

Speech given by Barney McNeany, Northern Ireland Commissioner for Children and Young People, to the Health and Safety Executive for Northern Ireland on 24th May 2006.

The Office of the Northern Ireland Commissioner for Children and Young People (NICCY) was established under legislation in November, 2003, with the principal aim of safeguarding and promoting the rights and best interests of children and young people in Northern Ireland.

Within NICCY's work on behalf of children and young people up to 18 years old and 21 years old for those with a disability or in care, there are a number of priority areas ranging from health and education to family life and criminal justice. The employment and associated rights of children and young people are also one of the many issues important to NICCY.

Often when we think of children in employment, many of us typically conjure up images of very young children working in third world countries, often in appalling conditions and for minimal pay. Indeed an estimated 246 million children are engaged in child labour, many of whom work in dangerous environments with machinery, chemicals, or in mines and as soldiers. A vast majority of all child workers (almost $\frac{3}{4}$) work in agriculture.

Although the circumstances are not as extreme, many children and young people also work in the UK, typically starting with informal work at home before moving on to more formal employment with pay and conditions similar to adults. Furthermore, in research carried out for NICCY on children's rights in Northern Ireland, young people and professionals raised a range of concerns in relation to young people's employment and welfare rights here, including:

- Discrimination against children in lower minimum wage;



- Need for more effective monitoring of children's employment;
- Inadequate level of welfare benefits for young people;
- Lack of accessible information for young people regarding benefits and employment rights;
- Need for more effective training of frontline benefits staff;
- Need to ensure that benefits rules do not result in young people having to turn down employment in order to stay in hostel accommodation.

It is also a requirement of the legislation governing NICCY, that the Commissioner bases all his work on any relevant provisions of the United Nations Convention on the Rights of the Child. In specific reference to young workers, under Article 32 of the UNCRC, the State has an obligation to protect children from engaging in work that constitutes a threat to their health, education or development. It must also set minimum ages for employment and regulate conditions for employment. There are also further associated rights under Article 2 (non-discrimination), Article 6 (right to life, survival and development), Article 27 (adequate standard of living), Article 31 (right to play and leisure) and Article 24 in which the State must work towards the abolition of harmful practices prejudicial to the health of children, including employment practices.

Although young workers are traditionally defined as young people who are over school leaving age (16) and under eighteen, children under the compulsory school leaving age are also engaged in employment, for example carrying out agricultural work for parents, delivering milk, newspapers and leaflets, and also working in catering and in offices. Research carried out by the Commission for Children and Young People in New South Wales found that more than half of the 11,000 children and young people (aged 12-16yrs) surveyed had done some form of work in the preceding 12 month period. As



well as traditional paid employment, this also included work done for family or neighbours, volunteer work and looking after siblings while parents were at work.

As they get older, young people tend to work more often and in a wider range of jobs in the formal labour market. The health and safety of young people at work is vital and there are special laws in place to protect them against working long hours, working at night and in relation to time off for training, as well as about the type of jobs they can do. In comparison to workers over 18 for example, 16 and 17 year olds must legally have a two day rest break per week.

Paying particular attention to age and lack of experience, it is the legal duty of employers to identify and assess the possible health and safety risks to a young person before employing them. Employers of young workers, including disabled young workers, must ensure they can work safely and provide them with adequate terms and conditions of employment.

Under the Disability Discrimination Act 1995, employers cannot discriminate against a disabled young worker either directly or by failing to make reasonable adjustments to the work place and equipment. For example, they must make sure that disabled staff can be evacuated in an emergency (i.e. a flashing emergency light should be installed for a young hearing impaired worker).

While there are undoubtedly many examples of good practice, NICCY is very concerned that children's employment rights are not being adequately enforced and that there is a general lack of consideration given to the welfare of young workers. Research has found that sometimes the duties carried out by young



people go beyond what should only be 'light work' and that young workers are not aware of their rights in relation to employment law e.g. to holidays or health and safety protection. The New South Wales Commission for Children and Young People found that many of the tasks performed by children and young people are usually associated with adult jobs and require them to exercise a range of competencies, accept responsibility for other people and property, perform to certain standards and produce expected outputs. For example, children as young as 12 are babysitting which includes changing, feeding, bathing, playing and putting baby to bed; or building and repairing computers; or carrying out renovation work including tiling, painting and decorating. Furthermore, 1 in 10 of the 11,000 12-16 year olds surveyed were working more than 15 hours per work.

Despite restrictions on work which they are not physically or mentally capable of doing, young workers also should not be carrying out work that brings them into contact with chemicals and toxic materials. It is a fact that many children and young people who work do get injured in the workplace carrying out work that is not suitable for their age and capability, and is often dangerous. For example, the New South Wales research found that 40.1% (of 11,000) had sustained some type of injury at work. Of those, 7.4% had sustained a serious work-related injury resulting in hospitalisation, required medical treatment, or an injury that resulted in time off school or work for three days or more. Those most likely to be injured were those who performed agricultural and horticultural work, labour work, food preparation and delivery work, with typical injuries including burns, open wounds, sprains and strains. Children and young people who participated in the research described incidents such as "I fell off my motorbike while moving cattle...I was concussed and got a large gash on my leg"; or "a pallet of bricks fell off the forklift onto me and I was pinned under it...I broke my right arm and leg..and a couple of ribs" and "I



sliced off the top of my finger with an angle grinder". (All these cyp were only 14 years old)

Also in this research, it was found that children living in rural areas are more likely to work than those in towns/cities, a reflection of the large number of children who undertake farm work in rural areas. As well as living and playing on farms, many children and young people in Northern Ireland also work on them. While undoubtedly farms can provide lots of fun and opportunities for exploration, they can also be dangerous environments in which to both play and work. Children 'helping out' on family farms can face many risks including from machinery; farm traffic; farmyard chemicals; animal disease and slurry pits. In Northern Ireland over the last ten years, seventeen children aged less than sixteen years of age have tragically died in farm accidents, while many others have also been injured, some seriously, for example in one year alone (2001-02), 44 children under sixteen sustained injuries. It is not clear how many were as a direct result of working or 'helping' out – however the average age of the children was only 5 and a half years old. There clearly needs to be greater health and safety regulations around the agriculture industry, particularly in relation to children under 16 working and 'helping' out on farms.

There can be other risks to young people at work, for example, from other adults. NICCY has been concerned about the repeated failure to implement timely and effective vetting procedures for all staff working alongside children and young people. Last year NICCY carried out a review of recruitment, selection and vetting procedures among statutory organisations in Northern Ireland, at the request of the then Secretary of State Paul Murphy. The need for the review arose out of the Bichard Inquiry in England, following the tragic murders of Holly Wells and Jessica Chapman in Soham. What NICCY was



keen to ensure was that a similar tragedy could be avoided through ensuring robust vetting, recruitment and selection procedures.

As we were carrying out our work, as we do with all the work we engage in within NICCY, we consulted a range of children and young people. The responses from the young people were helpful, and interesting, and they were keen to ensure that anyone who has contact with children and young people are vetted, including as an employer. The legislation of course has not traditionally allowed for that. While the recently introduced Protection of Children and Vulnerable Adults (NI) Order (2003) stipulates that vetting must apply to anyone in a position where a substantial part of the duties includes “supervising or training children under the age of 16 in the course of the children’s employment”, this can presently only be enforced against employers in a childcare position. However, when the new Safeguarding Vulnerable Groups Bill comes into effect, employers of children under 16 in any setting will have to ensure they are vetted. We therefore need to be mindful, but not frozen by the possible child protection risks of young people in employment.

Turning now to issues of health and well being of young people in employment, there are concerns about the impact of the low minimum wage for 16 and 17 year olds. As well as the sense of powerlessness and frustration felt, it is possible in these situations for young workers to be encouraged to work longer hours to compensate for receiving low pay, thus having an adverse impact on their health and well-being both at work and elsewhere (i.e. decreases time available for play/leisure and study). Recent research by the British Youth Council found that out of 3000 young people interviewed, NONE knew how to enforce their rights to a minimum wage. It is therefore extremely important that this issue is addressed, and it is an area that young people in the workplace are concerned about.



A study carried out for the Children's Law Centre found that almost 12% (124) of young people surveyed had issues in relation to employment discrimination, namely the age of legal employment and unequal pay. NICCY supports the principle of equal pay for work of equal value (as enshrined in the Equal Pay Act) and is therefore concerned that 16 and 17 year old young workers are particularly at risk from economic exploitation, given that the national minimum wage is not equally applied to those in this age group. It is our view that by not paying young people the same wage, this not only devalues them, but has a knock-on effect on how they are treated in all aspects of the workplace, including the level of consideration given to their health and safety.

Young people aged 16 and 17 are currently only entitled to earn £3.00 per hour in a three-tiered minimum wage system, in which they get almost 30% less than 18-21 year olds and 40% less than adults (over 21's). Furthermore, when the minimum wage was increased in 2005, this did not include 16 and 17 year olds where it remained the same (£3). This is too low, especially considering that young people are often carrying out equivalent work, often with some levels of responsibility. In the CLC study, one 16 year old complained that "I am not treated fairly in employment as there are people older than me earning more for doing the same job", and this was an issue that arose in NICCY's research with young people stating that lower wages are discriminatory. NICCY strongly advocates that, as with any other form of discrimination, e.g. gender/race, discrimination on the grounds of age is unacceptable. In the European Committee of Social Rights report on the UK's implementation of the European Social Charter, (2005), it was concluded that there is no evidence to suggest that young workers lowest wages were fair compared to adult workers' minimum wages, which are themselves unreasonably low.



There is of course the issue of young people's rights when their employment ends, whether it is a result of e.g. redundancy or ill-health in relation to the welfare benefits system – for many of these young people, the benefits available are too low to be able to live on, putting some at risk of homelessness. It is also extremely difficult for young people who are on minimum wage to pay rent and other bills.

Concluding Comments

Research shows (e.g New South Wales) that children and young people value the opportunity to develop new skills, exercise more responsibility and self-reliance, earn money and make a contribution. Their satisfaction with working is generally influenced by four factors: recognition; support; control and autonomy; and income. (Income and control and autonomy were least to the satisfaction of the cyp in NSW) However:

- Some forms of work are not appropriate for children under 16, for example the type of duties involved in farm work, so there should be greater protection for children in agriculture. Generally greater consideration given to health and safety issues for children and young people, for example:
- There is a need to be mindful of any child protection risks and for employers to put in place a range of safeguards, including where possible vetting arrangements, advice and guidance on how to make a complaint, and respect for the young employee.
- Employers must make the necessary health and safety adjustment to facilitate disabled young workers
- Wage protection rights must be extended to 16 and 17 year olds, therefore the minimum wage for 16 and 17 year olds must be raised and accessible information about the range of benefits and entitlements available to them should be provided.

