION 4: CONSULTATION

Which group/s of children will be affected by the proposal?

Will there be any additional affects on any group of children listed in para 4.1?

How might the proposal positively affect this group?



| | |
|---|--|
| How might the proposal negatively affect this group? | |
| Has there been any consultation in the development of the policy with; | cyp <input type="checkbox"/> stakeholder <input type="checkbox"/> |
| Is the Steering group made up of a representative sample of interested parties? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| SECTION 5: RECOMMENDATIONS | |
| Are there any measures which might mitigate any adverse impact or are there alternative policies that might better achieve the promotion of rights and best interests of children and young people? | |
| What recommendations should be made? | |
| SECTION 6: DISSEMINATION AND FOLLOW UP | |
| Should the implementation of the proposal be monitored? (Give reasons) | Yes <input type="checkbox"/> No <input type="checkbox"/> |



| | |
|--|---|
| Is further research needed to assess the impact of the proposal on children once it has been implemented? (Give reasons) | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Have the recommendations made as a result of the CRIA been considered or acted upon? | Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> |

Signed :

Date :

