



# STATEMENT ON CHILDREN'S RIGHTS IN NORTHERN IRELAND 3

## SUMMARY REPORT

November 2022

# FOREWORD

***“Overcoming poverty is not a gesture of charity. It is the protection of a fundamental human right, the right to dignity and a decent life.” – Nelson Mandela***



A very warm welcome to NICCY’s third Statement on Children’s Rights in Northern Ireland, a comprehensive overview of our jurisdiction’s performance against key rights for children and young people. I appreciate that this is a long read, but it was impossible to narrow it further as the issues and subjects are serious and often complex. The report contains 52 carefully considered calls backed by evidence and hundreds of recommendations. The detail and heft are a result of many issues, some of which are UK and worldwide, and others specific to Northern Ireland.

Our first report was published in June 2018 when we had **no NI government**, the second in November 2020 **during COVID**, the government having returned at the beginning of that year, and here we are two years later, at the time of writing, with **no Assembly and no Executive**. In the aftermath of the pandemic and the depths of the poverty crisis, our children, young people and families are facing the biggest challenges to their health, education and wellbeing since the worst times of the conflict.

Children in Northern Ireland look to their counterparts in other jurisdictions across these islands and see their rights being progressed. We need progress here that is right for us and our context, and only a NI government can achieve that. We need progress to make sure that children get the best start in life. Nothing can be more important.

As a NICCY, it is our job to highlight what more needs to be done, and this report does just that. However, it would be remiss if as I entered the last few months of my term in office we did not reflect on the positive changes that we have seen since 2015, and again these are highlighted in this report. I believe that there is a different attitude towards the rights of children and young people, the beginning of a recognition that children are partners in the decisions made about them individually and collectively. I have also seen positive moves in a range of areas, particularly mental health and special educational needs (SEN).

The challenge remains to turn this into tangible actions where children and young people experience better outcomes and feel that they are respected and valued. SOCRNI 3 demonstrates that we still have a long way to go.

I became Commissioner in 2015 and very quickly got involved in UN reporting on the UK government's implementation of the UNCRC and monitoring the concluding observations and recommendations was a key feature of the two previous SOCRNIs. My term will end in the middle of the 6th periodic examination process. This report demonstrates the extent of the work still to be done.

It is important that NI incorporates the United Nations Convention on the Rights of the Child (UNCRC) into legislation through a NI Bill of Rights and embeds key processes to ensure its realisation. We will only be paying lip service to children's rights if we do not deliver on the key structures.

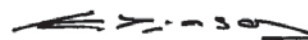
When you look at the chapter headings of this report you will see a common thread – poverty. Children who do less well at school are likely to be poorer children, families with a child with a disability are over-represented in the poverty statistics, and children who find themselves in the care of the State are more likely to come from communities that are considered socially deprived. Children with mental health issues are much more likely to be living in poorer families, armed groups target and abuse children living in working-class communities, and children and families subject to immigration control are deprived of an adequate standard

of living. Poverty is the tarnished thread that runs through the most egregious breaches of the rights of children and young people. A government, whether in Westminster or Stormont, that wilfully chooses not to tackle poverty does not deserve the name.

Being appointed the third NI Commissioner for Children and Young People has been the honour of my professional life; nothing can top that. For eight years I have spoken directly with thousands of children, which is, without a doubt, the best part of this role. They are optimistic, funny and determined to make a difference. I have sometimes left meetings with young people feeling worried, often excited and enthused, but always determined to do the best job.

As I reflect on my term, I am proud of the work the amazing team at NICCY has achieved and grateful for their professionalism, commitment and support. I am also grateful to all of you who have given us your time and advice to make sure that we are on the right track. I look at the work of the last eight years with enormous pride, and I know that it will continue.

This wonderful place is on a journey that will take time, and the choice of roads must be made with children and young people. I am, however, gutted that we are not further along than we are.



**Koulla Yiasouma**

The Northern Ireland Commissioner for Children and Young People





## 2. INTRODUCTION

Welcome to this biennial Statement on Children's Rights in Northern Ireland 3, the purpose of which is to focus on those key issues prioritised by NICCY and advise the government on necessary calls to address the same. This is our third Statement to be issued to mark International Children's Day.

Since our last Statement in 2020, Northern Ireland has continued to experience the impact of the COVID-19 global health crisis,<sup>1</sup> which NICCY reported on in 2021; while this threat has not been wholly eradicated and we continue to see it receding, we currently face an unprecedented crisis in the cost of living, increasing at its fastest rate in 40 years.<sup>2</sup> The Westminster Chancellor introduced a budget on 23 September 2022 but did not name it as such, thus avoiding the usual scrutiny of the Office for Budget Responsibility, causing further grave concerns amid a context of increasing food and energy costs for families, inflation, pressures on public services, a falling pound, mortgage deals being withdrawn and ongoing reliance on foodbanks.<sup>3</sup>

The Northern Ireland Assembly and Executive had 'resumed' in January 2020 after a three-year 'absence'. This year, however, Northern Ireland remains without a functioning Executive since the outcome of the elections held in May 2022, as Brexit still casts a grave shadow and the NI Protocol is cited by one of our political parties as a reason for not taking up their seats in the NI Assembly. Northern Ireland may face another election in late 2022 if the NI Assembly is not in place by the end of October. The NI

Protocol Bill brought forward at Westminster aims to unilaterally override parts of the protocol, thereby breaching international law. Members of the House of Lords have expressed grave concern over what is referred to as 'Henry VIII powers' in that it will effectively allow Ministers to do as they want, i.e., through amending primary legislation using secondary legislation. NI's 'dedicated monitoring mechanism', i.e., the Northern Ireland Human Rights Commission (NIHRC) and the Equality Commission for Northern Ireland (ECNI), have recently issued their first annual report<sup>4</sup> on the implementation of Protocol Article 2 and have 'already identified ways in which new laws risk undermining the rights, safeguards and equality protections' set out therein and weakening the commitment to non-diminution of rights. We maintain a watching brief on developments as they relate to the rights of children and young people.

Such economic pressures and political uncertainties have exacerbated and will undoubtedly continue to exacerbate public anxiety and tensions for wider society here and our families, children and young people.

As an Independent Human Rights Institution (IHRI) for children, NICCY's role in scrutinising, advising and indeed challenging the government is more vital than ever in ensuring the rights and best interests of our children are being protected. We remain mindful of a range of concerning developments regarding the potential erosion of human rights, including the Conservative government's proposed

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1 NICCY (2021), 'A New and Better Normal', (Belfast: NICCY).

2 [www.bbc.co.uk/news/business-63033110](https://www.bbc.co.uk/news/business-63033110)

3 [www.irishnews.com/news/northernirelandnews/2022/06/02/news/food-bank-feels-the-rumbling-of-demand-ahead-as-cost-of-living-rises-2730754/](https://www.irishnews.com/news/northernirelandnews/2022/06/02/news/food-bank-feels-the-rumbling-of-demand-ahead-as-cost-of-living-rises-2730754/)

4 [www.nihrc.org/publication/detail/annual-report-of-the-nihrc-and-ecni-on-the-implementation-of-protocol-article-2-2021-2022](https://www.nihrc.org/publication/detail/annual-report-of-the-nihrc-and-ecni-on-the-implementation-of-protocol-article-2-2021-2022)

replacement of the Human Rights Act (on which NICCY has provided advice), undermining of the European Convention on Human Rights (ECHR) and the passing of the Nationality and Borders Act in April 2022. In our role as a “Prescribed Person” under the Public Interest Disclosure Order (NI) 1998 and subsequent amendments, NICCY has received a notable number of ‘protected disclosures’ to bring attention to circumstances that have presented or could present a risk to the rights, safety or wellbeing of children or young people. These have included possible failures in treatment, policies, processes, or conduct in public agencies that were duly investigated. Part of our work has focused on child rights impact assessments (CRIA) and having this ‘good practice’ embedded in the work of NI departments and agencies so that children’s rights are considered at the outset of developing laws, policies and strategies.

Throughout this report on each of the key issues as set out, we have referenced the relevant UNCRC articles (as per NICCY’s statutory duty), assessed the current context concerning children’s rights and followed this with NICCY’s recommendations to redress breaches of these to government.

While previously we have published our ‘Monitoring Table’ on the UNCRC Committee’s Concluding Observations in parallel with this report, given that the current UN (joint 6th and

7th) periodic examination process is nearing completion, we await the Committee’s next set of Concluding Observations early in 2023.

It is pertinent to highlight that the term of our current Commissioner, Koulla Yiasouma, ends on 2 March 2023, having completed two four-year terms in office. While much has been achieved during her eight years, in such changing global, national and local contexts, much will remain to be done in our mission:

***‘to safeguard and promote the rights and best interests of children and young people in NI’.***



**Mairéad McCafferty**  
Chief Executive





## **2. IMPLEMENTING CHILDREN'S RIGHTS IN NI**

## The General Measures of Implementation

Article 4 of the UNCRC reflects the commitment of State parties to take all the necessary actions to implement children's rights:

*'States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.'*

In 2003, the UN Committee on the Rights of the Child (the Committee) provided more detail through **General Comment 5 (GC5)** on the 'general measures' required to implement the UNCRC, and these are relevant to the development of child rights-compliant strategies and policies<sup>5</sup>. These are split into three areas:

1. Legislative measures
2. Justiciability of rights
3. Administrative measures
  - A comprehensive national strategy rooted in the Convention
  - Coordination of implementation of children's rights
  - Decentralization, federalisation and delegation
  - Privatisation
  - Monitoring implementation - the need for child impact assessment and evaluation
  - Data collection and analysis, and development of indicators
  - Making children visible in budgets
  - Training and capacity building
  - Co-operation with civil society
  - Independent Human Rights Institutions
  - Raising awareness of children's rights
  - Making reports under the Convention widely available

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<sup>5</sup> UN Committee on the Rights of the Child, 2003, General Comment 5: General measures of implementation of the Convention on the Rights of the Child, (Geneva: OHCHR). CRC/GC/2003/527

## Calls to Government

1. The UNCRC should be incorporated through a Bill of Rights for Northern Ireland.
2. The Children's Services Co-operation Act 2015 must be effectively implemented with regular reporting on co-operation between bodies and outcomes for children.
3. The CYPS must be a mechanism by which actions to target the most persistent children's rights breaches are developed and their impact monitored. Children and young people must be actively involved in advising on and monitoring implementation.
4. The rights of children and young people must be protected in every environment they are in, including within the private sector.
5. Government departments and public bodies should undertake CRIAs when developing policies, legislation, budgets, and services or when making decisions affecting children.
6. The Northern Ireland Statistics and Research Agency (NISRA) and Child and Young People's Unit (CYPU) should lead a process of developing a robust, comprehensive set of indicators on all articles of the UNCRC, to both inform the development of actions under the CYPS and measure their impact.
7. The Northern Ireland Executive should produce children's budgets, indicating the resources allocated to delivering children's services across Northern Ireland. Departments and agencies should also use the CSCA provisions for the pooling of budgets to join up delivery for children.
8. Following the completion of the UK government UNCRC periodic reporting process, the Executive should take forward a process of awareness raising of children's rights, along with dissemination of the Committee's Concluding Observations to government officials and professionals working with children, and to the general public, including children. Implementation of the recommendations must be incorporated into the CYPS.
9. Children's rights education should be a mandatory part of the school curriculum at all Key Stages.
10. NICCY's legislation as per Article 24 recommendations should be amended accordingly.





### **3. NICCY KEY CHILDREN'S RIGHTS PRIORITIES**

## 3.1 Educational Inequalities

### Calls to Government

1. End the educational attainment gap between specific groups of children and young people and remove all barriers to every child's full participation in and access to a child rights-compliant education system including supporting those who are LGBTIQ+, newcomers, children in care, or have SEN. This includes full implementation of the recommendations from TLTL, NICCY's rights-based review of SEN provision in mainstream schools, and full commencement of the new SEND Framework.
2. Prioritise the promotion and monitoring of mental health and wellbeing of children and young people in schools and protect against factors negatively impacting wellbeing in schools by:
  - Taking measures to ensure that the Addressing Bullying in Schools Act (Northern Ireland) 2016 is effectively implemented by schools and establishing robust monitoring and evaluation processes to measure the effectiveness of policies in tackling bullying.
  - Ensuring that all children who require access to counselling services can do so. This must include ensuring access to ICSS in primary school settings.
  - Implementing a prevention and early intervention approach to emotional health and wellbeing. This must include prioritising the implementation of the Emotional Health and Wellbeing Framework in schools.
  - Implementing a measure of wellbeing across all schools in Northern Ireland and ensuring that this measure is completed by every pupil.
  - Ensuring pupils' access to meaningful, age-appropriate, comprehensive and scientifically accurate sexual and reproductive health education by making this part of the mandatory school curriculum for all schools in Northern Ireland.
3. Move towards a single education system that is UNCRC Article 28 and 29 compliant and fit for purpose, provides greater efficiency, and addresses the cost of education for families. This must involve a proper review of our segregated system and address the fundamental flaws and inequalities that arise from academic selection.
4. Ensure thorough and ongoing assessment of the impact of the COVID-19 pandemic, and government's response to it, on all children and young people's access to education, including the most vulnerable, such as those attending special schools.
5. Act to minimise the use of restrictive practices and seclusion, including the implementation of statutory guidance on the use of restrictive and support practices for educational settings, accompanied by a supporting training framework to ensure the protection of children in all settings.

## 3.2 Health

### Calls to Government

1. Implement the recommendations of NICCY's Mental Health and Health Waiting List Reviews and ensure the findings inform all current and future strategies to reform services. This must include long-term investment to sustain services with a central focus on improving outcomes.
2. Prioritise investment in those areas that reflect the most egregious breaches of children's rights to health, ensure that all funding decisions are transparent and equality impact assessed, and establish robust monitoring and evaluation processes to allow for effective measurement of impact.
3. Ensure adequate mental and physical health provision is in place to meet the ongoing needs of children and young people impacted by the pandemic. Include a proactive response to reducing pandemic-related adversities that are known to harm children's health and wellbeing, for example, those with pre-existing mental or physical health problems or disabilities and experience of adverse childhood experiences (ACES) such as domestic violence, abuse and poverty.



### 3.3 Child Poverty

#### Calls to Government

1. Take action to support low-income families through the cost-of-living crisis, including payments to help cover the rising costs of fuel.
2. Adapt the new mitigation package to include elements to address child poverty and provide support for low-income families, including continuing the mitigations relating to the social sector size criteria, the benefit cap, the payment for children transferring from DLA to PIP, and the following new elements:
  - a. mitigation payments for families affected by the two-child limit and removal of the family elements of tax credits;
  - b. grants to address costs associated with employment (as originally advised by the Mitigations Working Group);
  - c. an expanded payment for low-income families with young children, based on the Scottish government's Best Start Grant.
3. Transform the UK Social Security system so that, once again, it becomes an effective safety net for all in society. The government must provide a renewed vision for the social security system and reverse the harmful policies that have undermined it. Families should be guaranteed a minimum income.
4. Develop and implement the new Anti-Poverty Strategy without delay. This should adopt a lifecycle approach reflecting the causes and impacts of poverty at different ages and including actions in relation to children, working-age adults, and pensioners. Actions relating to children should include introducing a new £20 weekly child payment for each child in poverty, affordable childcare, and reducing the costs of education and travel.

### 3.4 Safeguarding Calls to Government

The government must ensure that all children are safe and protected from harm:

1. Ensure that learning from the impact of the COVID-19 pandemic on safeguarding arrangements and protections for children and young people directly informs the rebuilding and reform of services.
2. Commence with urgency a statutory multiagency child death review process.
3. Implement the Barnahus model for all child victims of sexual offences.
4. Review all relevant safeguarding legislation to ensure that children up to the age of 18 are properly protected in law from all forms of abuse and harm.

### 3.5 Legacy of the Conflict Calls to Government

1. Ensure the full and effective protection of children and young people from criminal coercion and exploitation, trauma, violence or mistreatment in their communities, including from all forms of violence by non-State forces and recruitment by such forces.
2. Where it is suspected or proven that a child is at risk of abuse or exploitation from a criminal gang or paramilitary organization, children's social care services should be immediately informed and the relevant safeguarding measures and processes initiated.
3. Address the continuing impacts of the conflict, including mental ill health, family breakdown, child poverty and educational under-attainment and the provision of adequate support services to children and young people in their communities. Information about the conflict should be provided to children and young people to achieve a shared narrative about the conflict.
4. Make wider and earlier use of the whole school curriculum to promote tolerance and a mutual understanding of community identities. Make efforts to encourage integrated education and collaborative projects between Catholic and Protestant schools to give children in both communities more opportunities to work together and integrate.
5. Support children and young people to play a central role in building a peaceful future in Northern Ireland, recognising that over many years, children have acted as human rights defenders. This should involve ensuring that children and young people are supported to explore and celebrate their culture and to recognise the right of others to celebrate theirs.

## 3.6 Youth Justice Calls to Government

1. The Youth Justice System must demonstrate that it is implementing the best interest principle by ensuring:
  - custody is a last resort and for the shortest possible time.
  - children are diverted from the formal system.
  - STLs are introduced for the processing of youth court cases of 120 days.
2. The DoJ and YJA must create a holistic approach to measuring, reporting and analysing progress in the outcomes for young people.
3. Legislation must be passed raising the minimum age of criminal responsibility to at least 16.
4. The PSNI must:
  - a. demonstrate the purpose and outcomes of all Stop and Search operations involving children and young people and improve the quality of engagement with young people.
  - b. cease the use of Spit and Bite Guards on children.



## 3.7 Participation

### Calls to Government

1. Ensure that the DE's Participation in Decision Making initiative is endorsed and supported by all relevant public bodies with a specific and identified timeframe and delivers a structure for meaningful participation of children and young people, especially those most vulnerable. This includes the allocation of dedicated human and financial resources.
2. Develop young people's role as active participants in education and promote Pupils' Voices (Pupil Participation in Schools) by creating a DE policy requiring schools to establish an effective pupil voice mechanism and supporting this by an appropriate inspection process.
3. Ensure meaningful consultation with children and young people, including the production of child-friendly documentation, flexibility in the format for responses, sufficient time given to consultation, accessibility of resources, due respect given to each response and feedback provided on how the views of children and young people have been taken into account in decision-making.
4. Provide training to all professionals working directly with children and young people or whose work impacts them, to increase their understanding of children's rights concerning their role and their responsibility as duty bearers. Every relevant authority that works with children and young people should have a regular and meaningful engagement process with the children, young people and families who use their services or are subject to their policies.
5. Support the NI Youth Assembly to effectively engage with all systems within the NI Assembly, empowering Youth Assembly members to challenge and question the workings and decisions of our government and not simply be a convenient consultative body for Departments and statutory agencies.

## 3.8 Environmental Justice

### Calls to Government

1. Take a child rights approach to environmental matters, including climate change action. This should include undertaking CRIA on the development of related policies, strategies, legislation and action plans.
2. Encourage meaningful and ongoing engagement of children and young people in developing and implementing actions to protect the environment and address climate change. Establish accessible engagement processes and recognise children's right to information and to protest, challenge and access legal complaints mechanisms.
3. Commit to a 'just transition' approach to climate action, to promote equality between generations, geographies and socioeconomic groups and to ensure that the cost of climate actions does not impact already disadvantaged groups.

## 3.9 Homelessness

### Calls to Government

1. Prioritise the eradication of homelessness and housing insecurity affecting children and families in Northern Ireland.
2. Ensure that robust data are being collated and used to understand the profile of children, young people and families affected by homelessness and housing insecurity.
3. Review existing housing policy and support to ensure that prevention and early intervention are effective in their approach to children, young people, and families.

## 3.10 Challenging Discrimination

### Calls to Government

1. Develop and implement Age GFS legislation that covers all age groups to include the protection of children and young people from discrimination when accessing goods, facilities and services.
2. Act decisively to ensure that mental health legislation in NI provides all children aged under 18 with access to legal protections and safeguards that comply with ECHR and UNCRC.
3. Reform legislation to ensure children have equal protection from all forms of assault, including physical punishment, and strengthen the commitment to supporting families, including through dedicated and effective positive parenting support.

## 3.11 Children and Families Subject to Immigration Control

### Calls to Government

1. Implement NICCY's recommendations in *A Hostile Environment*, ensuring data are gathered on the number of children affected by NRPF, establishing clear referral pathways between the Home Office and HSC agencies, and assessing and addressing the needs of each child.
2. Bring forward a regional service model for separated children, supported by a CRIA.
3. Review the use of contingency accommodation in Northern Ireland and ensure that families have access to appropriate housing that supports their right to family life and appropriate services that promote their right to education, health care, and all other UNCRC rights.





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