

# YOUTH JUSTICE

## Introduction

Youth justice and community safety have been key issues of concern for NICCY, since the establishment of the Office in 2003. Over the past ten years, NICCY has addressed a plethora of justice-related issues, through its work in monitoring the policies and actions of government and statutory agencies, providing advice and recommendations relating to key issues, campaigning with or on behalf of children and young people and reporting to the UN Committee on the Rights of the Child on Government's progress in fulfilling children's rights in relation to youth justice.

NICCY has consistently advocated for a youth justice system where the best interests of the child or young person are a key objective, the health and welfare of the child are paramount, the use of prevention and diversionary measures are a priority and where custody is used as a 'last resort' and for the shortest possible time. NICCY's Review of Children's Rights in Northern Ireland (2008) highlighted all of these issues and identified where progress had been made in realising children's rights in respect of these issues and where significant problems remained. A number of these issues then constituted key calls in NICCY's 'Make it Right' campaign (2010) concerning youth justice<sup>1</sup>. Through its work on this theme, the Office has also consistently highlighted the vulnerability of children and young people in contact with the youth justice system, noting the significant proportion of young people with mental health issues, special educational needs, who are care experienced, are self-harming or suicidal or who are on the child protection register.

A major review of the youth justice system in Northern Ireland was completed in 2011. This examined many aspects of the system from early intervention to reintegration and rehabilitation. The Review Report set out 31 recommendations<sup>2</sup>. NICCY submitted both written and oral evidence to the Review Team and the Office is a member of the YJR

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<sup>1</sup> NICCY's 'Make It Right' campaign was launched in 2010, to mark the 20<sup>th</sup> anniversary of the United Nations Convention on the Rights of the Child (UNCRC). A series of policy and campaign briefings highlighting key policy issues affecting children and young people were published during the year. These sought to inform the wider public about the issues and to support children and young people to campaign for Government action to address child rights violations in Northern Ireland.

<sup>2</sup> Department of Justice (2011). *A Review of the Youth Justice System in Northern Ireland*. Belfast, Department of Justice.

Implementation Group which is currently monitoring the implementation of the Report's recommendations. NICCY welcomed many of the recommendations, particularly those relating to the reduction of delays in the justice system, the emphasis placed on diversion and rehabilitation approaches and the incorporation of Article 3 of the UNCRC as the new principal aim of the youth justice system. NICCY also strongly welcomed the Report's recommendation to immediately raise the criminal age of responsibility to 12 years.

## **Realising children's rights in relation to youth justice**

### **ASBOs**

NICCY objected strongly to the introduction of Anti-social Behaviour Orders (ASBOs) in 2004. The Commissioner was concerned about the restraints these would place on children and young people and the potentially negative impact they would have on their future life chances, including the potential for young people to enter the criminal justice system. NICCY therefore argued that 'all other means of intervention should be thoroughly exhausted before ASBOs are even considered as an option'<sup>3</sup>. While ASBOs were introduced and may still be granted in Northern Ireland, in 2012 the number issued was the lowest on record<sup>4</sup>. This would suggest they are being issued to children and young people much less frequently and in part, this may be due to questions about their effectiveness<sup>5</sup>. NICCY has long held the view that ASBOs are incompatible with a child-centred approach to justice which places a greater emphasis on diversion and preventative approaches, therefore evidence of a reduction in the use of ASBOs is a positive development.

### **Custody of Children in Adult Prisons**

NICCY has continuously expressed serious concerns about the detention of under 18 year olds in Hydebank Wood Young Offenders Centre, calling for them to be removed and accommodated in appropriate juvenile provision. A range of inspection, research and review reports and statements from other agencies have also criticised the poor regime in Hydebank Wood, commenting that it was not and could 'never be an appropriate environment for young people'.<sup>6</sup> Reports by the UN Committee on the Rights of the Child

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<sup>3</sup> [http://www.niccy.org/uploaded\\_docs/NIHE%20%20Statement%20of%20Policies%20and%20Procedures%20on%20Anti%20Social%20Behaviour%20-%20Consultation%20Response%20by%20NICCY.pdf](http://www.niccy.org/uploaded_docs/NIHE%20%20Statement%20of%20Policies%20and%20Procedures%20on%20Anti%20Social%20Behaviour%20-%20Consultation%20Response%20by%20NICCY.pdf)

<sup>4</sup> <http://www.cjini.org/CJNI/files/3e/3e02e6eb-f2bd-446e-a3fe-5b72d4ee8a85.pdf>

<sup>5</sup> National Audit Office (2007). The Home Office: Tackling anti-social behaviour.

<sup>6</sup> Prison Review Team (2011). Review of the Northern Ireland Prison Service: Conditions, management and oversight of all Prisons, Interim Report.

stated that the UK government and devolved institutions must 'ensure that all children and young people are separated from adults in detention'.<sup>7</sup> The Youth Justice Review team, in its Report strongly advocated for the relocation of under 18s from Hydebank Wood to Woodlands Juvenile Justice Centre. NICCY therefore welcomed the Minister of Justice's announcement in October 2012 that under 18s would no longer be accommodated in Hydebank Wood, although the Office is continuing to seek clarification in relation to the Department's proposal to retain an exceptional circumstances clause.

### **DNA and Fingerprint Retention**

The Criminal Justice Act (Northern Ireland) 2013 includes a number of clauses relating to DNA and fingerprint retention. NICCY provided both oral and written evidence to the NI Assembly Justice Committee to highlight a range of concerns regarding the retention of children and young people's DNA and fingerprint profiles. NICCY argued strongly that the retention of DNA and fingerprints should be proportionate, based on necessity and with a presumption of innocence on the part of the child or young person. Alongside a number of other agencies, NICCY expressed a range of concerns regarding specific proposals which were considered and debated during the Committee Stage of the Bill. While the Office acknowledged the Department of Justice's decision not to indefinitely retain the DNA of under 18s convicted of a first minor crime, NICCY was disappointed that the final draft provisions did not sufficiently differentiate between adults and children or adequately represent the best interests of the child.

### **The Role of Significant Adults in the lives of Young People in contact with the youth justice system**

Given the extreme vulnerability of many children and young people in the youth justice system, NICCY sought to learn more about how supportive, affirming relationships with 'significant adults' could positively influence different aspects of young people's lives and guide them in areas such as personal and emotional development, education or training and diversion from the criminal justice system. NICCY commissioned research into this issue and a report, entitled, "She's a Legend": The Role of Significant Adults in the Lives of Children and Young People in Contact with the Criminal Justice System' was published in 2012.

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<sup>7</sup> UN Committee on the Rights of the Child (2007). General Comment 10: *Children's Rights in Juvenile Justice*, Rec 62e.

<sup>8</sup>The Report identified a number of recommendations. These highlighted the need to disseminate information about good practice evidenced by youth and community workers, the importance of placing children's rights at the centre of agencies' practice and the need to challenge negative stereotyping of children and young people. The Report also emphasised the valuable role of significant adults in helping young people to access their rights. NICCY has cited evidence and recommendations emerging from the Report in its advice and recommendations to government on a range of issues relating to children's rights and wellbeing.

### **Reporting to the Committee on the Rights of the Child**

In their joint report to the UN Committee on the Rights of the Child (2008), Children's Commissioners across the UK identified a number of key areas where youth justice provisions continue to be non-compliant with the principles of the UNCRC and recommendations of the UN Committee on the Rights of the Child. While the Department of Justice has taken steps to address a number of these, concerns remain about the minimum age of criminal responsibility (currently 10 years of age in Northern Ireland), the continued existence of ASBOs and the negative portrayal of young people by the media. NICCY is continuing to address these matters through its ongoing work.

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<sup>8</sup><http://www.niccy.org/Publications/policyandresearchreportsandpapers/PolicyandresearchReportsbytheme/juvenilejustice/ShesaLegendTheRoleofSignificantAdultsintheLivesofChildrenandYoungPeopleinContactwiththeCriminalJusticeSystem>