

It's Our Brexit Too: Children's Rights, Children's Voices

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Brexit and Children's Rights Discussion Guide

Background

The Northern Ireland Commissioner for Children and Young People (NICCY) and the Ombudsman for Children (OCO) in Ireland have worked with a cross border steering group of 22 young people to develop a conference on the impact of Brexit on Children's Rights. The group developed scenarios based on the concerns of children and young people in Ireland and Northern Ireland. These are not intended as a definitive guide of how Brexit will affect Children's Rights, but as discussion prompts to explore some of the challenges children and young people might face in fully realising their rights.

Overarching themes

These rights are cross cutting issues across all of the discussion themes and the impact on these should be considered for each scenario.

Article 1 – All children and young people have rights.

Article 3 – If a decision is being made about you then your **best interests** must be considered when making the final decision.

Article 12 – You have the right to **speak up and have your opinions listened to**, and taken seriously by adults, on things that affect you.

Article 13 – You have **freedom of expression**, or the right to say whatever you believe as long as it does not harm other people.

Article 41 – If your country's own laws, or international laws give children more than the Convention requires, then your country should meet the higher standards in those laws.

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Discussion themes

The 'It's Our Brexit Too' steering group identified the following areas as potentially being impacted most significantly by Brexit

- **Identity and Non-Discrimination** (Articles 2, 14, 30)
- **Family Life, Nationality and Travel** (Articles 7, 8, 9, 10, 15)
- **Child Protection** (Articles 11, 19, 32, 34, 36)
- **Non-EU children needing extra protection** (Article 22, 35)
- **Health and Disability** (Article 23, 24)
- **Education** (Articles 17, 28, 29, 31)
- **Standard of Living** (Articles 18, 26, 27)

The following questions can be used for each theme to explore the issue further:

- **How might the lives of children and young people be impacted in this area post Brexit?**
- **Can you think of any opportunities arising from Brexit?**
- **What would you ask Brexit negotiators to do to protect children and young people's rights in relation to this theme?**

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Theme 1: Identity and Non-Discrimination

Article 2 - The rights in the Convention apply to everyone under the age of 18, no matter who you are, whether you are a boy, girl or other, what your religion is, whether you have a disability, or what type of family you come from. **You shouldn't be treated badly because you are (or seem) different.**

Article 14 – You have the **freedom to have your own thoughts and beliefs** and to choose your own religion.

Article 30 – You have the **right to enjoy your own culture**, use your own language and practice your own religion.

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Identity and non-discrimination: Intersex young person

Background

Jamie is an intersex* individual residing in Northern Ireland. They have faced discrimination and abuse from the medical establishment from birth, including but not limited to unnecessary medical interventions without informed consent.

Help Available Now

Recently, there has been progress made on an EU-wide basis relating to the rights of intersex people as a result of lobbying at an EU level. Jamie and others are concerned that if an EU directive is adopted post-Brexit, partially as a result of pre-Brexit lobbying, the rights of intersex people in the EU will improve but those in the UK will be left behind, and lobbying efforts will need to be restarted.

In 2013, the EU adopted the “Guidelines To Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons”, the first EU policy document explicitly referring to intersex people.

Issues for consideration

The recognition afforded to intersex people as a result of these guidelines need to be replicated in the UK post-Brexit.

** “Intersex” is a general term used for a variety of conditions in which a person is born with a reproductive or sexual anatomy that doesn’t seem to fit the typical definitions of female or male.*

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Identity and non-discrimination: Xenophobia

Background

Amena, a young Syrian girl, arrived with her family three weeks before the Brexit referendum was held. When she arrived the local community erected 'welcome' signs to welcome her, her families and other Syrian families.

Whenever the Brexit vote happened, however, Amena discovered a strict change in tone. The families were told to 'go back where they came from' and 'get out of our country'. She and her family now find themselves in a very hostile atmosphere.

Hate crime increased dramatically in the few weeks after the referendum (figures showed a 46% increase in the week after the referendum in comparison to the previous year) and that high rate has not yet decreased. Families like Amena's feel that they are no longer welcome within their communities, and fear for their safety.

Help Available Now

Amena's family can report hate crimes to the police, but don't feel that this is likely to help them. Even if they moved, would things be any better? Ultimately, they want to be able to get on with their lives in peace, and recover from the trauma they have experienced in Syria.

Alongside the hostility they have experienced, they also have been offered support from neighbours, and from a local community group.

Issues for consideration

How will government agencies protect children and young people like Amena, and their families, from hate crime in the wake of the Brexit vote? Refugees have been affected, and other migrants to Northern Ireland, as well as minority ethnic people who may have been born in Northern Ireland and lived there their entire lives.

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Theme 2: Family Life, Nationality and Travel

Article 7 – You have the **right to a name at birth** and the **right to be a citizen of your country**. You also have the right to be cared for by your parents, as far as possible.

Article 8 – You have a **right to an identity** and to know who you are—official records must be kept.

Article 9 - You should not be separated from your parents unless it is for your own **good**; for example, if a parent is mistreating you or neglecting you. If your parents have separated, you have the right to stay in contact with both parents unless this is not in your best interests.

Article 10 - If you and your parents live in different countries, you have the right to **stay in touch** or get back together as a family.

Article 15 – You have a right to **freedom of association** (to join and form groups and make friends) and to **freedom of assembly** (to meet together with others) as long as this does not harm other people. In exercising your right, you should respect the rights of others.

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Impact of Border on Family Life

Background

Graham is 17 and goes to school in Newry. His parents are divorced. He spends most of his time living with his father in Dundalk but he travels regularly between his Mum's house in Newry and his Dad's house. To take a bus it usually takes 30 minutes but the journey is possible in 15 or 20 minutes by car. Graham is concerned about ease of travel between his parents houses post Brexit.

Help Available Now

Currently the UK is in a Customs Union with the EU and free movement across the border is possible due to the Common Travel Area across the islands of Ireland and the UK, and the fact that the two states are part of the EU. People can therefore travel across the border without having to go through Immigration control.

Issues for consideration

It seems likely that there will have to be immigration control of some kind between the Republic of Ireland and the UK post-Brexit. The UK and EU have both said that they want a 'soft border' between Northern Ireland and the Republic however neither has given any detailed information on what this will look like. If there is 'no deal' it is likely that it will revert to a 'hard border'

It is important to protect children and young people's rights to family life and to be cared for by both parents. We ask decision makers to act quickly to agree what the border will look like and to make sure that there is ease of movement between jurisdictions.

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Theme 3: Child Protection

Article 11 - The **Government must make sure you are protected** from being kidnapped or taken out of the country when you shouldn't be. In the UK and Ireland, babies must have their own passports with pictures.

Article 19 – You must be **kept safe from harm and protected against violence and abuse**. You must be given proper care by those looking after you.

Article 32 – The Government must **protect you from doing dangerous work**, or work that could harm your health or interfere with your education

Article 34 – You should be **protected from sexual exploitation**.

Article 35 – You have the right to be **protected from being abducted, trafficked or sold**.

Article 36 – You have a right to be **protected from all other forms of exploitation** which can damage your welfare or development.

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Child Protection: Child Trafficking

Background

Peter is a 14-year old boy from Slovakia who has been a victim of child trafficking. He was born with clubfoot, a condition that makes it difficult for him to walk. Peter's family is very poor and he has experienced domestic abuse throughout his childhood.

Peter's family gave him to an organised crime group in exchange for money and he was brought to Northern Ireland. His ID was taken from him and he was forced to work long hours without enough food and no pay.

The UK has benefitted from EU efforts to tackle human trafficking. Brexit could affect UK police forces' ability to deal with human trafficking making it harder to protect victims. The loss of EU regulations, funding and the jurisdiction of the [European Court of Justice](#) could undo decades of work with European partners in addressing human trafficking.

The Current Situation

Article 35 of the United Nations Convention on the Rights of the Child (UNCRC) specifically requires all states to take appropriate measures to prevent the abduction, sale or traffic of children.

The EU has taken a leading role in coordinating and funding anti-trafficking efforts across Europe, for instance through instituting an Anti-Trafficking Coordinator and the creation of an EU Civil Society Platform against Trafficking in Human Beings. There are a number of EU bodies in place such as Europol, Eurojust, CEPOL and Frontex which work to address human trafficking.

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Post-Brexit UK organisations and public bodies may lose access to these agencies and EU funding streams. There is currently no provision to allow access to Europol's databases to non-EU member states.

The rights of victims to support and assistance are enshrined in the 2011 EU Trafficking Directive. If this is not transposed into UK law, victims of human trafficking may lose their right to support.

Key Messages

Child trafficking is one of the most egregious abuses of children's rights imaginable. In light of obligations under the UNCRC, it is vital that the UK retains its ties with EU bodies such as Europol. By remaining part of Europol, the UK would be obliged to abide by decisions of the European Court of Justice, the European Parliament and Europol member states. This would prevent control of children's lives being handed to the merciless traffickers who exploit them for profit.

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Theme 4: Non-EU children needing extra protection

Article 22 – If you are a refugee you have a right to special help and to be allowed to live somewhere that is safe, particularly if you have been separated from your parents.

Article 35 – You have the right to be protected from being abducted, trafficked or sold.



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Non-EU Children in Need of Special Protection

Background

Ahmed is 12 years old. He was born in Damascus, Syria but has been forced to flee from the civil war with his family. Ahmed and his family made it to Europe and were allocated to Northern Ireland. They are waiting to travel there.

The Current Situation

The EU quota system was agreed in September 2015 as a way of sharing responsibility across member states for dealing with the increasing refugee crisis. Under the EU quota system, the UK has agreed to accommodate 20,000 refugees with Northern Ireland taking 2,000. However, the UK may no longer have to adhere to the EU quotas post Brexit. This means that children like Ahmed might be refused asylum in the North.

Ahmed and his family may experience racism and discrimination once relocated. The European Council on Tolerance and Reconciliation is a group of experts who have developed a *Model National Statute for the Promotion of Tolerance*. It is planned that this model law will be adopted across all EU member states with the purpose of promoting tolerance between different societies, eliminating hate crimes, condemning any intolerance based on bias, bigotry and prejudice and taking concrete action to combat intolerance.

The UK will still be bound by international conventions such as the 1951 Refugee Convention and the United Nations Convention on the Rights of the Child – but will it adopt the model law on tolerance post Brexit?

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Key Messages

All children have a right to safety and protection from war. What will Britain's commitment to refugees look like post Brexit? Children like Ahmed should not have to experience discrimination or intolerance in host countries. The UK should seek to maintain standards set out for tolerance and anti-discrimination by the EU to combat hostility directed towards forced migrants and asylum seekers that may have been heightened by the Brexit vote.



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Non-EU Children in Need of Special Protection

Background

Aysha is a 15-year-old refugee from Syria who arrived at Dublin Port alone. She was referred to the Child and Family Agency, Tusla and assessed by a social worker from the Separated Children Seeking Asylum Team. Her social worker discovered that Aysha had left Syria with her older brother who is 22. They became separated on the journey and he has since been located in an EROC centre in Northern Ireland. Aysha is worried that she will never see him again.

Aysha wants to be reunited with her brother in Northern Ireland. Under EU regulations, known as Dublin III, Aysha has a legal right to be reunited with a family member in the UK. However, this will no longer apply when the UK leaves the EU. Instead unaccompanied children will have to rely on the UK's own immigration rules which allow children to be reunited with their parents but not with other family members. This means that unaccompanied children like Aysha might be permanently separated from their family post Brexit.

The Current Situation

Article 22 of the United Nations Convention on the Rights of the Child (UNCRC) also says that state parties should help refugee children reunite with their families.

Dublin III regulations allow unaccompanied children in Europe to be reunited with family members in other member states. This includes adult siblings and other family members like aunts, uncles and grandparents.

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The concept of family is protected by international law. Both the Universal Declaration of Human Rights and the International Covenant on Civil and Political rights provide that a family should be respected and protected as a fundamental unit in society. This is also reflected by the European Social Charter in Recital 16.

Key Messages

Children like Aysha need protections available under Dublin III so that they can be reunited with family members quickly and safely. It is essential that Brexit does not affect children's rights, particularly children fleeing wars and persecution. The right to family life is a basic minimum standard which all children are entitled to under the UNCRC unless they are at risk. Family life is crucial for the healthy development and happiness of a child and so this basic need should not be denied.

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Theme 5: Health and Disability

Article 23 – If you have any kind of **disability** you have a **right to special help** to make sure you can live a full life and join in with things in your community. Money should not be a barrier to this.

Article 24 – You have a right to be as healthy as possible, and if you are ill, you must be given **good healthcare services**. You have the right to live in a safe, healthy environment with good food and clean drinking water. The Government must make sure that anyone having a baby is given good healthcare, and parents are supported to keep their children healthy.



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Health: All-Island services for children and young people

Background

Michael is 2 years old and has been diagnosed with a congenital heart disease (aortic stenosis) since birth. The condition has deteriorated and it is likely that he will require surgery or so. Michael lives in Cookstown, with his parents and older sister who is 4.

Help Available Now

Michael's condition means that his treatment will be undertaken through the Congenital Heart Disease Network for which £42m was announced by governments, North and South, in July 2016. Michael has been receiving outpatient treatment in the Royal Victoria Hospital for Sick Children in Belfast but as he will need surgery this is likely to be carried out at Our Lady's Children's Centre, Dublin over the next couple of years once he is strong enough. As with other children, he will receive pre and post operative care in Belfast.

These arrangements have been set up as it has been recognised that, for particularly rare and complex treatments, there needs to be a 'critical mass' of patients treated to allow for expertise to be developed. Otherwise the outcomes aren't as good as they could be for the children in question. This can be achieved across the island of Ireland, but not for a population the size of northern Ireland on its own.

Issues for consideration

How will Brexit affect the All-island Congenital Heart Disease Network? Will it still be possible for an EU country and a non-EU country to have such arrangements? If not, how will this affect the provision of such specialist health services to children and young people?

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Health Care: Cross Border Treatment Scheme

Background

Emma is 14 years old. She lives in Mayo in the South of Ireland and has lived there all her life with her parents.

Emma needs to have orthodontic treatment. Her teeth are badly misaligned and affect her speech. This affects her confidence. She is embarrassed by her teeth, has been teased at school for a long time and doesn't engage in many social activities. She is now old enough to have the braces she needs. She has been on a public waiting list for treatment for two years. Because of the numbers on this waiting list she is unlikely to have treatment before she is 16. Emma's orthodontist has said that the development of her jaw may be affected by this wait. However, her parents cannot afford private treatment in the South. Neither Emma nor her parents want to wait another two years for treatment.

The Current Situation

Emma's parents have applied to have her treatment under the Cross Border Treatment Scheme. This is an EU scheme that allows people waiting for treatment to have this in another EU state and reclaim all or some of the **costs**. Emma's parents have decided to take her to an orthodontist in Belfast. This means that Emma won't have to wait another 2 years for treatment.

The Cross Border Treatment Scheme is just one EU scheme that allows children and young people to have treatment in another EU country. If the treatment children and young people need is essential and not provided in Ireland, their parents or guardians can apply to the Treatment Abroad Scheme to have this treatment in another EU member state. In many cases this treatment is life changing.



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Key Messages

Children and young people's right to timely and necessary healthcare should not be negatively impacted by Brexit. Many children and young people who avail of these schemes travel between Ireland and the UK for treatment.

The UK should agree to remain part of the current EU health schemes. This is possible if it remains as a member of the European Economic Area (EEA). EEA countries (Norway, Iceland, Liechtenstein and Switzerland) are a part of these schemes. We would like clarity on whether the UK will remain in the EEA.

If this is not the case, schemes should be negotiated by the Irish and UK government.



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Health: European Health Insurance Card (EHIC)

Background

Emma Jones is a fit and healthy 13 year old. She lives in Crumlin, North of Ireland with her two parents and her two brothers. Emma and her family were on a family holiday in Bulgaria over the summer break. As one of the day outs on their holiday they attended a water park where Emma wanted to experience high-thrill water rides. Unfortunately she broke her right shin bone on one of these rides. Emma was rushed to hospital where she was examined and treated for free as she had a European Health Insurance Card (EHIC).

Help Available Now

The European Health Insurance Card (or EHIC) is issued free of charge to anyone who usually resides in the EU. It can be used in any EU member state and the member states of the European Economic Area. It can be issued to anyone who is insured or covered by a government social security scheme or their dependants.

An EHIC means that you can receive necessary medical treatment free or at a reduced cost if you become ill or have an accident during a visit to another country in Europe. You can also get treatment during a visit abroad with your EHIC if you have a long term care need such as kidney dialysis. The EHIC allowed Emma to get the medical treatment she needed for free in this case.

Issues for consideration

Will the EHIC card still be valid once the UK leaves the European Union? Will the EHIC card be still viable if the UK stays within the European Economic Area (EEA)? Will the health treatment arrangements between Ireland and the UK be retained?

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Theme 6: Education

Article 17 – You have the **right to access information** which is important to your wellbeing., for example from websites, tv, social media etc.

Article 28 - You have the **right to primary and secondary education**, and government should make sure all young people have an equal opportunity to get to college or university. Schools should respect your rights and treat you with dignity when it comes to discipline in the school.

Article 29 - Your **education should help you develop your skills** and personality fully, teach you about your own and other people's rights and prepare you for adult life. Your education should help you to develop respect for your parents, for your own cultural background and national values. Education should promote equality and help you to develop understanding and tolerance for others, and respect for the natural environment.

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Education: Erasmus +

Background

Ciara is 14 and lives in Belfast with her family. She is about to start studying for her GCSEs. Ciara is very interested in Modern Languages and is studying French and German for GCSE and would like to keep languages up for Higher Education. Her school has been involved in youth exchanges with partner schools in France and Germany for the past number of years and this has helped students with language learning.

Help Available Now

Article 165 of the Treaty for the Functioning of the European Union says that member states will contribute to the development of quality education between member states.

Erasmus+ is the European Union programme for education, training, youth and sport. It aims to modernise education, training and youth work across Europe. It offers exciting opportunities for UK and Irish participants to then study, work, volunteer, teach and train abroad in Europe.

It runs for seven years, from 2014 to 2020. The programme has now reached the halfway mark in the UK with 500 million euro allocated to projects and activities since 2014.

Issues for consideration

Children and young people's right to education and also that education will fully develop their skills, talents and abilities should be protected post-Brexit.

The UK Government has confirmed that the Treasury will underwrite grant agreements for Erasmus+ signed while the UK is still an EU Member State, but what will happen after Brexit? Will young people still be able to avail of the Erasmus+ programme?

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Education: Cross Border Education

Background

Emily is 12 years old and lives in Donegal, close to the border with Derry/Londonderry. She attends her local primary school in Donegal and will be starting secondary school next year.

Emily's parents would like her to attend school in Derry/Londonderry. There are lots of reasons for this.

- The school is close to Altnagelvin Hospital where Emily attended CHOICE, a diabetes support programme for children and young people. EU funding allowed this programme to be offered to all children and young people across eligible areas of Northern Ireland and the border counties in the Republic of Ireland. Emily made a lot of friends on this programme and wants to go to the same secondary school as them. Her parents also want her to be able to continue to access support from the programme.
- The family lives on the border and it is the closest school to their house.
- Emily wants to go to the school.

Emily's parents have enrolled her in a school in Derry/Londonderry. However, they are very uncertain about how her access to school in the North will be affected by Brexit. Will she still be able to access education in Northern Ireland? How will her daily journey across the border be affected by any new border controls?

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The Situation at the Moment

At the moment many children from the Republic of Ireland attend school in the North and vice versa. Although schools must offer places to children from their own part of the Ireland first, there are no other obstacles to going to school on the opposite side of the border. There is no hard border or border controls so travel to and from school is not affected.

Key Messages

Both the UK and Irish government should work to make sure that children and young people can continue to attend school across the border.

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Theme 7: Standard of Living

Article 18 – Government should make it clear that both parents share responsibility to raise you, and should always consider what is best for you. Government should **help your parents care for you properly**, including helping them find childcare when working.

Article 26 – You have the right to **social security benefits** from the government if you need them. This could mean money for housing or living costs.

Article 27 – You have the right to an **adequate standard of living** for your physical, mental and social development. Your parents have the main responsibility to make sure you are provided for but, when necessary, Government should also help, particularly in relation to meeting your basic needs including a place to live, food and clothing.

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Standard of living: farming family

Background

John is 10 years old. He lives on his family farm outside Enniskillen with his parents, two older brother and baby sister. He dreams of growing up to be a farmer like his Dad. John's Dad was originally in favour of Brexit, despite a large proportion of the income for the farm coming from EU subsidies. He had found the bureaucratic 'red tape' frustrating, and understood that the money that was being paid to the EU could replace the subsidies for farmers. However, since the referendum, he has become very worried about the future of his farm, and his ability to provide for his family. He upgraded his milking equipment two years ago and is in considerable debt. He feels he has few options in terms of work in the future, as all he knows is farming.

Help Available Now

Farming subsidies: The Department of Agriculture and Rural Affairs (DEARA) in NI have stated that a significant proportion of farming income in Northern Ireland comes from the EU. This equates to around €300 million of EU money. There have been no commitments for the UK government to replace the subsidies in the long term.

Single market: Currently John's Dad can work with other farmers across the border as if there was no border (a quarter of all milk produced in NI is exported to the Republic of Ireland). No tariffs are applied when he sells his milk over the border. (A 'tariff' is a payment that is normally required when selling products outside your own country). The NI Food and Drink Association estimates that these tariffs would lead to price increases of 47% and 58% for butter and cheese if selling into the EU (including Republic of Ireland).

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UK farmers have also had to meet high EU standards for the treatment of animals and food production. After Brexit farmers may have to start to compete with dairy products from other countries that don't have the same ethical/food safety standards, and are therefore much cheaper.

Issues for consideration

While issues of trade, subsidies, and tariffs seem very far away from children's rights, for many thousands of children in Northern Ireland, these matters may have a very significant impact on their families and on whether their families can maintain their standard of living in the future.

Children and young people have a right to a decent standard of living, and governments must support parents to provide for their children. John has a right to not live in poverty, and to have his basic needs for food, home, clothing, etc met.

The agri-food sector in Northern Ireland contributes around £4.6 Billion to the Northern Ireland economy, and people are employed in small or large agri-food businesses in every village and town across Northern Ireland. The future of the agri-food sector affects the future income for families across Northern Ireland, but particularly in rural areas.

The UK government should recognise the unique situation of the agri-food sector in Northern Ireland, and seek to ensure that businesses (including farmers) are able to continue to work with farmers across the island of Ireland, and to trade over the border without having to pay tariffs. It should seek to maintain EU food safety and ethical standards, and not allow inferior products from other countries to be imported and sold in Northern Ireland at cheaper prices.

The UK government must also consider how to replace the tariff payments, so that there are no 'cliff edges' for farmers with subsidy payments suddenly ending.

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Standard of Living: EU Structural Funds

Background

Sarah is a 15 year old girl living in a disadvantaged area of Derry. She is planning to leave school next year, and go to Belfast Met (Further Education) – to study Business and Finance.

Help available now

Her community has been very run-down, but there are plans to invest in the development of new community facilities – Health Centre, Employment Hub, Family Support centre, Youth Facilities. It's not clear this is going to happen now, as it was dependent on European funding.

There's not much for children and young people to do in her community – and what was happening (eg youth work activities) was dependent on European Peace Funding. The workers have explained that the previous Peace funding had run out which meant that things had to be cut back, and now it is not clear whether the funding will be continued after the UK leaves the EU.

Issues for consideration

She has also been hearing about the impact that Brexit may have on the economy and really worries about what opportunities there will be for her when she finishes her course.