**NICCY Submission to The Northern Ireland Policing Board Thematic Review: Children and Young People**

**20 February 2024**

**Introduction**

The Office of the Commissioner for Children and Young People (NICCY) was created in accordance with ‘The Commissioner for Children and Young People (Northern Ireland) Order’ (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland (NI). Under Articles 7(2)(3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. The remit of the Office is children and young people up to 18 years, or 21 years, if the young person is disabled or was in the care of social services. In determining how to carry out his functions, the Commissioner’s paramount consideration is the rights of the child and NICCY is required to base all its work on the United Nations Convention on the Rights of the Child (UNCRC).

NICCY welcomes the Northern Ireland Policing Board’s (NIPB) Thematic Review of Policing Children and Young People and the consideration and assessment of Police Service of Northern Ireland’s (PSNI) compliance with relevant human rights and equality legislation in how it deals with children and young people (CYP), noting our previous involvement in informing the draft Terms of Reference, and further engagement with NIPB in January 2024.

This submission is set out in four sections noting relevant information and key issues for NICCY within each i.e. ‘Children’s Rights’, ‘Children and Young People as People of Interest’, ‘Children and Young People as Victims’, and concluding with ‘Further Comments’ including the PSNI’s Children and Young People Strategy.

**Children’s Rights**

The UNCRC is the most comprehensive, international human rights treaty enshrining specific children’s rights and defines universal principles and standards for the treatment and status of children around the world.  Article 3 on ‘best interests’ holds that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

State Parties undertake to assign the child *‘such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures*.’

Further, State Parties shall ensure that ‘*the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision*.’

On **Stop and Search**, Article 16 holds that ‘*no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation*.’  Also, that *‘the child has the right to the protection of the law against such interference or attacks.’*

On **Custody**, Article 37 holds that States Parties shall ensure that:

1. No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.  Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
2. No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
3. Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
4. Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

With regard to the **minimum age of criminal responsibility** (MACR) Article 40(3)(a) holds that States Parties shall ‘*seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.’*

In November 2019, the UNCRC published General Comment 24 on Children’s Rights in the Child Justice System which provides a helpful benchmark to assess the system.

Concluding Observations – June 2023

The most recent Concluding Observations issued by the UN Committee on the Rights of the Child, contain a number of recommendations for the Government in relation to youth justice, and violence against the child and the administration of child justice.1  Some of the most relevant are summarised below:

* Legislate to explicitly prohibit, without exception, the use of harmful devices, including spit hoods, plastic bullets and taser guns, strip searches on children, solitary confinement, isolation, seclusion and restraint as disciplinary measures in schools and alternative care and health-care settings;
* Implement the Gillen Review recommendations and allocation of resources to implement the Barnahus model;
* Raise the minimum age of criminal responsibility to at least 14 years of age;
* Take legislative and other measures to ensure that: (i) children are not prosecuted as adult offenders, without exception; (ii) the child justice system is applied to all children who were below the age of 18 years when the offence was committed; (iii) rehabilitation periods are determined on the basis of the date the offence was committed, not the date of conviction; (iv) detention is used as a measure of last resort and for the shortest possible period of time and is reviewed on a regular basis with a view to its withdrawal; and (v) life imprisonment is abolished for children and young people who committed offences when they were below the age of 18 years;
* Prevent and combat gang-related violence and knife crime and protect children from such violence, including by: (i) addressing the social factors and root causes of gang-related violence and knife crime among adolescents; (ii) establishing child-sensitive early warning mechanisms for children who seek protection from gang related violence; (iii) adopting programmes that provide children in gangs with assistance and protection to enable them to leave gangs and be reintegrated into society; and (iv) putting an end to the recruitment of children as informants for law enforcement and intelligence bodies;
* To effectively enforce the prohibition of the use of non-statutory stop and search checks against children, prohibit their use in NI and ensure that the statutory use of stop and search checks are proportionate and non-discriminatory, alongside mandatory training for law enforcement officials, and improve the monitoring of such checks.

Statement on Children’s Rights in Northern Ireland 3

In 2022, NICCY published our third Statement on Children’s Rights (SOCRNI) which looked at some of the key issues facing children and young people today. In relation to youth justice and policing, we recommended that:

* 1. The Youth Justice System must address demonstrate that it is implementing the best interest’s principle by ensuring:
1. Custody is a last resort and for the least possible time;
2. Children are diverted from the formal system;
3. The introduction of statutory time limits for the processing of youth court cases of 120 days.
	1. Department of Justice and Youth Justice Agency must create a holistic approach in measuring, reporting, and analysing progress in the outcomes for young people.
	2. The legislation must be passed that raises the minimum age of criminal responsibility to at least 16;
	3. 4. The PSNI must:
	4. demonstrate the purpose and outcomes of all Stop and Search operations involving children and young people and must also improve the quality of engagement with young people; and
	5. Cease the use of spit and bite guards on children.

Whilst we recognise that progress has been made, including the adoption of a new Strategic Framework for Youth Justice, there is much work to be done to effectively embed children’s rights on policing and justice in NI.

**Recommendation 1: That the NIPB review of policing of children and young people is conducted within a child rights framework and is reported on as such. This would include the UNCRC, General Comments 10 and 24, the Beijing Rules, Havana Rule and the UNCRC Concluding Observations as the relevant human rights.**

**Recommendation 2: That the NIPB review of policing of children and young people directly engages with and consults children and young people to inform the Review, including those who have experience of direct contact with the PSNI, to understand and reflect their views and to realise their rights. NICCY also recommends that all future NIPB Policing Plans and Community Policing Surveys engage children and young people and a NIPB Children and Young People’s Engagement Strategy is developed.**

**Children and Young People as People of Interest**

Stop and Search

NICCY remains concerned about the use of stop and search on children and young people and continue to question its effectiveness as a policing tool. We are also concerned that stop and search powers may be being used inappropriately. According to the PSNI, Stop and Search is an operational tool used to prevent, detect and investigate crime as well as to bring offenders to justice. NICCY queries this given the outcomes of Stops and Searches which can be seen in the published data provided and discussed further below.

Many young people express a negative experience when they have been stopped and searched or questioned; this may make tense situations worse and works against improving confidence in policing.2 While PSNI have a clear policy commitment to children’s rights, and that this is recognised in their new Children and Young People’s Strategy, this needs to be reflected in their routine engagement with young people. It is experiences such as these that shape young people’s views and will adversely impact confidence levels in the PSNI which is of concern, if they are ever victims of crime in the future.

NICCY is aware that PSNI have improved the quality of their reporting on the use of stop and search powers to include more information on the demographics (age, community background etc) of those stopped and subsequent outcomes. However, PSNI published information shows that while the numbers of Stop and Search operations have reduced over the last 10 years NI still has some of the highest rates in the UK.3

During the 12 months between 1 October 2022 and 30 September 2023, 26,113 persons were stopped and searched/questioned, 25% more than the previous 12 months. 17% of stops were conducted under the Justice and Security Act Section 24\* (arrest rate 1%) and 4% under the Justice and Security Act Section 21\* (arrest rate 1%). 9% (2,479) of those stopped were aged 17 and under. Of these, approximately 2 out of every 3 (67%) were stopped and searched under the Misuse of Drugs Act.4

Given the clear difference between the use of this tool, and the arrest, or other outcomes rate, the PSNI must provide evidence that Stop and Search is an effective way not only to prevent and deter crime.5

NICCY also wishes to draw the Review Team’s attention specifically to the numbers of Stop and Search incidents being conducted under the Justice and Security (Northern Ireland) Act 2007 powers through Sections 21 and 24. NICCY also wishes to draw the Review’s attention to the most recent report from the Independent Reviewer of the Justice and Security (Northern Ireland) Act 2007. The Fifteenth Report made specific recommendations on data collection, accessing of information on JSA Stop and Search, the experience of vulnerable groups through Stop and Search (such as Irish Travellers), the seeking of views of local people via e.g. Policing and Community Safety Partnerships (PCSPs). The Independent Reviewer also stated that the PSNI should conduct a review of its policies and practices in relation to JSA stops and searches of children between the ages of 10 and 14 considering the recent consultation on MACR by the Department of Justice. NICCY also supports this call.

**Recommendation 3: The PSNI should provide evidence that Stop and Search is an effective way to prevent and deter crime. If this cannot be achieved, the PSNI should ban the amount of Stop and Searches against children and young people across all categories of powers.**

**Recommendation 4: The PSNI must publish annual disaggregated information and data on the use of Stop and Search on children and young people including community background. The PSNI should address risks on the use of Stop and Search against children, by virtue of their ethnicity, family circumstances or gender, being drawn into the criminal justice system from a young age directly and ensure that their Children and Young People’s strategy and associated policies and procedures includes mitigations of said risks.**

Spit and Bite Guards (SBGs)

Children cannot be treated the same as adults within the policing and criminal justice system.  It is widely recognised that they must be treated differently because of their distinct vulnerabilities, evolving capacities and greater developmental

needs.  Developments in neuroscience have also identified that brain development and specifically the frontal lobes (the area of the brain that helps regulate decision-making and the control of impulses that underpin behaviour) are still developing into the early 20s.  Naturally, this will affect a child’s ability to cope in stressful situations involving police and law enforcement. The use/application of a Spit and Bite Guard not only heightens the fight or flight response but could also risk subsequent psychological damage. This is compounded by the fact that children who come into contact with the police are some of the most vulnerable in society - many may have experienced abuse or violence, are victims of criminal exploitation, or have special educational needs (SEN), communication needs or mental health conditions.6

NICCY has previously welcomed the PSNI’s instructions around the use of spit and bite guards, where officers or staff are aware that a member of the public is under 18, the presumption will be that a Spit and Bite Guard should not be used, and that it must be demonstrably necessary to be used.7  However, we understand there is still risk for PSNI Officers to potentially wrongly identify a young person as over 18.

Following two years’ use as a temporary measure, in June 2022 the PSNI decided to continue the use of Spit and Bite as a permanent tactical option including on children and young people. Between March 2020 to June 2022, 6.4% of all deployments of SPGs involved young people. There has been strong opposition and concern regarding the use of this on children and young people including from the Police Ombudsman who has stated that they should be prohibited.

The PSNI have previously indicated that as a mitigation they plan to improve their training (to include that on adverse childhood experiences ‘ACEs’), all incidents involving young people will be examined by senior officers.  Additionally, PSNI have committed to, ‘continue to scrutinise the use of SBGs on children through a proposed performance accountability framework’.8

It is NICCY’s continuing position that the presumption that Spit and Bite Guards will not be used on children, is too vague and leaves scope for routine use on children and young people. There is a considerable risk that their use of this method will add to young people’s belief that PSNI discriminate against them, treat them unfairly and disrespectfully. It is our view that the use of Spit and Bite Guards by the PSNI on children and young people is not in compliance with the UNCRC and other international and domestic children’s rights standards and as such, their use should be banned.

**Recommendation 6: Spit and Bite Guards should never be used by the PSNI against children and young people.**

**Recommendation 7: In the absence of a ban, the PSNI must fully implement the remaining recommendations made by the NIPBs Human Rights Advisor on the use of Spit and Bite Guards and detail how they have complied with those that have been accepted to date.**

Use of force

Since 2008, NICCY has raised serious concerns regarding the decision-making process for the introduction of Tasers into operational use and how the implementation process raised serious concerns for the rights of children and young people.

The PSNI are trained in a range of tactical options relating to the use of force including the use and application of the National Decision Making Model (NDMM) in what are sometimes ‘dynamic decisions.  According to the PSNI, the test for Conducted Energy Devices (CED) such as Tasers is contained within PSNI’s Conflict Management Manuel at Chapter 12.79 and states:

*‘The use of Taser will be justified where the officer honestly and reasonably believes that it is necessary in order to prevent a risk of death or serious injury’.9*

It is NICCY’s understanding that there is a high threshold for a Taser to be fired and only armed response Officers can do so. However, NICCY has been made aware that there have been a number of occasions where tasers have been raised against children and young people, and clarification should be sought by the Review Team to determine their use (including the raising of, red dotting), and whether the high threshold has been met in all occasions.

The use of ‘mosquito devices’ to disperse groups of children and young people in public spaces has not yet been prohibited. The UN Committee’s 2023 Concluding Observations recommended that the Government *‘strengthen measures to prevent the use of acoustic devices to disperse public gatherings of children, in line with the Committee’s previous recommendations*.’10

**Recommendation 8: The use of tasers and acoustic devices against children and young people are prohibited by the PSNI at all times.**

Arrest, bail, remand and custody

All children imprisoned in NI are held in Woodlands Juvenile Justice Centre (JJC).  The last CJINI inspection of the JJC in 2022, found that children were held safely and well cared for.  Whilst not an identified area for this Review, the policing of children and young people can lead to arrest, bail, remand or custody for some and therefore should be considered from a Child Rights perspective. The June 2023 Concluding Observations also recommended that the State Party *‘repeal the process of remanding children into police custody, ensure that no child is held in police custody overnight and avoid the use and reduce the maximum duration of pre-trial detention*.’11

Custody in NI is not viewed as a measure of last resort. In 2020-21, 3% young people held in the JJC were sentenced, with the remaining 98% either held there under PACE or on remand. A discussion on the use of the JJC in terms of vulnerable children and young people is detailed below. Despite this evidence the DoJ have not been able to progress their intention to address the recommendations regarding bail and PACE of the Youth Justice Review and the now, non-operational, NI Law Commission.  NICCY looks forward to DoJ progressing their intention to lay legislation that reforms bail and custodial sentences for children as well as an update on the proposals for the Regional Secure Care Campus from the Departments of Health and Justice.

Strip Searching

The NIPB will be aware of the ongoing issue of the strip searching of children and young people the PSNI in custody. It was publicly raised by organisations in the children’s sector at a PSNI Youth Champions meeting in May 2022, by Policing Board members and via the media. NICCY also engaged with NIPB on their report on the subject.  There appeared to be discrepancies in the published data, and the answers given. Two other substantive issues formed part of the ToR for the NIPBs review into Strip Searching of children and young people:

The nature of the intelligence or evidential basis for the strip search given the absence of items subsequently found by the PSNI in the majority of cases;

In the majority of cases, the need for the search was classified as urgent and, as a result, no appropriate adult was present.12

The June 2023 Review made 10 recommendations and a new policy was established in January 2023. Following the Review, all Custody Officers were issued with updated directions in the use of powers in respect of strip searching – that strip searches of children and young people must only be done in the presence of a parent, guardian, or an appropriate adult, except in cases of urgency. Where a strip search is authorised on CYP there must be a detailed rationale recorded of the basis of that authorisation.13

In June 2023 the UNCRC recommended that the ‘UK Government and NI Executive should take legislative measures to explicitly prohibit, *without exception*…*the use of strip searches on children’*. Whilst NICCY appreciate the publication of the new policy subject to the NIPBs recommendations, it remains NICCY’s position that this practice should be banned entirely *in all settings.*

**Recommendation 9: Legislation to prohibit strip searches against children and young people, without exception should be introduced by the NI Executive in this Assembly mandate.**

Charging, prosecution and other disposals/outcomes

NICCY would draw the Review Team’s attention to the Criminal Justice Inspectorate’s (CJINI) published Terms of Reference for their inspection for the Youth Justice Agency’s (YJA) community-based interventions with children in NI. Where necessary, the interface between the YJA and its criminal justice partners will be considered, with the PSNI, Public Prosecution Service, NI Courts and Tribunal Service, and Probation Board NI. It is NICCY’s understanding that this is due to be published in the coming months and would be useful for NIPB to review / monitor if there are any differences in approach across the PSNI in the use of diversionary powers.

Police and Criminal Evidence Act – Woodlands/Juvenile Justice Centre

Successive reports have found that too often Woodlands is being used as a place of safety for children and young people because there were no other available alternatives for them and that children and young people remained in custody because a suitable bail address was not available.

The 2017 Audit Office Report urged that this area be treated as a priority for action. It recommended that looked after children should no longer be placed in custody, either through PACE, on remand or sentenced, where this would not have been an outcome for children in the general population. It also called for:

* The development of suitable options for accommodating a very small number of dangerous young offenders;
* Determining decisions on place of detention for young people who attain the age of 18 while in custody by an assessment of their particular circumstances, needs and best interests;
* Reducing to an absolute minimum the practice of using the JJC as a place of safety for PACE.

NICCY has previously raised the issue and warned against the use of Woodlands JJC as a place of safety. NICCY firmly believes that once a child has been placed in the JJC under PACE, they are more likely to return one remand, therefore their admission is putting that child on a flight course to return to custody on a more permanent basis and that this is not appropriate. We have argued that there is an over-reliance on secure care facilities due to systematic pressures and lack of suitable services in the community to meet the needs of children and young people whose behaviour or risk would not warrant secure care or custody. The CJINI inspection of Woodlands JJC in January 2022 confirmed same.

According to the Youth Justice Agency statistics, in 2022/23 there were 3,844 days of custody provided by the JJC, 209 for PACE, 3,272 for remand and 363 for sentence. The number of custody days overall has decreased by 40.8% in the five-year period, despite an increase of 23.2% from 2021/22 (3,120 days). The proportion of days related to remand and PACE in the five-year period has increased, while the proportion relating to sentences has decreased. There were 224 admissions to the JJC in 2022/23, an increase of 8.2% on the previous year (207). There were 314 movements within JJC in 2022/23, an increase of 9.0% on 2021/22 (288).14

Whilst not directly specified in the NIPB’s ToR, NICCY advises the Review Team to consider this, given the involvement of the PSNI, PACE and impact on children and young people’s rights.

Minimum Age Criminal Responsibility (MACR)

UN General Comment 24 encourages Governments to take scientific evidence on children’s development into account and set a minimum age of criminal responsibility of 14 years of age. Regardless of all the evidence and rights standards, children in NI are held to be criminally responsible at 10 years of age (as well as in England and Wales). The UK and NI Government continues to not act where the UN Committee on the Rights of the Child have consistently highlighted the issue of the age of criminal responsibility across the UK.

Whilst NICCY appreciates that MACR is not within the terms of this Review, it would be remiss not to include this as a recommendation given the impact that it has for policing and for engagement of children and young people and their rights within the justice system.

**Recommendation 10: The MACR in NI is increased to 16 years old as a matter of urgency.**

Delay

The UNCRC Committee is clear that when a child or young person commits a crime the time taken to process through the system should be as quick as possible. The Youth Justice Review Group had previously recommended that it should take no longer than 120 days from the start of the police investigation to the charge either being dismissed or dealt with through the Juvenile Justice System.

NICCY appreciates that issues with delay are wider than policing, and that this Review is not concerned with the youth justice system as a whole but rather the impact of delay on children’s and young people’s rights regarding policing. Nonetheless, confidence in policing, prosecution and the justice system reduce due to, amongst other issues, delay and barriers. Children and young people as both victims and perpetrators of crime may disengage, or not engage in the first place. NICCY is aware of recommendations made by the NI Audit Office in 2018, the Public Accounts Committee in 2021 and efforts undertaken by the Department of Justice and other agencies, to speed up justice and prioritise some areas, however, delay is increasing, and the system has been described as ‘broken’. A joined-up strategy across all the justice system, including policing to implement necessary changes to reduce waiting times and avoidable delay must be implemented.

**Children and Young People as Victims**

Child Sexual Exploitation and Child Criminal Exploitation

NICCY welcomes the specific inclusion of Child Sexual Exploitation (CSE) and Child Criminal Exploitation (CCE) within this Review and wishes to draw the Review Team’s attention to the ongoing and pervasive nature of CSE in NI.

CSE is a form of child sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity (a) in exchange for something the victim needs or wants, and/ or (b) for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual.

CCE is a form of child abuse which occurs where an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child or young person under the age of 18 into any criminal activity for financial and/or another advantage of the perpetrator or facilitator. The abuse and exploitation is often through violence or the threat of violence. The victim may have been criminally exploited even if the activity appears consensual.15 There is no agreed or formal definition of CCE and the true scale and reality of CCE is largely unknown.

As previously raised, NICCY would like further information as to how the NIPB regard CSE and CCE in this context, how it is being measured and what data would be examined or indeed needed, given under-reporting and lack of comparable statistics. In 2020, CJINI found that many statutory terms for sexual offences that have legal meaning were inappropriate for conveying the coercion and abuse that CSE entailed. A lack of legal definition may have an impact on how police react to both CCE and CSE, their ability to recognise it, investigate and then move to prosecution. Given this, the NIPB Review Team needs to consider how a lack of definition may affect the consideration of many children and young people as victims of these crimes, or if a working definition will be used. There are also well-known gaps in data collection and information around the prevalence of CSE and CCE in NI, areas that require much further work amongst all relevant Departments and bodies, including the PSNI.

For example, as of 31 March 2023, 2,171 children were named on the Child Protection Register with 5% due to actual or likely exploitation.16 The PSNI recorded sexual offences against children and young people below 18 years old as 2,315 for 2022/23 according to data published by the NSPCC (the highest recorded in 16 years).

CSE does not always involve physical contact; it can also occur through technology, which this Review must take into consideration particularly in relation to how the online world is being policed. It is unclear what statistics, if any, are available in relation to CSE and CCE committed against CYP online in NI.

It is NICCY’s understanding that the PSNI developed a new “Person of Concern” Process in 2022 in relation to perpetrators of CSE, and that the YJA have signed up as an external partner, with PBNI in the process of doing so. Its purpose is to encourage professionals to ‘trust their gut’ about a person or location and empowers them to report their suspicions to Police. It would be beneficial for the NIPB Review Team to consider this process within this Review and how it has resulted in operations, investigations and/or prosecutions as a direct result.

NICCY is aware that children and young people are being ‘recruited’ by so called paramilitary and organised crime gangs for criminal and/or sexual exploitation, often under coercion. They are therefore victims of CCE or CSE. It would be beneficial for NIPB to consider this as an integral part of the Review given that often, those children and young people who are coming into contact with the justice and policing system as alleged perpetrators of crimes, or due to their behaviour, are victims. NICCY also wishes to draw the Review Team’s attention to the recently completed ‘Jay Review’ on Child Criminal Exploitation and how the findings of which, along with any associated recommendations could, and should, have implications for policing children and young people who are victims of such abuse in NI.17 NICCY also draws the Review Team’s attention to the previous work undertaken on CSE and CCE.18

**Recommendation 11: The PSNI and NIPB prioritise a public information and awareness campaign on CSE and CCE in order to better understand the risks and harm.**

Vulnerable victims

Notwithstanding previous comments in relation to the impacts of particular policing tools on vulnerable victims, NICCY would encourage the Review Team to consider how any differences in treatment influences confidence in policing. This includes consideration of how the PSNI engage with or respond to children and young people in general and within particular communities, especially where there are difficulties in doing so. This can include those communities under coercive control and threat by so-called paramilitary style and organised crime gangs, those where confidence and trust in the PSNI is low and people are unwilling to report or engage with law enforcement for a variety of reasons, those who experience language or educational barriers and access to information and support, particular vulnerabilities within asylum seekers and refugee communities.

For such communities, structural issues, such as historic and current lack of investment resulting in economic and social inequalities can combine powerfully with intergenerational trauma, concerns about the legitimacy and effectiveness of, and confidence in, government and statutory agencies including the PSNI.

NICCY has consistently raised concerns about the over-representation of looked after children (LAC) in the justice system and coming into contact with the PSNI. We continue to raise the issue of the use of the JJC as a place of safety, and changes required to bail and remand.19Of the children in custody during 2022/23, 41.8% were in care (32.7% were subject to a care order; 9.1% were voluntary accommodated), according to recent Youth Justice Agency reports – the highest rate in five years.20

In 2022/2023, the PSNI received 5,240 reports of children going missing from care in NI, which involved 1,171 individual children. Of these occurrences, 2,923 reports were from residential children’s homes, relating to 166 individual children.21 In correspondence to NICCY, the PSNI have stated that in the year prior to 30th November 2023, a total of 5,199 reports were received in relation to missing children, involving 1,172 individual children. 3,079 of these reported related to 288 individual LAC.22

**NICCY recommends that the Review consider the impacts of socioeconomics on vulnerable CYP and being victims, including the impact of poverty.** Furthermore, consideration of CYP as victims of domestic abuse should be given due regard given the policing response and changes in the legislation through the ‘Domestic Abuse and Civil Proceedings (Northern Ireland) Act’ (2021).

Furthermore, NICCY encourages the Review Team to engage with the Victims of Crime Commissioner Designate on policing impacting vulnerable victims, particularly on their work with victims to date, and through their Victims’ Survey launched in September 2023.23

Victims Charter rights and access to support

Children and young people have Rights under the ‘Victims Charter in Northern Ireland’ which sets out how victims of crime should be treated and what advice, support and practical information they can receive. It has been brought to NICCY’s attention that not all young victims of crime are appropriately signposted to support services that they are entitled to, and that there are ongoing issues of communication between the PSNI and support agencies.

NICCY would encourage the NIPB to investigate this and how the PSNI can assist in realising and promoting children and young people’s Charter Rights when they become victims of crime at the earliest possible opportunity, in line with their Statutory duties, as well as information on the support they can and should receive when victims of crime, including using Remote Evidence Centres, live links, and safe, suitable access to court locations.

Children used as Covert Human Intelligence Sources (CHIS)

NICCY have been clear that it is never acceptable for a child or young person to be used as a CHIS and have previously issued advice on this, as well as recently meeting with the PSNI and NI Policing Board and raising concerns.

The Covert Human Intelligence Sources (Criminal Conduct) Act 2021 empowers the police, and other authorities, throughout the UK to use CYP as CHIS and to authorise these children to engage in criminality, with no criminal liability, in return for information.

The Code of Conduct on this Act was updated in 2022. It stated that,

‘*children should only be authorised to act as CHIS in exceptional circumstances and subject to the enhanced risk assessment process’ and ‘a CHIS who is under 16 years of age must not be authorised to give information against their parents or any person who has parental responsibility for them. A juvenile CHIS who is aged 16 or 17 years old should only be deployed to gather information against a relative, their parents or any person who has parental responsibility for them where careful consideration has been given to whether the authorisation is justified in light of that fact.’*

It lists the PSNI, NIPS and DoJ within the authorised agencies and officers in relation to information about children as CHIS.

There are also United Nations Economic and Social Council guidelines on ‘Justice in Matters involving Child Victims and Witnesses of Crime’ published in 2005 which call for the creation of a national authority to protect child victims and witnesses that would coordinate services on a national level and ensure that each interaction with children was tailored to the particular child.24

In 2022, responding to an FOI request, PSNI refused to confirm or deny that it holds information in relation to the number of CYP as CHIS on - amongst other things - grounds of National Security and Health & Safety – as well as stating that there could be ‘considerable harm attributed to the confirmation or denial of any information from confidential sources, regardless of their age’.  In 2017, an FOI request found that PSNI had spent £271,387 on CHIS from April 2016-2017.25 No information is publicly available on the costs of CHIS within the PSNI budgets, or other relevant Departments and organisations.

NICCY recommends that the use of CYP by the PSNI as CHIS is considered through this Review and raise awareness of such use by other government agencies.

**Recommendation 12: The PSNI, and other government law enforcement agencies, do not in any circumstances, use children and young people as Covert Human Intelligence Sources.**

PSNI Children and Young People Strategy

As identified in the ToR, NICCY notes that the PSNI’s Strategy is at an early phase of implementation, having been launched in June 2023 at which NICCY was represented. It aligned with the National Police Chiefs’ Council guidelines on engagement, safety and protection, victims, and witnesses, offending and stop and search. It also outlined responsibilities in the UNCRC. NICCY provided a response to the strategy in January 2023, recommending that children’s and young people’s voices are included and reflected in decision making, policy development and practice and this should be reflected within the PSNI’s Policing Plan.

NICCY is concerned that the Strategy itself contains no obvious or defined KPIs and monitoring methodology on the implementation of the Strategy. We are also unaware of any additional or re-allocated resources, financial or otherwise, if deemed necessary, to support the implementation of the Strategy’s Action Plan by the PSNI and would welcome clarification on same. NICCY is also named as a partner agency amongst others within the Strategy and looks forward to continuing engagement with the PSNI on this.

**Recommendation 13: That the PSNI develop and publish key performance indicators and an Action Plan to monitor the implementation of the Children and Young People Strategy, engaging with CYP on an ongoing basis to ascertain their views and experiences relating to it.**

**Further Comments**

Data collection

The UNCRC Committee’s General Comment (GC) 24 reminds State Parties of the importance of collecting disaggregated data, but also undertaking regular evaluations of their services and outcomes. GC24 also states that records should be kept on the location and condition of the child in all phases and processes from the moment of contact with the system (from stopping by police to custody and giving evidence) to ensure rights safeguards including that to a fair trial.

It continues to be a challenge for a number of criminal justice agencies to report on the difference they have made for the young people and communities they serve, including the PSNI. Ensuring effective measurement, reporting and analysing the impact activities and treatment have on service users, is essential for both accountability and effective long-term governance and progress of the youth justice system and policing.

**Recommendation 14: That the PSNI collects and publishes further disaggregated data in relation to CYP on Section 75.**

**Recommendation 15: That the PSNI and NIPB produce children’s and young people’s versions of the Policing Plan and Community Safety Surveys and ensure that they are engaged meaningfully in both.**

Training

The need for training will have implications for a range of areas contained within this Review however, we wish to highlight one area as an example.

NICCY recommends that trauma-informed practice training is given to every Officer to ensure that actions taken when dealing with children and young people as victims or as alleged perpetrators of crime, do not cause further harm or re-traumatise. Furthermore, the use of certain policing tools on vulnerable CYP and the impact of such on their rights and best interests must be considered, including those vulnerable young people and alternative de-escalation procedures should be utilised as a first response. Use of certain policing tools on vulnerable CYP will only further a negative relationship or opinion of the PSNI and reduce confidence in policing responses. It is crucial therefore, that adequate training of officers is on an ongoing basis, to include the potential for unintended consequences, alongside the identified mitigations.

Secondly, the experiences of looked after children must be part of PSNI training, to ensure knowledge of the particular vulnerabilities and needs, as well as an understanding of the protocols and procedures in place with other government organisations and bodies to support them. UNCRC General Comment 24 recommends that [youth justice] professionals should be able to work in interdisciplinary teams, and should be well informed about the physical, psychological, mental and social development of children and adolescents, as well as about the special needs of the most marginalized children.26

**Recommendation 16: PSNI to develop trauma informed training programmes related to children and young people, specific issues relating to children and young people, youth engagement and children’s rights in collaboration with them where appropriate.**

Engagement

The 2023 PSNI’ Children and Young People Strategy’ *commits to ‘engaging positively with children and young people across all sectors of our communities…our engagement with children and young people has the potential to improve service*

*delivery and ensure high risk issues are dealt with effectively.*’ NICCY notes that since the publication of the Strategy the PSNI have met with CYP representatives through Reference, Engagement and Listening (REaL) events and that there is continuing engagement between the PSNI and NICCY on a policing initiative (youth engagement forum) with young people.

NICCY is also aware of the work with communities through Neighbourhood Policing Teams (NPT) and outreach by officers into schools, youth groups and organisations, via projects and programmes funded by the PSNI and PCSPs, enabling engagement with children and young people by the PSNI. This includes the work undertaken through Local Early Intervention and Engagement at neighbourhood level, which is welcome. NICCY is also aware of the changes and challenges that have been identified within the PSNI budget, and the impact this has on NPTs for example, and that this may impact the numbers of projects that the PSNI can attend or be part of in the future.

**Recommendation 17: The PSNI, through proper and sustained engagement with children and young people, including through Neighbourhood Policing, make changes to policy and procedures where appropriate to reflect their experiences and issues raised.**

**Recommendation 18: Via the PCSPs, the views and experiences of children and young people are addressed and inform their work, plans and outputs.**

Review: terms of reference (ToR)

NICCY welcomes the update to the ToR were made prior to the Review beginning and that it includes a number of new themes such as children as covert human intelligence sources. There are a few areas that NICCY wishes to raise that we recommend the NIPB Review Team consider, as follows:

* That explicit reference and focus is given to the disparity of children and young people from differing community backgrounds (for example CNR/PUL and Traveller) within the Woodlands Juvenile Justice Centre and the reasons for this27;
* That the timeframe and scope for historic allegations under the Review is expressed formally. Clarification on what the term ‘present’ refers to within this review;
* With regard to the exploration of data held by PSNI and EA, where police interact with schools/educational settings, it is unclear if this includes Woodlands JJC, children’s regional facilities under the HSCTs, including Lakewood Centre for Young People. NICCY further queries why this would not also include Health, and the nature of the related interactions. This would be of importance when considering LAC, missing children, children and young people victimised by CSE and CCE for example, as well as monitoring how different Departments in the PSNI work together;
* NICCY welcomes the consideration of any difference in policing response to different groups of children and young people, including Section 75. NICCY is concerned over the potential for differences in policing response towards groups of children and young people who are most vulnerable, as we have previously discussed, particularly those who are care experienced, who are asylum seekers or refugees, those children who are unaccompanied and/or may have SEN.
* Within the ToR, under the Section 75 list, historic and present allegations, exploring data held by the PSNI and EA where police interact with schools/educational settings and whether the alleged perpetrator is a relative or other close or responsible adult are also mentioned. It is unclear how these relate to the exploration of PSNI response to Section 75 groups and would require further clarification on this for the purposes of the Review. NICCY would also recommend that the Review considers data and information sharing with the Department of Health and Trusts, especially given the revised protocol between PSNI and Health and Social Care Trusts on’ Children Missing from Care’;28
* We welcome the inclusion of Training, Policies/Guidance/Service Instructions, Resources, Operations, how different Departments work together within the Review but it is unclear on the specific aspects that would be considered within it. For example, if this will include a review of the impact of PSNI budget allocation and the current financial situation and how this impacts policing children and young people; if any monitoring will be conducted on current strategies, and the PSNI’s input or involvement in them such as ‘Domestic and Sexual Abuse’, ‘Ending Violence Against Women and Girls’, and the PSNI’s own ‘Tackling Violence Against Women and Girls Strategy’. NICCY also wishes to highlight the ‘Children’s Services Co-operation (Northern Ireland) Act 2015’ to the Review Team, to improve co-operation amongst Departments and Agencies where appropriate as they deliver services aimed at improving the well-being of children and young people, as being applicable here;
* Finally, NICCY question if this Review includes consideration of Departmental consultations for example, proposals on Anti-Social Behaviour or MACR and potential impacts on policing children and young people that that might entail from any legislative change.

NICCY welcomes this review being conducted by NIPB and thanks the Review Team for the opportunity to respond to it. There remains much to be done to improve policing children and young people in NI and building confidence within communities. NICCY is happy to discuss any of the issues raised in the response and urge the Review Team to engage and speak directly to children and young people to fully inform it.