

CHAPTER ONE

GENERAL MEASURES OF IMPLEMENTATION

INTRODUCTION

Article 4 of the Convention on the Rights of the Child (CRC) requires States Parties to take “all appropriate legislative, administrative and other measures for implementation”. The Committee on the Rights of the Child (the Committee) has provided extensive advice in both its General Comment on Implementation (UNCRC, GC No 5, 2003) and its Concluding Observations as to the structures and systems that must be put in place to ensure that the Convention’s principles and provisions are effectively and fully implemented. The adoption of measures to implement the CRC and children’s rights more generally is fundamental to securing the protection and promotion of rights to each individual child and young person.

This chapter aims to evaluate the extent to which all necessary implementation measures have been adopted to ensure the realisation of the rights of all children and young people in NI (NI). It addresses legal, structural and systemic issues and also highlights obstacles to the realisation of children’s rights including access to advocacy, information and advice, and training for those working with and for children. The right of children to be heard and have due weight given to their views, and the corresponding duty to consult children and young people on all matters affecting them are considered by the Committee on the Rights of the Child as a fundamental principle of the Convention, implementation of which reflects and requires the change in attitude and approach necessary to achieve the full realisation of children’s rights in all areas.

LEGAL STATUS OF THE CONVENTION

Incorporation of the CRC

The provisions of the Convention must be given legal effect within the domestic legal systems enabling the Convention to be directly invoked before the courts and applied by national authorities (UNCRC GC No 5: 7).

Although the UK has ratified the CRC, it is not part of domestic law. It is thus not directly enforceable and does not bind the courts or public authorities. While the European Convention on Human Rights (ECHR) has been incorporated via the Human Rights Act 1998 (HRA), the ECHR has few rights specific to children and young people.

The Westminster Joint Committee on Human Rights has expressed the view that children will be better protected by incorporation into UK law of at least some of the rights, principles and provisions of the Convention (SC & CLC, 2003) In 2002, the Committee recommended that the UK incorporate into domestic law the rights, principles and provisions of the Convention in order to ensure that all legislation complies with the Convention and that the provisions and principles of the Convention are widely applied in legal and administrative proceedings (UNCRC, 2002, para 9).

The fact that the CRC has not been incorporated does not mean it cannot be used as a persuasive guide to interpreting domestic law and policy. This approach has been adopted in other jurisdictions such as Canada, the US and before the European and Inter-American Courts of Human Rights (Kilkelly, 2001 and 2002) . It is to be strongly encouraged as an approach to judicial interpretation in NI and in this regard, NICCY’s legal powers mean that it has considerable potential to take a leading role in persuading the NI courts to use the CRC as an interpretive tool.

Moreover, much can be done, short of incorporation, to ensure that the Convention is implemented in practice. From an operational perspective, it was originally envisaged that the children’s strategy would provide the mechanism for the implementation of the CRC and indeed the Working Paper on the strategy stated that it would be NI’s ‘implementation plan for the Convention’. However, in the latest draft of the strategy, this commitment has been diluted to provide that the strategy will simply ‘help NI to move closer in line with the principles and aspirations laid down in the Convention’. This threatens to seriously undermine the potential of the strategy to provide a vehicle for the much needed implementation of the CRC in practice.

Enshrining CRC Standards in Statute

In addition to consolidated children’s rights statutes, which highlight and emphasise the Convention’s principles, all relevant ‘sectoral’ laws must reflect consistently the principles and standards of the Convention (UNCRC, GC No 5: 8).

There is no consolidated children's rights statute incorporating the general principles of the child's right to life, survival and development, right to non-discrimination, right to be heard and the best interests principle. Nor is there any comprehensive code of children's rights in NI or any constitutional document to ensure that the CRC's principles and provisions will prevail where there is conflict within domestic law and to inform the development of law and policy in all areas.

The Bill of Rights presents an important opportunity to establish children's rights at a constitutional level in NI and to consolidate children's rights standards in one binding and enforceable document. However, while the process of drafting the Bill of Rights is not yet complete, the NI Human Rights Commission's (NIHRC) latest proposals reflect a standard of children's rights protection which falls far short of the Convention's minimum standards and does not fully reflect its guiding principles (NIHRC, 2004).

While the latest draft proposes to place a duty on public authorities to act in a manner consistent with the Convention (ibid.: 62), this does not fully incorporate children's rights into domestic law, a process which makes them legally enforceable in the domestic courts. Moreover, limiting the duty on public authorities to act in conformity with CRC provisions ignores the fact that the Convention sets only minimum standards. The current draft of the Bill of Rights thus does not require public authorities to implement the highest children's rights standards attainable under the wide range of international legal instruments ratified by the UK. Moreover, the current proposals for express rights to be included in the Bill do not meet the CRC's minimum standards. In particular, they fail to recognise fundamental rights including the child's right to special protection and the child's right to be heard and have his/her views given due weight in all decisions concerning him/her. Other important rights – regarding the rights of children in the justice system, to health and health care, to play and leisure, to protection from abuse and exploitation – are also absent from the latest proposals and unless this trend is reversed (the Commission's original proposals offered children's rights substantially more protection), the Bill of Rights will not improve significantly the current, inadequate legal protection of children's rights in NI. Nor will it remedy the failure to incorporate the CRC into domestic law or provide children with effective domestic remedies where their rights have been violated.

Reflection of General Principles

Domestic law must reflect the general principles of the Convention (Arts 2, 3, 12; UNCRC GC No 5: 8)

Best Interests Principle

Children's rights, particularly the CRC's guiding principles, are not adequately protected by domestic law in NI. Some examples are as follows:

- While the best interests principle is contained in article 3 of the Children (NI) Order 1995 in relation to the determination by the court of any question with respect to the upbringing of a child or the administration of a child's property, it is notably absent from other parts of the Children Order such as Part IV which relates to services for children in need.
- The best interests principle is not enshrined in the legislation governing youth justice, mental health or education in NI. For example, the Justice (NI) Act 2002 did not expressly incorporate the best interests principle despite recommendations from the Criminal Justice Review and others to that effect (CLC & IY, 2001; CLC & SC, 2003)
- article 17 of the Education & Libraries (NI) Order 2003 places a duty on Boards of Governors of all grant aided schools is to 'safeguard and promote the welfare of pupils'. While this new duty of care is welcome, it does not explicitly incorporate the best interests of the child as a paramount consideration.
- The Mental Health (NI) Order 1986 does not provide a legislative basis for the paramount consideration of the best interests of the child in terms of treatment, detention or the use of restraint and seclusion. In this regard, it is welcome that sub-groups of the Mental Health Review currently reviewing the legislation are considering principles for children with mental health needs.

The Committee expressed concern in 2002 that the best interests principle is not consistently reflected in legislation and policies affecting children and recommended in line with previous recommendations that the UK adopt the best interests of the child as a paramount consideration in all legislation and policy affecting children.

Right to be Heard

While there are some very good examples of the effective implementation of Article 12, for example, the system whereby a guardian *ad litem* and a solicitor are appointed to represent children in specified public law proceedings under the Children (NI) Order 1995, there is no coherent, legislative basis for the provision of advocacy services for children generally. The following problems were highlighted:

- Many interviewees raised as a matter of serious concern the absence of a legislative basis or mechanism providing separate representation for children in private family law cases (article 8 applications for residence, contact, prohibited steps, specific issue orders, parental responsibility applications) in the family proceedings courts and divorce proceedings. Moreover, in the High Court and Family Care Centre the courts have the power to appoint a guardian *ad litem* for any child in private family law proceedings, but this is not possible in the family proceedings courts. (Family Proceedings Rules, 1996). (NGO Representatives; Legal Professionals).
- A case is currently being made for the amendment of the Children (NI) Order 1995 to include a similar provision to article 119 of the Adoption & Children Act 2002 of England and Wales, which places advocacy services for looked after children and young people and those leaving care on a legislative footing (CLC, 2004) and to introduce reviewing officers.
- In divorce proceedings, the requirement for a social services report in all cases was removed by the Article 44, Schedule 9 of the Children (NI) Order 1995 and the court is now required to determine whether it should exercise any powers under the Order on the basis of a form (a Statement of Arrangements for Children) lodged by the parties. The child's views are not routinely sought as part of this process (Legal Professional).
- In relation to children affected by domestic violence, article 36 of the Family Homes and Domestic Violence (NI) Order 1998 allows for the provision of separate representation of children in circumstances to be specified by the Lord Chancellor in Regulations, but this article of the legislation has not been commenced (Legal Professional).
- The provision of representation and advocacy services for children who have been suspended/excluded from school or who have Special Educational Needs (SEN) has no legislative basis and education tribunal cases are not generally funded by legal aid (CLC, 2004a). There is no independent appeal against a suspension and the only option open to children who wish to challenge a suspension is a complaint to the Department or an action for judicial review in the High Court.
- The Mental Health (NI) Order 1986 currently provides no legislative basis for advocacy services for children and young people (CLC, 2003).
- Children with Special Educational Needs do not have any legal rights to have their views taken into account in the decisions which affect them (see Chapter 5).
- For children with disabilities, the views of parents and children often differ and parents are not always the child's best advocate (Mc Conkey and Smyth, 2000; Monteith and Sneddon, 1999).

In 2002, the Committee expressed concern that the obligations of Article 12 had not been consistently incorporated in legislation, for example in private law procedures concerning divorce, and in education. It recommended that the UK take further steps to consistently reflect the obligations of both paragraphs of Article 12 in legislation, and that legislation governing court and administrative proceedings ensure that a child capable of forming his/her views has the right to express those views and have them given due weight (para 30).

While several reviews are underway – the issue of separate representation is currently being considered by a subgroup of the Children Order Advisory Committee and the Mental Health Review is also considering the issue of advocacy - the recommendations made by the Committee have not yet been implemented.

Non-Discrimination

The principle of non-discrimination is not contained in any of the relevant statutes relating to issues affecting children.

Section 75 of the NI Act 1998 introduced a requirement that public authorities carry out their functions with 'due regard to the need to promote equality of opportunity' *inter alia* between persons of different age. The enforcement mechanism for S.75 requires that the policies of these organisations – including government departments, district councils, the police, the courts, Health and Social Services Trusts, Education and Library Boards, the Sports Council and the Housing Executive although not individual schools or hospitals – pursue these objectives and they must produce an equality scheme to this effect. This involves a process of screening

such policies for their impact on the relevant group requiring consultation with the particular group deemed to be affected.

The question of who must be consulted has been contentious with much concern being expressed by NGOs about the failure to apply this duty as a requirement to consult with children and young people directly. In particular, the Equality Commission has been criticised for failing to provide direction and technical support to public bodies regarding the implementation of the duty to consult with children and young people directly to comply with their S.75 duty, and for failing, more generally, to take seriously its duty to combat discrimination on the grounds of age.

Although some Government departments have consulted directly with children and young people in a meaningful way (for example, Office of Law Reform in relation to physical punishment, and the Children and Young Peoples Unit (CYPUP) in relation to the Children's Strategy and the Children's Commissioner), others have not. This is despite the view, widely held among the children's sector, that all legislation/policy initiatives which have a direct effect on the lives of children and young people should involve a process of consultation with children and young people themselves and that this process must be funded by Government. This is the only way in which actions, which may potentially discriminate against children, can be identified at an early stage. The implementation of S.75 is considered in more detail below.

Key Issues

- The CRC has not been incorporated into domestic law;
- The general principles of best interests, right to be heard and non-discrimination are inadequately protected in the law of NI;
- There is no consolidated children's rights statute;
- Provision for children's rights in the current proposals for the Bill of Rights does not meet international standards;
- The S.75 equality duty has been inadequately enforced in respect of the 'age' criterion.

ENSURING LEGISLATION AND POLICY IS CONVENTION COMPLIANT

A comprehensive and continuous review of all domestic legislation and administrative guidance is necessary to ensure full compliance with the Convention.

Mechanisms built into the machinery of relevant government departments must be accompanied by mechanisms for independent reviews by NGOs, parliamentary committees and academics (UNCRC GC No 5: 7).

Lack of Formal Government Review Structures

There is no statutory Assembly committee or department with responsibility to ensure the compatibility of NI's law and policy with the CRC. There is thus no formal government process or mechanism at NI or UK level to ensure that draft or existing legislation and policy is compliant with the Convention. In addition, Government has not undertaken any reviews of law and policy to audit them from a children's rights perspective. Many NGOs in the children's sector gave the example of the recent process passing legislation to introduce Anti Social Behaviour Orders (ASBOs) into NI as evidence of the government's lack of commitment to such an approach.

In 2002, the Committee expressed concern that there is no formal process to ensure that new legislation formally complies with the Convention. It noted that while the Scottish Executive and the Welsh Assembly had undertaken some reform in this area, no such measures had been taken in the NI Assembly. This position has not changed.

Independent review mechanisms

Although the UK Joint Parliamentary Committee on Human Rights undertook an audit of the CRC in the UK in 2003, the Government has no duty to act on any of its recommendations (Joint Committee on Human Rights, 2003); nor has it done so.

NI has two independent bodies – the NIHRC and the NI Commissioner for Children and Young People (NICCY) – with specific powers to keep the compatibility of law, policy and practice with international children’s rights standards under review. Section 69 of the NI Act 1998 provides that the NIHRC has a duty to keep under review the adequacy and effectiveness in NI of law and practice relating to the protection of human rights. The Children’s Commissioner has a more specific duty under s 7 of the Commissioner for Children and Young People (NI) Order 2003 to keep under review the adequacy and effectiveness of law and practice relating to the rights and welfare of children and young persons. These duties notwithstanding, neither the Government nor the NI Assembly is under any duty to proactively seek the advice of these bodies, to respond to it when it is received by them, or to implement their recommendations.

While the NIHRC has carried out some work relating to children’s rights, it has recorded serious restrictions on the work it is able to do, the roots of which are both financial and legal (although, beyond this, it has also been criticised by some NGOs for failing to actively pursue a children’s rights agenda). In particular, its limited resources and lack of power to compel people to give evidence hampered its investigation into the protection of children’s rights in juvenile justice centres (NIHRC, 2001; NIHRC, 2002) and continues to frustrate the Commission’s work in this area.

Despite identifying the inadequacy of its powers in its report to the Secretary of State (NIHRC, 2001a), no measures have been taken to enhance its powers. Nonetheless, the Commission has expressed its commitment to continuing to exercise its powers with respect to the monitoring and enforcement of the rights of children and young people particularly via involvement in the Committee’s reporting process. This is vital given its residual powers and responsibility in the area of protecting children’s rights.

NGOs expressed concern that NIHRC and NICCY co-ordinate their activities in respect of their work to monitor law and policy as well as in other areas. The NIHRC has already some experience of commenting on draft legislation and policy from a children’s rights perspective and it is important that this work is maintained and that both bodies fulfil their legislative duties in a way which does not overlap. A Memorandum of Understanding is being drawn up between NICCY and NIHRC and this needs to be completed urgently and implemented effectively through regular communication.

One example of how the two offices might co-work effectively is to be found in the New Zealand annual stock take of human rights. This annual report is written by the NZ Human Rights Commission but the children’s rights chapter is written by the Children’s Commissioner, involving children and young people, their families and those who work with them both in relation to issues in this chapter and in the overall report.

Key Issues

- There is no formal government process for ensuring that legislation and policy is compliant with children’s rights standards.
- While both NIHRC and NICCY are independent bodies with a duty in this area, there is no corresponding onus on the Government or the Assembly to act on their advice or recommendations.
- NIHRC and NICCY need to co-ordinate their duties to monitor law and policy in an efficient and effective manner.

A STRATEGY FOR CHILDREN AND YOUNG PEOPLE AND A RIGHTS BASED APPROACH

Effective protection of children’s rights requires a unifying, comprehensive and rights based national strategy rooted in the Convention developed through a process of consultation with children and young people and those living and working with them, with particular attention being given to identifying and giving priority to marginalised and disadvantaged groups of children (UNCRC, GC No 5: 9).

The strategy must be endorsed at the highest level of government and be linked to national development planning and budgeting. It must include a description of a sustainable process for realising the rights of children setting real and achievable targets in relation to the full range of rights in the Convention.

It must set out specific goals, targeted implementation measures and allocation of financial and human resources.

Once drafted, it must be widely disseminated throughout government and to the public (including in child-friendly versions, languages and forms) and include arrangements for monitoring and review, for updating and for periodic reports to parliament and the public (UNCRC, GC No 5: 10).

Children's Rights Approach

NGOs have expressed concern about the lack of a children's rights approach to policy making, reflecting the criticism of the Committee in 2002 (para 14). NGO representatives expressed concern about the lack of understanding of children's rights, and the seriousness of children's rights violations among government bodies in particular. For example, the draft DHSSPS strategy on children in need has been criticised for failing to have an overarching children's rights framework and for not being expressly based on the general principles of non-discrimination, best interests and the right to be heard (NGO Representatives).

While children's rights have been afforded increasing priority at government, legislative and policy level in NI, there is concern that the potential of these developments has not been fulfilled mainly due to direct rule, which some argue has led to a watered down approach to many of the on-going initiatives to protect and promote children's rights in NI. Among the NGO representatives interviewed there was a strong feeling that these initiatives have not been clearly located within a strong and enforceable human rights framework.

In light of the failure to recognise the Convention as the appropriate framework for the development of strategies at all levels of government throughout the UK, the Committee recommended in 2002 that a comprehensive plan of action for the implementation of the Convention be adopted and implemented without delay through an open consultative and participatory process (UNCRC, 2002, para 15).

Children's Strategy

Within OFMDFM, the process of drawing up a strategy for children and young people has involved formal and informal stages (the 'Future Search' event took place in November 2002; a framework paper was then produced with a Working Paper on the Emerging Strategy being published in October 2003). Considerable consultation has taken place with both children and young people and with the children's voluntary sector.

NGOs have expressed concern about the development of the strategy on two issues:

- First, the time-scale for developing the strategy has continued to slip and nearly four years on from the First Minister's announcement of the process, consultation on the draft strategy has still not taken place. Having originally envisaged that the final strategy would be published in Autumn 2004, it is now proposed that the strategy will be released for consultation in Autumn 2004 (although this has not yet happened) with the final strategy being published in Spring 2005.
- Second, serious concern has been expressed about the direction in which the strategy has recently taken and the extent to which at least some of the basis for the rights approach appears to have been diluted. Measurement of the strategy against the Committee on the Rights of the Child's standards give rise to the following concerns:
 - While the Working Paper stated that the strategy would be NI's 'implementation plan for the Convention', the latest (sixth) draft has replaced that assertion with a statement that the strategy will help 'NI to move closer in line with the principles and aspirations laid down in the Convention';
 - A further watering down of the commitment to the Convention and a rights based approach is witnessed by the statement that 'not all of those principles and aspirations will be immediately realisable'. The document also introduces the assertion, not made in the CRC, that 'with rights come responsibilities', a message which the document says will be an 'important element of any rights-based education programmes for young people' (para 1.24);
 - While the Working Paper explained the operational principle of 'rights promoting' to mean that policies and services would be developed 'in line with' the rights in the CRC (para 4.5.3), this has been changed in the latest draft to state that they would be developed 'in such a way as to carry NI closer to the principles enshrined in the UNCRC' (para 4.4.3).

While the strategy in its current draft form identifies many objectives the fulfilment of which will bring about significantly greater protection of children's rights in NI, it acknowledges also that this will require additional resources. Nevertheless, and contrary to the guidance of the Committee on the Rights of the Child, it is clear from the draft document that additional resources will not be made available and that departments must reprioritise their internal budgets to fund any necessary work (para 7.8). While not all parts of the strategy will require resources to implement, the failure to allocate significant funds to the achievement of the strategy's key objectives – such as awareness raising and training, and putting effective monitoring and co-ordinating structures in place – threatens to undermine the strategy's whole potential. As well as contravening international standards, failing to address directly the resource issue may also undermine the strategy's objective to address regional disparities in investment and the rights of particularly marginalised and vulnerable children.

Concern has also been expressed that the strategy must ensure that proper mechanisms be put in place to ensure that if it is not working, it is adjusted and targets are met. It was the opinion of NGO representatives that this was not currently the case.

Need for the strategies in other areas: lack of joined-up government

A range of NGO representatives, workers and other professionals have identified the need for strategies to be developed to tackle specific areas of children's rights. As highlighted below, the recognition of the need for coherent strategies in so many areas highlights the extent of the lack of joined-up government, which many complain is not happening in practice. To effectively promote and protect the rights of all children, these strategies must be linked to the children's strategy and the consultation documents central to their development should be produced in child-friendly forms to facilitate the involvement of young people in the consultation process (Child Care NI, 2003).

The lack of joined-up government and the fragmented approach to strategy and policy development highlight, for example, the separate concerns of children in need, family support and children disabilities, all currently being pursued as separate strategies. At the same time, these concerns do not break down for children and so authorities need to take a more holistic approach (NGO Representative). Others commonly expressed the view that there is a lack of joined-up and inter-agency working at all levels which was leading to some children not getting the services they needed.

The need to share information between agencies has also been highlighted by numerous organisations as a source of major concern and additionally, there is a lack of information sharing among professionals where there needs to be a better 'relationship of trust'. Often, the same terminology is used by different groups but it means different things to each (NGO Representatives). For example, with regard to children in need and children with disabilities, there is a clear demand for multi-agency teams, and consideration should be given to the introduction of powers to require medical and other professionals to share child protection information.

Some examples follow of where strategies are needed and/or where the lack of joined up government is a problem:

- *Child and Mental Health Services* – this suffers from a lack of a regional strategy and severe under-resourcing;
- An overarching *Prevention* strategy, which is child centred and based on children's rights, is necessary to join together all those sharing collective responsibility, clarify roles and responsibilities for social partners and to provide cohesion to existing strategic developments (Include Youth, 2004);
- *Children Services Planning*: while a positive initiative, there is widespread concern that the CSP is still not sufficiently joined up strategically at regional level and that a regional strategy is needed. One senior interviewee from the statutory sector explained that "it has not reached its potential because across the four board areas there has been a slowness to establish a cohesive and common policy approach. In particular, CSP has sub-groups and each of the four boards has a different character and distinctive priorities". Other NGO representatives criticised the CSP for failing to interface with DHSSPS strategy or policy, although it is clear that the lack of co-ordination between board areas is the central problem;
- A coherent strategy is needed to prevent and eradicate *child poverty* (Barnardo's et al., 2001) and any anti-poverty strategy developed must inter-connect with the children's strategy. While this is a key issue in the rest of the UK, it is not being prioritised in NI (see Chapter 3);
- A regional strategy is needed to *prevent child deaths*, including thorough and consistent investigation of all child deaths (Barnardo's et al., 2001);

- An inclusive approach to support services which focuses on the *needs of disabled children* and delivers such services via joined up policy and practice is needed (Barnardo's et al., 2001);
- The lack of a clear co-ordinated strategy for taking forward *youth work* is a key stumbling block to the development of the youth service in NI (NGO Representatives);
- A *Positive Parenting Strategy* has been called for in submissions made to the Physical Punishment Consultation process and as part of the Children are Unbeatable Campaign. This will not be delivered until 2006 (see Chapter 2);
- There is currently no single over-arching *family strategy*, although the Family Policy Unit has begun work in this area. NGO representatives expressed concern that this must involve wide consultation and that the Unit should take the lead in developing Family Support within NI to ensure a co-ordinated approach (NGO Representatives) (see Chapter 2);
- There is a need for a Regional Assessment Framework for Children In Need;
- There is a need for a coherent framework for Court Support Services for children and young people and an adequately resourced family justice system (Children Order Advisory Committee, 2004) (see Chapter 2);
- There is a need for a review of the use of restraint and seclusion in respect of children and young people and the need for specific overarching guidance in this regard (NGO Representatives) (see Chapter 6);
- There is no regional strategy for play in NI (see Chapter 5).

Key Issues

- There is concern about the on-going delay in the finalisation of the children's strategy and that it appears to be moving away from the model, recommended by the Committee on the Rights of the Child, which is rights based and a vehicle to implement the Convention and children's rights generally.
- There is a need to develop a series of inter-linking strategies and approaches to address the current fragmentation and lack of co-ordination in the provision of services which is undermining the protection of the rights of children in a variety of areas. These individual strategies must all be linked to the children's strategy to prevent an on-going fragmented approach.

MECHANISMS AND STRUCTURES TO CO-ORDINATE AND MONITOR IMPLEMENTATION OF THE CONVENTION AND CHILDREN'S RIGHTS

Effective implementation of the Convention requires visible cross-sectoral coordination to realise children's rights across all government departments, between different levels of government and between government and civil society including children and young people themselves (UNCRC, GC No 5: 11).

A special unit with high level authority would contribute to the overall purpose of making children more visible in government and to co-ordination to ensure respect for children's rights across and at all levels of government (UNCRC, GC No 5: 11).

Co-ordinating Implementation of the Convention

The OFMDFM established a Children and Young Person's Unit (CYPU) in January 2002 principally to work towards the creation of an office of Commissioner for Children and Young People and a long term strategy for children and young people in NI (although the strategy has been developed by a high level inter-departmental steering group).

While the work of the CYPU is to be commended, there is concern that it is neither a statutory body and that its mandate does not include the co-ordination between government departments of either the Convention's implementation or service delivery. In this regard, it does not meet international standards as it does not have the high level authority, influence or resources of an inter-departmental statutory committee or a Minister for Children.

There is no government body with the duty or power to co-ordinate implementation of the Convention in NI. While the strategy proposes to establish an inter-departmental group for children, the role of this body will be limited to overseeing the development of the strategy and will not, it appears, have a role in wider service provision or implementation of the CRC. Moreover, the draft strategy proposes to give the CYPU responsibility for monitoring the compliance of the NI administration with the Convention, and states that the strategy . . . will

be the main mechanism for monitoring this (para 7.3.4). However, this will only work if the Unit is given the statutory authority, power and resources to carry out this work effectively.

It is clear that in its current form the strategy does not envisage the establishment of a central co-ordinating authority, a Minister for Children or a statutory Assembly committee with the power and resources to co-ordinate and monitor implementation of the Convention raising serious concerns that the lack of structures in this area does not meet international standards.

Many interviewees expressed strong support for a post within the NI Executive dedicated to cross-cutting children's issues and with sufficient political weight to make progress on policy and legislative issues in respect of children. They complained that the current structure of government means that children's issues fall across a whole range of departments with no one department having a clear focus or lead. Many supported the recommendation of a Minister for Children with a Children's Unit established in OFMDFM to ensure a cohesive and strategic approach to children across all aspects of government (Barnardo's et al., 2001; NGO Representatives). Others propose a similar model of a Minister for Children combined with a Department of Children which would centrally manage all children's services and co-ordinate the implementation of the strategy and the Convention (Include Youth, 2004; NGO Representatives). The common view here is that, as one NGO representative put it, "a single figure would be insufficient" without the necessary resources, staffing and remit.

It is clear that NI is lagging behind in establishing meaningful government structures to co-ordinate implementation of the Convention and children's services. In contrast, the equivalent CYP unit in Westminster (which has now been dissolved into the Children's and Young Families Directorate within the Department of Education and Skills) works alongside a Minister for Children and other jurisdictions, including Ireland and Scotland and many European countries, have established dedicated Ministers for Children with varying remits.

In 2002, the Committee criticised the absence of a central mechanism to co-ordinate the implementation of the Convention throughout the UK, while also noting that the process of devolution made the need for effective co-ordination of implementation of the Convention even more compelling. In 2002, it recommended *inter alia* that the Government assign co-ordination of the implementation of the Convention within NI to a 'highly visible and easily identifiable permanent body with an adequate mandate and sufficient resources' (UNCRC, 2002 para 14). This recommendation has not yet been implemented.

Child Impact Analysis

Ensuring that children's rights are respected in law and policy and implemented at all levels of government demands a continuous process of child impact assessment which predicts the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights, and child impact evaluation, evaluating the actual impact of implementation. This process needs to be built into government at all levels and as early as possible in the development of policy (UNCRC GC No 5: 13).

There is currently no system in place to ensure that the impact of legislation or policy on children or their rights can be measured. The widespread view expressed by those in the children's sector was that "children's rights proofing is non-existent" and that "there is no comprehensive or systematic means of evaluating the impact of legislation or policy on children" (NGO Representatives). Nor is there any statutory or legal obligation to undertake children's rights proofing of law and policy despite recommendations from the Committee and the requirements of Article 4 CRC (NGO Representative). The only current strategy to evaluate the potential impact of policies on children's rights is in the form of S.75, about whose effectiveness concern has been expressed.

On a more general level, concern has been expressed about the lack of systematic and regular analysis of children's well-being in NI (Barnardo's et al., 2001) and NGO representatives expressed the need to develop indicators that would enable the assessment of how well children are doing and how well their rights are respected in NI as compared with other European states (NGO Representative).

Neither the draft Children's Strategy nor the DHSSPS Strategy for Children in Need envisage the development of proactive indicators of child welfare such as child well-being indicators to assist in service planning and outcome measurement and monitoring. While the strategy proposes the use of strategic indicators to measure performance in the area of children's services, it does not appear to propose the development of a specific model of child well-being analysis.

Good practice is evident elsewhere. For example, a major project to develop and consult on child well-being indicators is currently being undertaken by the Irish National Children's Office and work has also been carried out by the Annie E. Casey Foundation in the USA (Kids Count project). Other jurisdictions have incorporated child impact statements into the process of passing legislation and both the Flemish and the Swedish Parliaments have passed laws requiring child impact studies on all proposed laws affecting children (NCB, 1998).

Making Children Visible in Budgets

According to the Committee on the Rights of the Child, a state cannot tell whether it is fulfilling children's economic, social and cultural rights 'to the maximum extent of available resources' (required by Article 4 CRC) unless it can identify the proportion of national and other budgets devoted to children, both directly and indirectly (UNCRC, GC No 5: 14).

Children's budgets are necessary to be able to measure that decision making and planning at all levels of government is being carried out in line with respect for the rights of the child, and that children are being protected from the adverse effects of economic policies or financial downturns.

It is not currently possible to establish from budgetary information the impact of individual and cumulative budgetary changes on the rights of children and young people in NI (CLC & SC, 2004a) and according to one NGO representative, "there are major issues in terms of the way in which money and budgets come to NI meaning that a 'centralised budget for children' must be a priority". NGOs widely criticised the failure to take measures to undertake child-proofing of budgets in NI and the problems caused by the current lack of information.

According to the Department of Finance and Personnel, there are inherent difficulties involved in producing a children's rights analysis of the budget due *inter alia* to the fact that among the range of services provided by the administration there are a number of services which benefit not only children but the wider community. However, other countries have managed to develop models in this area and to undertake the required budget analysis from a children's rights perspective. In South Africa, for example, a children's budget is attached to the overall budget.

The fact that some states have published 'children's budgets' is proof that it can be done and research developing models has already been carried out (SC, 2004; The Children's Budget Unit, 2004). In 2002, the Committee recommended that the UK undertake an analysis of all sectoral and total budgets, including in the devolved administrations, in order to show the proportion spent on children, identify priorities and allocate resources to the 'maximum extent of ... available resources' (para 11). This has not yet been done.

Independent Monitoring

Independent monitoring structures are vital to measure progress towards implementation (UNCRC, GC No 5: 13).

In 2002, the Committee on the Rights of the Child welcomed plans to establish an independent human rights institution for children in NI and recommended that the institution;

- have a broad mandate and appropriate powers and resources in accordance with the Paris Principles to monitor, protect and promote all the rights of the Convention and for all children;
- be easily accessible to children;
- be able to determine its own agenda;
- be empowered to investigate violations of children's rights in a child-sensitive manner and to ensure that children have an effective remedy for violations of their rights;
- have formal advisory functions with the relevant legislative bodies and establish formal links, including co-operation, with other similar bodies;
- have adequate resources and appropriate staff;
- involve children and children's organisations effectively in their establishment and activities (paras 16-17).

The Office of the Commissioner for Children and Young People was established under the Commissioner for Children and Young People (NI) Order 2003 and the Commissioner took up office on 1st October 2003. The

Commissioner's principal aim is 'to safeguard and promote the rights and best interests of children and young persons'.

While NICCY has a wide range of powers which largely fulfil the requirements of the Paris Principles set out above, concern has been expressed that the Commissioner has limited powers in respect of non-devolved bodies, particularly those in the area of youth justice, and there is concern that in practice this may fail to ensure that the rights of all children in NI are protected. A similar concern was expressed that the Commissioner's Office would be adequately resourced to enable it to use its powers effectively.

While there is widespread optimism among the children's rights sector about the establishment of NICCY, and considerable goodwill exists to help the Commissioner become established, concern was also expressed that the Commissioner would utilise all his powers to maximum effect. Considerable expectation exists also that the Commissioner would apply the highest standards of children's rights in the performance of every function of the office. Many examples are given below of where NGOs expect the Office to take a leading role. One key element of the office was the desire for the Office to be accessible to children and young people. As one NGO representative put it, "[NICCY] should be on all the billboards. They should be on the TV day and night. They should be everywhere. Every kid in NI should know who, not just Nigel [the Commissioner] is, but who all the staff are (and) they should be extremely approachable and extremely personable ... so that children know who they are and feel they can contact the office, come in and have a cup of tea with them".

In addition, all NGOs interviewed encouraged the Commissioner to make effective use of all of his powers, including its legal powers, with a view to furthering standards of children's rights in NI and raising the profile of children's rights issues. Clearly, enormous expectation exists among the children's rights sector, which worked so hard to achieve a Children's Commissioner with considerable powers.

It is also imperative that the government fully respects the role of the Commissioner for Children and Young People and that it proactively seeks and acts on the advice of the Commissioner in relation to the compliance of any legislative or policy initiatives with the Convention and other international human rights standards as they apply to children and young people. It will also be imperative that organisations working with or for children and young people take immediate steps to share their concerns in relation to children's rights with the Commissioner and that they quickly establish mutual information sharing procedures (CLC & SC, 2003).

Organisations which retain a remit and duties in this area - such as the Equality Commission and the Human Rights Commission - should establish joint working protocols at the earliest possible opportunity to ensure effective co-ordination of their roles and to prevent individual and general children's rights issues falling between them. This has not yet been done and should be pursued as a matter of urgency.

Key Issues

- There are no cross-departmental structures in place with the authority to ensure effective co-ordination of implementation of the Convention and protection of children's rights. There is no Minister for Children and no statutory Assembly committee on children.
- There is no system in place to measure the impact on children and their rights of developments of law and policy, and no mechanism in place to evaluate the impact of budgetary decisions on children.

DIRECT RULE

While the Committee on the Rights of the Child has warned that devolution may lead to fragmentation and a lack of co-ordination in government (UNCRC GC No 5: 12), it is apparent that in NI it is direct rule, rather than devolution, that has caused problems in the protection of children's rights.

Serious concern was expressed by children's sector NGOs about the impact of direct rule on current policy and law development. A number of issues were identified:

- The democratic deficit created by direct rule was a matter of serious concern. As one NGO representative put it:
"the advantage of the Assembly and local government ministers is that their constituency is NI and they will be held accountable for that so it's in their best interest to deliver to their constituents".

- Some contrasted the Assembly ministers who were "very involved, really accessible and very approachable on a daily basis" to the current position under devolution where ministers "who spend very little of their time here in NI" and are just "too far away from the normal person on the street to have a say" make it much more difficult to influence change (NGO Representative). Serious questions of accountability were raised by several interviewees and one NGO representative expressed concern over the "democratic deficit that we're living in [in] terms of trying to encourage change in NI. It's soul destroying". Another expressed how important it was for young people to see democracy at work saying "we were able to organise for them to go to see ministers, very influential people ... and it was also good in terms of positive role models for people to see that look I can do this ... somebody from ... working class areas or towns were able to become MLAs and you know it was very positive that way" (NGO Representative). In contrast, under direct rule, as another NGO representative commented "we're on nobody's political agenda".
- Concern was also expressed regarding the current ministers' failure to introduce legislation and policy that is specific to the needs and circumstances of NI. Currently, as many view it, they simply apply legislative and other models from England & Wales to NI without question (NGO Representative). Focus groups of key professionals also raised this issue with two groups specifically complaining about the lack of devolved government to hold politicians accountable and force departments to work across sectors and more effectively responding to peoples' needs. Many highlighted, by way of illustration, the way in which ASBO legislation was introduced here without consideration for the particular circumstances of NI and without meaningful or adequate consultation. The inability of NI's agencies and NGO sector to stop the introduction of ASBOs raised serious issues about what one NGO representative described as "the capacity of the (youth) sector to access and influence the agenda".
- The view was also widely held among interviewees that many of the positive initiatives undertaken or initiated under devolution had taken a "step backwards" since direct rule was re-introduced. As one NGO representative put it "[with devolution], there have been a number of policy developments and also failures of policy in different areas which I feel if we had devolution wouldn't have happened".
- Lack of consistency is also a problem with one NGO representative expressing it as follows: "the difficulty when you're dealing with the civil servants is that ultimately it's dependent on the masters and the masters have changed round here several times in terms of local politicians and Westminster".

Key Issues

- The suspension of the NI Assembly and the imposition of direct rule in NI has led to a tangible democratic deficit which has had a knock-on effect on the work of the children's sector.
- The commitment of Westminster politicians currently responsible for NI departments to children's rights and a range of on-going policy initiatives was questioned.

DATA COLLECTION, ANALYSIS AND RESEARCH

According to the Committee, sufficient and reliable data collection on children, disaggregated to enable identification of discrimination and disparities in the realisation of rights is an essential part of implementation of the Convention (GC No 5: 13).

An annual publication of a comprehensive report on the state of children's rights in the jurisdiction is recommended, together with publication, wide dissemination and debate of such reports in parliament and in public (UNCRC GC No 5: 14).

Translations of such reports and child-friendly versions are essential to engage children and minority groups in the process (ibid.).

In 2002, the Committee recommended that the UK establish a nationwide system whereby disaggregated data are collected on all persons under 18 for all areas covered by the CRC and that these data are used to assess progress and design policies to implement the CRC. Despite this recommendation, there is still a serious lack of data on many aspects of children and young people's lives in NI (SC & CLC, 2003). The statistics produced in relation to the state of children and children's rights in NI are limited and those that are produced cross different parameters, timescales and ages (Barnardo's et al., 2001).

While the publication of the Key Indicators of Personal Social Services in NI, compiled by the NI Statistics and Research Agency and the Social Services Inspectorate, has brought about an improvement in this area, there are wide variations across Trusts. There is no in-built quality control mechanism in either the collection or interpretation of data. More needs to be done to mainstream the practice of producing and maintaining up-to-date and disaggregated data across government departments and agencies.

Problem areas include:

- *Child poverty*: failure to agree a methodology for measuring child poverty makes it almost impossible to measure progress in this area particularly with regard to children living in severe poverty. In this regard, it is welcome that OFMDFM has commissioned research on child poverty which is due to be completed in January 2005 and one element of this is to make recommendations for the most suitable measure for monitoring child poverty. However, concern was expressed that this information was always one-report-away and that a sense of urgency was needed in this area, alongside a longitudinal study which would look at the impact of child poverty (NGO Representative);
- *Children with disabilities*: There is an absence of current data on the prevalence and circumstances of children with disabilities (the last major study dates from 1990 and was published by PPRU in 1996). However, it is welcome that S 2 of the Children (NI) Order 1995 required the establishment of a register of disabled children and a project is currently underway to develop this register;
- *Policing and Criminal Justice*: PSNI do not collect reported offences against 16 year olds and there are also major gaps in the prosecution data for adults proceeded against and convicted for offences against children;
- General statistics on the *Traveller community* are very difficult to find and those that do exist are inadequate. For example, the census statistics count caravans and not people, which leads to problems of under-representation (NGO Worker);
- Concern has also been expressed about the inadequacy of data for certain groups of children such as *young carers* and *children from ethnic minorities*;
- There is a lack of statistics on the extent of children in *families who are homeless* and on the reasons for homelessness among young people (NGO Representative);
- There are major problems sourcing statistics on *child refugees and unaccompanied minors* in NI primarily because no-one agency compiles all of this information and the British Home Office, which does collect data, does not break the data down either by region or by children who enter the country with families or alone (NGO Representative);
- There is no definitive guide to the *health* of NI's children. Although a range of surveys have been carried out by some Boards and Trusts and a report published by DHSSPS ('Equality and Inequalities in Health and Social Care in NI') contains a lot of data on children's health, there is no child health survey covering young children in particular;
- There is a lack of research and knowledge on the impact of domestic violence and its relationship with child abuse (NGO Representatives);
- There is no available data on children who have been sexually exploited (NGO Representative) and consequently little understanding of the scope of the problem and the services required to address it;
- The problems of certain groups are unresearched and largely unknown, for example, the experiences of children from the Portuguese community (NGO Representative) ;
- There is a perceived lack of detailed information on the nature and extent of *substance misuse* among young people. There is a need for more research in this area to identify gaps in service provision (NGO Representative).

In addition, there is no annual publication setting out the state of NI's children and their rights and no regular survey of the state of children's rights protection in NI. This lack of up-to-date, comprehensive and holistic data on children's lives, combined with a lack of appropriate consultation with children and young people generally, raises questions about how the impact of government policies on children and the state of implementation of the CRC can be effectively and accurately measured (CLC & SC, 2003).

Key Issues

- There are gaps in the availability of quality up to date data on the lives of children and young people in NI, including children in the justice system, on the health and health care of certain groups, and relating to asylum seekers and unaccompanied minors.

- The practice of producing and maintaining up-to-date and disaggregated data across government departments needs to be mainstreamed.
- There is no annual publication of the state of children's rights in NI. Such a report, once compiled, should be the subject of public and parliamentary debate.

CHILDREN'S RIGHTS TRAINING AND CONTINUING PROFESSIONAL DEVELOPMENT

States Parties are required to make the principles and provisions of the Convention widely known to adults and children (Art 42 CRC).

The State has a duty to develop training and capacity-building for all those involved in the process of implementing Convention rights and for all those working with and for children and it should be integrated into all professional training codes and educational curricula. This training needs to be systematic and ongoing with the purpose of emphasising the status of the child as a holder of human rights, to increase knowledge and understanding of the Convention and to encourage respect for its provisions (UNCRC GC No 5: 19).

Periodic evaluation of the effectiveness of children's rights training reviewing the knowledge of the Convention as well as the extent to which it has contributed to developing attitudes and practices which actively promote enjoyment of children by their rights must be undertaken (UNCRC GC No 5: 15).

Children's Rights Training

In 2002, the Committee expressed concern that the UK had not undertaken adequate dissemination, awareness-raising and training activities concerning the CRC in a systematic and targeted manner. It recommended that the Government 'substantially expand dissemination of information on the CRC and its implementation among children and parents, civil society and all sectors and levels of government including initiatives to reach vulnerable groups' and "develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children" (UNCRC, 2002 para 21).

Despite this, the Government has failed to carry out an information campaign of any kind to raise awareness among adults, including those working with and for children, of the CRC and children's rights. While some agencies and professions have undertaken training on the CRC, training on the Convention is not mandatory for government officials in all departments or even personnel working with or delivering a service to children and young people (CLC & SC, 2003).

The Children's Law Centre, together with Save the Children, has been actively and exclusively involved in the provision of dedicated children's rights training to government and non-governmental bodies in NI for several years and it has built up considerable experience and expertise in this area. However, CLC receives only limited and temporary funding for this work and currently, in fact, has no funding for this specific purpose despite clear demand and obvious need for its training programmes. Many NGO representatives identified the need to mainstream and deliver to statutory bodies the excellent children's rights training delivered by bodies like CLC and SC. One NGO representative noted that:

"practitioners and statutory agencies need children's rights training across the board and there's expertise in the voluntary sector that can deliver that training. They just need to be resourced to do it".

Concern has been expressed that particular groups have an outstanding need for children's rights training. There is currently no or inadequate education on children's rights in the education and training curricula of lawyers, police, social workers, teachers and health professionals. The new curriculum for the training of youth workers does not appear to be rights based although principles such as participation are reflected in practice.

Other concerns are as follows:

- several legal professionals expressed the view that that solicitors who represent parents and children should be specially trained and that judges also need to receive training on children's rights. According to one legal professional, "In looking at children's rights it is not enough to look at the children you

have to look at those who are dealing with the children and that they understand what the rights are. Another advocated the need for accreditation of solicitors who work with children saying that "if you want to do Children's Order type work ... whether public or private, that they should have this particular qualification" (Legal Professional).

- many professionals identified the need to undertake inter-disciplinary training on children's rights to integrate professional approaches and improve communication and understanding of children's rights. As one legal professional put it "social workers have to understand lawyers and lawyers have to understand social workers" As another said, "Training is a key element, judges lawyers, social workers, doctors, need to be trained in this multi disciplinary approach. That is the key to children's rights".
- the NIHRC has focussed on providing human rights training and materials to teachers and school management in the light of the vital role they play in the education of children and in teaching human rights. Their education officer has highlighted the need for more support for teachers who lag behind other professionals in their understanding and awareness of children's rights and a dedicated human rights education officer has been proposed to support the development of human rights in the school curriculum;
- numerous NGO representatives and workers expressed the view that police personnel needed further training on children's rights and how to work and communicate with children.

In March 2004, the NIHRC commenced an independent review of the human rights education and training being provided in NI. This review will help to define the NIHRC's own role in this area as well as the work its education officer does with others in the area. This is an area where NICCY also has a mandate and there is a need for the Commissioner to learn from, as well as to liaise and co-ordinate with, both the NIHRC and the CLC with regard to the provision of training and education on children's rights.

Continuing Professional Education

Numerous reviews and consultation processes have identified the need for greater professional training, continuing professional development and capacity building among those who work with and for children. Some examples follow:

- education and training on child protection arrangements in each jurisdiction has been recommended, as well as greater use of cross-jurisdictional placements and secondment opportunities (Barnardo's et al., 2002);
- some organisations expressed the view that teachers need additional training on child protection, domestic violence, special educational needs, child welfare and emotional development (Barnardo's et al., 2001);
- front line housing staff and child-minders were identified as those in need of specialist training in child protection;
- there is a need for particular training in dealing with children who cannot communicate verbally and have special needs as social workers feel that they do not have the necessary skills and experience to communicate effectively with disabled children (Kelly, 2002). This is important to ensure that "all children are listened to and concerns acted on in an appropriate way" (Educational Professional).
- medical professions and teachers need specialised training to alert them to the particular cultural issues that arise for ethnic minorities and some interviewees thought that nurses need training in getting the consent of children to certain (minor) medical procedures and in communicating effectively with children regarding surgical procedures;
- because of the stressful and difficult conditions in which they work, staff in residential care institutions may be unable to avail of the training necessary for their continuous professional development. Concern was expressed that many newly qualified social workers are being asked to deal with complex child protection cases without the necessary experience and training (NGO Representative). The use of unqualified staff raises very serious issues of child protection and protection of the rights of these vulnerable children in custody and secure care. One example was given that staff who were untrained to deal with mental health issues tended to respond inappropriately to young people following a self-harm incident (NGO Representative). This research identified serious gaps in this context which, reflected throughout the report, identifies a need to improve the professional development of staff in areas of education, health and justice.

In addition to children's rights training, those who work directly with children should be specially trained on how best to effectively engage with them. In particular, NGOs recommend active training that would tease out the issues, and allow discussion and debate of issues involving rights and responsibilities, and competing rights. This was something that many felt NICCY should be spearheading.

Vetting of those who work with Children and Young People

Concerns have been expressed about the failure to implement effective and timely vetting procedures for all staff who work with children in any capacity. Particular concern was expressed about the following groups:

- All police staff who work with children in NI, as well as in the Republic of Ireland given the essential nature of cross-border co-operation;
- Health care professionals including dentists;
- Legal professionals;
- All volunteers who work with children and young people.

As a rule, all those who work directly and indirectly with or alongside children and young people, including in the provision of services, should be vetted (See Chapter 2).

Key Issues

- There has been no government campaign of any kind to raise awareness about the Convention or children's rights.
- Training on the Convention and children's rights is not mandatory for government officials or for those who work with and for children.
- There is serious concern about the lack of training on children's rights being provided to those who work in key positions with and for children, for example, judges, teachers and education welfare officers, police, social workers, lawyers and staff in residential and care institutions.
- Failure to implement effective and timely vetting procedures for those who work with children in any capacity raises a serious child protection issue.

Adults' Need for Information Relating to Children

Children frequently turn to adults, particularly those who work with and for them, for information, advice and practical support. Yet, it is apparent from this research that those adults are frequently not equipped to meet children's needs for information about their rights and the services to which they are entitled. As a result, these adults themselves have an unmet need for child-specific information. Some examples and recommendations follow:

- *Child Protection:* A recent survey discovered that only half of the NI population could recall seeing child protection material in the last 12 months, mostly in the form of television advertisements and leaflets (NSPCC, 2003). NGOs have called for national public information campaigns targeted at specific areas such as heightening awareness of and reducing child abuse (Barnardo's et al., 2001). The view was expressed that the DHSSPS has failed to take the lead on avoiding physical punishment, running awareness raising programmes or the introduction of regulations to outlaw the use of physical punishment by registered child minders (see also Chapter 2).
- Concern was expressed about the severe lack of information for professionals and workers who act as service providers for lesbian, gay, bisexual and transgendered young people (NGO Representatives and Workers). Confidentiality between these young people and their doctors is also a problem. Information and awareness about the issues faced by these young people should be built into youth and social work provision and teacher training programmes (NGO Worker).
- Youth workers get asked a lot of questions by young people on housing issues but they cannot answer them due to the lack of child-specific information available (NGO Workers).
- Those working with parents expressed concern that they do not always know what support is available as there is no information pack covering education, drugs and other health issues (NGO Representative). This lack of information is an additional problem in rural areas where the poor public transport exacerbates parents' isolation.

More generally, concern was expressed by a range of professionals working with and for children and young people that parents also need to receive more information on the rights of their children as they are often the gatekeepers for access to children's rights and services. For example:

- parents going through contact/residence disputes frequently lack the capacity to promote the rights of their children in the process;
- there is also a lack of support for parents with lesbian, gay, bisexual or trans young people who may not know how to deal with the issues their children face (NGO Representatives and Workers). According to one NGO Representative there was a need for "resources for them... a helpline or a meeting and something provided by social services as well".

In the absence of obvious statutory sources for this information, many adults contact the Children's Law Centre for this information. However, more needs to be done to target this information at specific groups of people who need to be able to meet the needs of children but who may not work exclusively with them. NICCY has a clear role and remit here and needs to give serious consideration to how best to fill the serious gaps in information that exist. One recommendation was to develop a directory of all the voluntary schemes available to children and young people (Legal Professional). It is recommended that NICCY should consider consulting with NGOs as to how best to approach this problem.

THE RIGHT TO ADVOCACY SERVICES, COMPLAINTS MECHANISMS AND INDEPENDENT REPRESENTATION

Because children's special status creates real difficulties for them in pursuing remedies for breaches of their rights, there must be effective, child-sensitive procedures available to children and their representatives, including child-friendly information, advice, advocacy - including support for self-advocacy - and access to independent complaints procedures and to the courts with necessary legal and other assistance (UNCRC GC No 5: 8)..

Child-sensitive procedures and complaints mechanisms

Despite the evidence that children do not avail of adult type services and require child-specific ones, there is a lack of child-sensitive procedures and information in NI. In this regard, the point was made by one NGO representative that "even just using complaints procedures can be quite daunting for adults never mind for children". Another NGO representative commented that "children would say to us that they would find themselves very much excluded from the processes ... and that they are very much adult processes and adult structures that kids are expected to fit into". A further consideration is that children often do not identify what is happening to them as a rights violation and so awareness raising is needed around this. It was also highlighted that it "just kills a part of a person to have something happen to them and have no one to defend them" (NGO Representative). Access to child sensitive procedures, remedies and complaints procedures is clearly vital in this context.

The following specific problems were identified in relation to the lack, unavailability or inaccessibility of complaints procedures for children:

- many children and young people do not know where to go to access the information they need in child-friendly form, or to get advice, advocacy or support. This is a particular problem for school aged parents and young people leaving care (Include Youth, 2003);
- children and young people complained of 'nowhere to go' in respect of complaints that their rights are being violated by paramilitary bodies (Include Youth, 2001);
- Young people and NGO representatives said that often the area of most concern for young people was their relationships with adults and "the power relationship dynamic". In this regard, concern was expressed that the problems faced by children and young people may not be taken seriously by adults – "they fear that they will not be well received or that they will not be believed" (NGO Representative);
- in many areas - under the Race Relations Order, the Sex Discrimination Order and employment legislation as well as the Police Ombudsman for NI - there are no child- or youth-friendly complaints mechanisms (CLC, 2004b; NGO representatives). Concerns have been raised about the accessibility of the general complaints system to children and young people who are unlikely to be able to advocate on

their own behalf and who may be reluctant to give evidence. Moreover, the denial of legal aid to children means that they are denied access to effective remedies in areas such as employment disputes (CLC & SC, 2004).

- research has found that the dual set of complaints systems in operation within the DHSSPS (the Children Order procedure for complaints relating to children's services and the Wilson Procedures, which apply to services provided by health and personal social services in NI including hospitals, social services, or family practitioners) has the potential to cause confusion particularly for children and young people attempting to make complaints on their own behalf (Cousins et al., 2003). A key professional working in the sector agreed that the complaints system needs to be overhauled because it is not always clear whether complaints should be dealt with under the adult and/or children procedures. The Trusts should also engage in pro-active complaints publicity and awareness raising about rights and complaints procedures among vulnerable groups of children and young people;
- concern was expressed by several NGO representatives that children in care and in custody are not aware of the existing complaints processes and, where they do exist, have little confidence in them. According to one NGO representative, young people never or rarely make a formal complaint when in custody and she/he questioned what information they had received about the process, how it worked and how easy it was to use, not least due to the literacy difficulties experienced by some young people. Young people may also be reluctant to use the complaints process because of fear of reprisals or because their problem is an urgent one which will be unlikely to be resolved in time. Another NGO representative agreed strongly and recommended that on arrival in secure care, young people should receive a pack of child-friendly information which they feel confident to discuss and question with staff. They should also be given the CHALKY freephone helpline number (NGO Representative);
- adults who work with young people do not always appreciate the need to provide age-appropriate explanations, particularly regarding complaints procedures. For example, one worker involved in providing a service to young people explained to us that they fully understood the terms of the placement, whereas it was clear when we spoke to the young people themselves that they did not have this understanding. In this regard, failure to use complaints procedures should alert workers to their potential inaccessibility to young people.

Both the NIHRC and the NICCY have the power to support individual complainants. While NICCY is the more appropriate body to provide assistance to children in this area, there is concern that it will not always be given adequate resources to do so. Moreover, it is important to avoid confusion among the public about which organisation has the remit to assist individual complainants. In this regard, the NIHRC has confirmed that it will pass individual complaints from children and young people to NICCY, while making it clear that the complainant can come back to the NIHRC if they do not get satisfaction there. A memorandum of understanding to this effect is being drafted between these bodies. It should be completed without delay and communicated widely.

Counselling

Few counselling services exist throughout NI and hardly any are targeted at children in general or particularly vulnerable children although some NGOs, like Barnardo's, have plans to establish such services. Childline is currently the only 24-hour freephone counselling service available in NI (CHALKY at CLC is a broad based service offering information, advocacy and legal advice to young people. According to NSPCC, Childline is contacted by around 160 young people in NI every day, although it is estimated that due to a lack of funds, only about half of the children who call actually get through to receive the comfort and advice they need (Childline website, 2004).

The importance of making confidential counselling available to children and young people is more pronounced where children have suffered from domestic violence or sexual exploitation and do not have anyone else in their lives that they can talk to (NGO Representatives). A recent study of children who live with domestic violence, parental substance abuse or parental health problems found that such children do not know where to get formal help and rarely seek the help of professionals initially fearing stigma and unwanted intervention (NCB, 2004). They want some-one to talk to, who they trust, who will listen to them and they may be more encouraged to approach a professional for help through a helpline. Their most persistent plea is for more age-appropriate information to help them understand what is going on in their family. There is also a need to establish support networks for children to disclose violence within the family and within the community (NGO representative)

Children and young people have themselves identified a need for more services like Childline. They have also identified a need for more drop-in centres and counselling services and for access to counselling services in all

schools (CYPUP, 2003). In particular, they have said that they could not or would not approach teachers regarding sensitive issues and in the absence of school counsellors and other forms of support feel they are vulnerable to bullying, teenage pregnancy and other stresses in their lives (CLC, 2004c; See Chapter 5). Young people told us that sometimes access to the counsellor in a school can be difficult because of the timetable or the counsellor's availability (Young Female, aged 16 - Youth Group) and clearly wider and more open access to counselling services must be a priority.

Advocacy

Advocacy is understood here to mean the provision of independent information, advice and representation (including legal advice and representation) to children and young people with a view to realising their rights. An advocate is not a neutral party but some-one who will support and act on behalf of a child or young person in a particular situation.

NGO representatives expressed the view that information and advocacy services for children and young people in general are very underdeveloped in NI. There are significant gaps in relation to children with educational difficulties, children from ethnic minorities including Traveller children, children with complex medical needs, homeless young people, children in secure accommodation, psychiatric care and juvenile justice centres, children involved in separation and divorce proceedings, and unaccompanied minors. Specific independent advocacy services are needed for all these children who may have difficulty accessing the limited independent advocacy services that are available. There is concern that without this access they cannot get information about their rights or find out about remedies for possible breaches of their rights.

Looked After Children (LAC) have been identified as a particularly vulnerable category of children to whom advocacy services are especially important in order to promote their self-esteem and knowledge of their rights (Barnardo's et al., 2001). Although VOYPIC has an Advocacy Service for children and young people in care and aftercare, which young people can access through a designated officer in their Trust or directly by telephone or email, the following issues nonetheless arise:

- many NGOs expressed the view that advocacy arrangements for looked after children need to be improved through strengthened access to independent advocacy and the provision of independent visitors for all looked after children (NGO representatives);
- there is concern that the statutory basis for advocacy services which exists in England and Wales (under s 119 Adoption and Children Act, 2002) does not exist in NI. As a result, Trusts under the draft guidance for the Children (Leaving Care) Act (NI) 2002 must only 'allow' young people to access an independent advocacy service; they do not have a duty to do so. It is also of concern that the draft guidance connects advocacy services to the complaints process and does not appear to recognise the importance of independent advocacy for children in the wider sense;
- Some interviewees expressed concern for a greater recognition of children's rights in the LAC system and, in particular, an investment in advocacy systems and legislative reform of article 36 of the Children Order (NI) 1995 re independent visiting.

Children in secure care or custody are particularly vulnerable and several NGO representatives expressed concern about their ability to access advocacy services. In this regard, the NIACRO Independent Representative (IR) Service provided in both Lakewood secure care unit and Rathgael Juvenile Justice Centre is important insofar as the representative meets young people either individually or in a group and brings their concerns to management staff. While this is an important mechanism, which allows young people to have their concerns represented by an independent advocate, Independent Representatives are understandably not always successful in resolving complaints and may encounter hostility from staff at the centres who need training as to the importance of their role. Also, IRs are not trained to provide information to young people on their rights and this is currently a gap in the service in this regard.

Concern has also been expressed about the complex needs of children asylum seekers, particularly unaccompanied minors, given the difficulties they experience having their needs met (NGO Representative; Legal Professional). One suggestion made was that there should be a voluntary befriending service to help vulnerable young people through the trauma of asylum seeking. It was also pointed out that the use and availability of interpreting facilities was central to enabling young people to access necessary medical facilities. Simple key information regarding advocacy services should be translated and located at points of entry to the UK for child immigrants and asylum seekers e.g. ferry terminals, airports, train and bus stations although this may not reach everyone particularly those who are smuggled into the country.

Concern was also widely expressed about children's experience of the courts system both as defendants in the criminal process where the court's response is frequently not sympathetic or caring, as third parties in residence/contact proceedings where they lack independent representation, and as witnesses. It was stressed that changes need to occur to the way children are treated in court and that relevant personnel being specially trained, particularly with regard to engaging with young people in this process (Legal Professional).

Some interviewees highlighted particular concerns regarding the advocacy needs of children who make complaints of sexual abuse and the potentially damaging experience of child witnesses and victims in the process. Others have identified the need for regionally consistent high quality support for all children giving evidence in court including defendants (Barnardo's et al., 2001). In this regard, NSPCC is funded by NIO to provide child witnesses with support facilities including pre-court preparation and support as they give evidence. It is also welcome that PSNI officers are currently being trained in how to interview children. There is also a recognition that child protection training is required (PSNI Representative).

NI has only one dedicated freephone helpline (CHALKY provided by the CLC) which provides information, advice and legal assistance to children and young people on a wide range of children's rights issues including family, education, youth justice, care, social security, employment and health and social services provision. Despite the invaluable nature of the service and the clear gap that it fills – something which is widely recognised among other children's NGOs - funding for this service is due to run out in March 2005.

Independent Representation

In 2002, the Committee expressed concern that the right of the child to independent representation in legal proceedings is not systematically exercised. It recommended that the UK take further steps to consistently reflect the obligations of both parts of Article 12 in legislation, and that legislation governing court procedures and administrative proceedings (including divorce and separation proceedings) ensure that a child capable of forming his/her own views has the right to express those views and that they are given due weight (para 30).

The following concerns continue to exist in this area:

- despite this, widespread concern exists among NGOs and legal professionals that children and young people involved in private family law proceedings do not enjoy access to independent representation;
- concern was expressed about the extent to which children are aware of and exercise their right to attend court. Where this does not happen, decisions may be made about children when they are not in court, and without any clear structure for whose role it is to inform the young person about what has happened in their absence (Legal Professionals);
- it is feared that the review of the Children Order may lead to a cut back in the service currently provided by the NI Guardian Ad Litem Service, which is already under-resourced (Legal Professionals and NGO Representatives).

Key Issues

- Few complaints mechanisms have been adapted to meet the needs of children and young people and those directed at children need to be made more accessible..
- The availability of independent counselling services is poor.
- Advocacy services are not available for children and young people in care, in custody and refugee children. Current services do not have the long-term funding they need to meet children's needs.
- Children in private family law proceedings have no right to independent representation.

THE RIGHT TO INFORMATION

Every child has the right to access information from a variety of sources to enable them to make decisions and choices in their lives (Art 17 CRC).

States Parties are required to make the principles and provisions of the Convention widely known, by appropriate and active means (in all languages and in child-friendly forms) to adults and children (Art 42 CRC).

Understanding and knowledge of human rights must also be promoted to children themselves, including through the school curriculum (Art 29 CRC; GC No 1; GC No 5: 19).

Rights Awareness among Children and Young People and Information on their Rights

There is an almost universal lack of awareness on the part of children that they have rights and an even greater knowledge deficit as to how to realise those rights (CLC, 2002). There is widespread concern about the poor awareness among children of their rights and the lack of knowledge among young people as to how to access this information. Importantly, awareness levels have been found to be higher among those young people who have participated in a consultation process such as that around the Children's Strategy or the Bill of Rights (Keenan, SC et al., forthcoming).

While the perception may be expressed that children know their rights, this is not widely shared among those who work with and for children, or among the children themselves. Typically, one educational professional commented:

"I think now with people talking about rights and saying that all young people know their rights nowadays and you can't put a step wrong and all that there, it's not actually true. Young people don't know and their parents don't know".

There is little information available for children and young people on their rights. CLC has produced and made available on its website a series of 'Do You Know Your Rights?' leaflets for children and young people on with the CRC, the Human Rights Act 1998, Suspensions and Exclusions, In Care/Looked after Children, Youth Justice, Policing, Employment, Social Security and Admissions to Post Primary Schools. The CLC website has received 1.3 million hits in the last year making it clear, by any standard, that this service fills a need among both children and young people, and adults who also use the service.

Particular young people suffer from a rights knowledge deficit. For example, young people in the justice system lack appropriate information regarding their status and their rights in the system (CLC & SC, 2003a). Inconsistencies also exist in relation to how young people are informed about their rights especially the right to legal advice, and there is concern over the extent to which they understand the police caution (Quinn & Jackson, 2003).

Children themselves have complained that more child-friendly and accessible information is needed (CYPU, 2003). One group of young people interviewed for this research felt uninformed about their rights and complaints procedures, and complained that a booklet they were given was far too technical for them to understand its content. According to one young person, "you'd need to have an understanding of law, there's a lot of terms in it" (Young Male, aged 16 – at risk of becoming homeless). In relation to the lack of information and its potential impact, another young person commented "they're complaining about the rates of homelessness in NI, but if they told ye what you're entitled to and all that crap like, the rates of homelessness would go down like" (Young Male, aged 17 - at risk of becoming homeless). These young people described learning the system from each other and also complained about what they described as 'signing away their rights' on entering independent living accommodation. As one young woman put it "You have everything signed and all before they say 'right take it away and look at it" (Young Female, aged 18 – at risk of becoming homeless)

The lack of availability of information about their rights and issues relevant to them was supported by NGO representatives and workers who were concerned that information relating to children is often written in adult language and needs to be made more accessible. Three focus groups raised the additional problem about the lack of available information for children at pre-school age.

Given the popularity of the internet among young people, it is a useful way to make information on their rights available and accessible to children and young people, although admittedly it will not reach everyone.

The Children's Commissioner has a duty to promote an understanding of the rights of children and young people as well as a duty to promote an awareness of the importance of those rights.¹ Many interviewees highlighted the need for NICCY to take a leading role in the provision of information to children and young people and those

¹ S 7(1)(a), The Commissioner for Children and Young People (NI) Order 2003

who work with and for them, and expressed the expectation that NICCY would establish itself as the primary source for all such information in NI. As one NGO representative said "we would see this as being one of NICCY's central roles and functions". Another NGO representative said "NICCY has a huge role to play here. (NICCY) should be on all the billboards. They should be on the TV day and night. They should be everywhere. Every kid in NI should know who, not just Nigel (the Commissioner) but who all the staff are' and 'they should be extremely approachable and extremely personable ... so that children know who they are and feel they can contact the office, come in and have a cup of tea with them".

The Children's Commissioner has a duty to take all reasonable steps to ensure that children, young people and their parents are aware of the powers of the Commissioner, where the office is located and how they can communicate with the Commissioner.² The Commissioner must also take reasonable steps to ensure that children and young persons are encouraged to communicate with the Commissioner.³

The NICCY website is already averaging 107 visitors per day although no policy or strategy has yet been developed as to how the website will be used to fulfil its role of protecting and promoting the rights of children and young people in NI. Clearly, this is an important area of work that needs to be undertaken as a matter of some urgency. It is also advisable that NICCY learn from the experience of others who have considerable experience of providing information to children and young people, and adults working with them, via the internet and other media so as to maximise the website's potential as a central source of information on the rights of children and young people. Young visitors of varying ages and backgrounds should also be consulted directly as to the potential content of the site and how their needs for information would best be met.

Many NGO representatives identified schools as the ideal place to provide information to children and young people on their rights stressing that there must be comprehensive human rights education in schools that is both accessible and participative. However, concerns were raised that young people often do not identify what is happening to them as a breach of their rights because they don't think in this way. In this regard, many stressed that the Commissioner has a huge responsibility in terms of making information 'accessible and meaningful and engaging and exciting for children and young people' (NGO Representative).

Human Rights Education in Schools

Human rights education should provide information on the content of human rights treaties. But children should also learn about human rights by seeing human rights standards implemented in practice, whether at home, in school, or within the community (UNCRC GC No 1, 2001 para 15).

The new statutory curriculum will introduce human rights onto the school curriculum as a specific theme within Local and Global Citizenship. This subject will include the content of the major treaties including CRC (although children's rights are not mentioned expressly). More specific statements and materials include detail on the CRC. According to the Council for Curriculum Examinations and Assessment human rights is also a concept which underpins everything else such as the statements on diversity, and a significant amount of educational resources have been developed in both the formal and informal education sector.

While the citizenship programme is at present being piloted in post primary schools, it has not yet been mainstreamed throughout all second level schools. Moreover, there is no equivalent programme being developed for primary schools (CLC & SC, 2003).

Considerable work has also been done by the NIHRC, together with the Department of Education, to educate teachers and school management about the Human Rights Act 1998. Moreover, the Commission is about to launch an extensive set of teaching aids, including the Bill of Rights in Schools project (BORIS) materials for KS1 and KS3, which aim to provide teachers and young people with the skills and language to engage in the Bill of Rights process, and serve also to raise awareness about children's rights generally.

Information on Services

Various services for providing information to young people in Great Britain do not exist in NI. For example, Connexions is the government's information, advice and guidance service for 13 – 19 year olds in England

² S 7(5)(a) of the Order.

³ S 7(5)(b)

which is delivered locally through 47 Connexions Partnerships. Connexions provides a wealth of information both at local offices and on its website, covering the following topics – learning, careers, housing, money, health, relationships, getting active and your rights. However, the Connexions service does not exist as a separate entity in NI and organisations working with and for children must have contact and on-going working relationships with a wide a range of different information providers, such as Government Departments, statutory agencies and others working in the sector in order to access this information.

Certain groups of children have particular problems accessing reliable information and details of services. For example, lesbian, gay, bisexual and transgendered (LGBT) young people complained that they could not access reliable sources of information and felt isolated from centralised services based in Belfast. Cards left in youth clubs, schools or church halls often ‘disappear’ or are removed, leaving these young people without necessary information and advice. Another NGO worker who works with LGBT young people commented “it’s difficult for a young person to pluck up the courage to find some support but often when they try the mediums aren’t there for them”. These young people tend to use the internet as their source of information due to the lack of information elsewhere. One NGO representative explained “A lot of them [young lesbian women] actually got a lot of support on the internet, web pages and stuff which is why they designed their own, they thought it would be good for other young lesbians to access information on the web page”. Having said this, a representative from a men’s project explained that some schools had put controls on internet searches so that when the word ‘gay’ was put in a search engine that no pages holding this information would be displayed. This obviously has a direct effect on young people who do not have internet access at home and rely on school computers for accessing information. In addition, those looking for information about drugs do not find this information is widely accessible and they usually have to “phone up for it” (NGO Representative).

Sometimes the staff working in particular areas are not sufficiently aware of the entitlements of young people. An example given by one NGO worker was that those working in the benefits office are not aware that 16 and 17 year olds are entitled to claim benefit. A similar lack of information arises in relation to children with employment problems who do not get the information they need on contacting the office because of the staff’s lack of familiarity with these issues. While the numbers may be small, it is likely that young people’s lack of awareness of the availability of a remedy means that they do not challenge their ill-treatment.

Sex Education and Information on Sexual Health

While it was not previously part of the school curriculum, it is proposed that sex education will be part of the new statutory curriculum and the Council for Curriculum Examinations and Assessment is currently producing comprehensive guidance on content and materials. However, there is no specific requirement as to content which a school must include and there is concern, therefore, that schools may pick and choose subjects for omission (e.g. homosexuality). The only enforcement of the curriculum will be through the Education and Training Inspectorate (ETI).

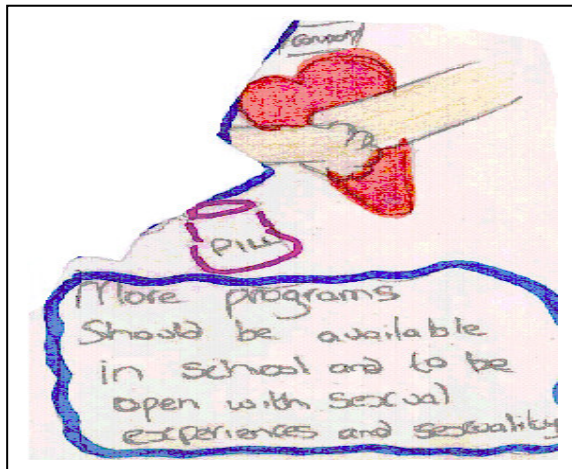
Those who work with and for LGBT young people have expressed concern that the focus in sex education is on sex, not sexuality. One NGO worker put it thus “it’s very much young people talking about safe sex ... not getting pregnant and that’s the worst thing that can happen is get pregnant. So very sort of traditional”. Interviewees also expressed the view that programmes are needed that give information in an unbiased way about sexual health issues.

NGO workers also identified a need to start educating children at a young age about lesbian and gay issues in order to normalise such relationships. One worker remarked, it is important to begin education children from a young age “basically just for the normalisation of the whole thing. They’re going to be growing up and realising that this isn’t such a big taboo ... And it can even be as simple as images. You see all these posters in youth clubs and stuff and it’s a boy and girl holding hands. If it was two girls holding hands or two boys holding hands. But even if it hadn’t a big message about LGBT people that itself is a perfect subtle way to say this isn’t wrong you know”.

Young people have also expressed dissatisfaction with the sex education they receive feeling that are not given information in a way that helps them to make an informed choice. Instead, it tends to be couched in moral terms of ‘right’ and ‘wrong’ and they want trained education workers to give health education classes not “scared and embarrassed teachers” (CYPU, 2003). As one young person explained “we done sex education in science but we had a male teacher and he wouldn’t do it with us” (Young Female, aged 18 – at risk of homelessness) or

where it is done it provides them with inadequate information, e.g. "in school like all you have about sex, is keep away, that's it but there's STIs like" (Young Male, aged 17 – at risk of homelessness).

Looking at the wider, but related issues, of the age of consent, contraception and sex education a young man (aged 16) commented: "I think the age of consent for sexual intercourse should be lowered! I also think that contraception should be available because if young people want to have sex before the age of consent and they cannot get contraception or they're afraid, then they have no protection! I think more sex education to be promoted to give awareness".



For others, sex education simply comes too late:

"Yesterday we had a 'love for live' talk which explains the risks of sex and the consequences...the talk was useful but it is a bit too late. We should learn about the risks and consequences of sex and using drugs at the end of primary school. People should know this stuff before they go into high school" (Boy, aged 15).

In the consultation document 'A Five Year Sexual Health Promotion Strategy and Action Plan' published by DHSSPS, one of the actions is for Education and Library Boards to ensure that appropriate training which implements RSE guidelines and takes account of the needs of the S.75 groups is made available to teachers and youth workers involved in sexual health promotion. The target date for this initiative is 2005.

Regarding information about their sexual health, NGO workers identified a lack of understanding among doctors with respect to lesbian women in particular. As one worker put it "There is a complete lack of understanding of lesbian health issues. I mean the whole concept of two women engaging in sexual activity just does not register... I mean I don't know how many women I've met who could be thirty, forty, or fifty, sixty and have never had a smear test in their lives because they're considered virgins and they're overlooked for all other regular health checks because they are not coming in having babies and all of those things of what their view of women's health is".

Barriers also exist in relation to other vulnerable young people getting access to reliable confidential information about matters of sexual health. For example, while there are a number of support agencies for young people in NI, the choice for young parents is very limited. Services in this area have long waiting lists even for adults and there is a real lack of local, confidential services in this area. Cultural and religious barriers to adolescents using such services also exist meaning that ethnic minority children are listened to even less.

Health and Related Information

NI has no single guide to children's health, their health rights and the extent to which they are being observed. It was suggested that NICCY and the Health Promotion Agency should write such a guide together.

Overall, children and young people want health education to start young, in primary school. Those in contact with medical and health care staff often feel that they are not told all of the information they need. Some say their parents get the information instead of them, while others feel that the selective dissemination of information is aimed at getting the young person to opt for a particular form of treatment (CLC & SC, 2002).

Concern was also expressed by health professionals about the lack of information available to young people about health matters, drugs and sexual health matters. They felt that children should be getting this information as early as possible and that peer education should be developed to facilitate this. They also recommended that health professionals should be on the board of governors in schools to encourage the development of health and

well-being by focusing on the wider issues of health in schools including safety, mental well being, bullying and healthy eating. Schools should also have health strategies (See also Chapter 3).

Other interviewees have expressed the need for 'one stop shop' health and welfare services for certain groups of children including children with disabilities and their families, and those from minority ethnic communities which would give health care as well as advocacy, support and advice (Barnardo's et al., 2001; Health Professional). A particular barrier to giving and receiving advice on contraception exists among the Traveller community and this needs to be addressed with a dedicated health strategy for the Traveller community (NGO Representative). For example, a National Strategy for Traveller Health was published by the Irish Government in 2002 (Department of Health and Children, 2002).

The concept of a one-stop-shop for young people over 16 years has also been identified as important to allow this group of young people whose needs are not otherwise addressed holistically to access a whole range of voluntary and statutory agencies in order to have their health and social needs met (NGO Representative).

These initiatives are flowing from the Greenpaper 'Every Child Matters' in England and Wales but have not yet generated the same degree of support in NI.

Career Information and Information for Life

Young people have criticised current careers advice provision and suggested that teachers are not sufficiently equipped to provide adequate advice. They propose that careers advice should be standardised and become a regular part of the schools timetable and not just the 'odd session'.

Young people feel that they do not get useful information when trying to choose subjects at school or during career guidance (CLC & SC, 2002). As one young person told us: "I think schools are quite well informed about drugs etc with many information days at school dedicated to this. But I feel that other things such as career advice is not looked at much and time is not dedicated to letting people use their facilities that there is for careers. Decisions within schools are not made by consulting us and our opinions are not asked" (Boy, aged 16).

Young people have also expressed the view that a lot of the information they receive about their lives focuses on the negative aspects. Instead, they would like to see information produced that will positively enhance their lives in other aspects. They also feel that there is not enough time in the curriculum dedicated to 'real life' issues and 'education for life' such as personal health, sex, pregnancy, relationships, alcohol, drugs and smoking.

It has been suggested that young people believe that schools should prepare young people for employment with a greater emphasis on vocational and more practical skills, than academic ones (NI Assembly, 1999). This has been one of the key objectives of the curriculum review - Learning for Life and Work - across a range of issues and a range of materials have been produced. It remains to be seen whether the implementation of this new curriculum will meet the needs young people themselves identify in this area. However, several young people complained that neither school nor further education prepared them for 'adult living'. As one young person commented: "The teachers don't give you enough information. They don't teach you basic life skills" (Young Male – at risk of becoming homeless). Another complained about the lack of cooking classes "All they teach you is to make buns and cakes...they don't teach you to make proper meals, proper dinners so that you know what to do like" (Young Female – at risk of becoming homeless). Nor was the situation any better in independent accommodation. As one young person described it: "Lucky enough when I moved on I knew how to cook and I knew how to do my own washing from I was fifteen. I found out myself but when you move on here [independent living accommodation] like they say that they will teach you how to cook and shit like that, but as she says, she was here for a while and they didn't teach her how to cook or nothing" (Young Male - at risk of becoming homeless)

Key Issues

- Awareness of the Convention and children's rights among children and young people is very low.
- The citizenship programme teaching children's rights has not been mainstreamed throughout all secondary schools and there is no equivalent programme for primary schools.

- Young people do not get adequate access to the information they need in appropriate and accessible forms, for example regarding careers and subject choice, objective information on sex education and matters of sexual health, and life and vocational skills.
- There is no single guide to the children's health in NI and no one-stop shop to provide health information for young people with special needs.

SUPPORT FOR AND CO-OPERATION WITH THE NGO SECTOR

The Committee on the Rights of the Child has frequently urged States parties to enter meaningful partnerships with NGOs in the children's sector stressing their expertise, familiarity with the situation on the ground and direct contact with children and young people. According to the Committee's General Comment on the role of National Human Rights Institutions (NHRIs) in the protection and promotion of children's rights (GC No 2, 2002), it is essential that such offices work closely with NGOs and that Governments respect the independence of both NHRIs and NGOs.

In NI, NGOs carry a considerable burden in the area of children's rights and have, at their disposal, valuable experience and expertise in protecting and promoting the rights of children. This has been recognised through the establishment of the NGO Forum set up to develop the model of Commissioner for Children and Young People and the children's strategy which many rate as "*quite effective*" (NGO Representative). In this regard, some expressed the view that the forum should become a permanent structure allowing NGOs to inform and respond to policy and legal developments in the areas in which they have considerable expertise and that there is a strong future for the children's voluntary sector to act as a social partner in government (NGO Representatives).

However, many of these NGOs struggle financially without core funding and must spend disproportionate amounts of their time putting together funding applications and proposals. They also find that because they have to chase funding, the proposals have to fit the funding and not the other way around. Two focus groups of key professionals raised the issue of core funding for voluntary organisations as a priority issue. Another NGO representative from a children's organisation explained that he had completed twelve funding applications in recent weeks, said "*I feel that I haven't served the kids to the best of my ability because I have also been involved in doing fundraising*". Another NGO worker commented that "*you're constantly running after money rather than building on the good work that's been done*". Others explained that they have had to cut the services they offer because of a lack of funding. Typical comments included: "*you get into communities and start to build trust and then the money is cut or they have to move on to other communities*" (NGO Representative; AEP Worker). Another worker involved in Alternative Education Provision explained the impact of this on staff morale: "*it's just the same old deal, the voluntary sector struggling on short term grants and funding and it puts stress on staff ... I suppose people aren't thinking long-term ... they are thinking to themselves they don't know how long they are going to be there*".

The constant burden of fundraising also has a direct impact on the role NGOs play in major consultation exercises like that around the Bill of Rights process. As one NGO representative said, "*we have hand to mouth existence so we're not always able to attend all the meetings*".

Despite the enormous importance of the work they do in the area of children's rights, the NGO representatives in the community and voluntary sector interviewed expressed serious concern that in the absence of 'peace money' and the reduction in the availability of funding in the statutory sector important projects providing training, education and information, playgroups and out of school facilities will not be able to function in the future. As one NGO representative put it "*the lesson for me is that the sector in NI is grossly under-funded and that would reflect, I suppose, in the government priorities around young people*". Another commonly held view was that there is a lot of bureaucracy in terms of the way you account for spending money with many NGOs feeling that they are under more pressure to be accountable and transparent than the statutory agencies (NGO Worker).

Key Issue

- Despite their various direct and indirect roles in the promotion and protection of the rights of children and young people in Northern Ireland, NGOs suffer from a lack of core funding and long-term government support.

THE RIGHT OF CHILDREN AND YOUNG PEOPLE TO BE HEARD, TO HAVE THEIR VIEWS GIVEN DUE WEIGHT AND TO PARTICIPATE IN DECISION MAKING

Article 12 (1) CRC provides both for children's right to express their views on all matters concerning them and the right to have their views given due weight in accordance with their age and maturity. Article 12 (2) provides for the right of the child to participate effectively, directly or indirectly, in legal and administrative proceedings and decision making processes concerning them. Taken together, these provisions are invariably described as the child's 'right to be heard', 'right to participate' or 'right to be consulted' (GC No 5, 2003: 5)

It is a widely held view that children and young people in NI are not involved in individual decisions concerning them; nor are they consulted on policy developments or encouraged to participate in the wider political process. Throughout this research, serious attention was paid to whether genuine commitment exists to listening to children's views and giving them due weight. The level of meaningful participation in decision making was questioned by many interviewees including the young people themselves. For example, NGO representatives were unable to identify very many examples of organisations that included young people in exercising power. This is despite the fact that many recognise the importance of, as well as the duty to listen to children. As one NGO representative put it: "I think if you involve children and young people properly, it improves their self esteem and confidence and if they think that decisions that they're making, they are helping to make, is having an impact, then that has a knock on effect for them".

The Right to be Heard

Serious concerns have been expressed about the failure of adults to involve children in decision making processes which concern them. Children and young people also have widespread concerns about the failure of adults to listen to them, to consult with them and to take their views into account. Children have a clear sense of the importance of being heard. For example, one girl from the Traveller community explained why it was important for adults to listen to children in the following way: "In case they get bullied and the adults say "No go away" and the children never get a chance to tell the adult that they got bullied or something is happening" (Girl, aged 12 - Traveller community). Another child put it thus: "sometimes other bigger children keep on bullying you and if you go to tell adults and show them what they did to you and sometimes they don't listen and they just walk away" (Girl, aged 10 - Traveller community). Others described how they felt "angry" and "annoyed" when they are not listened to (Girl, aged 12 - Traveller community). The children and young people we spoke to recounted many examples of not being involved in decisions which affected them and not having their voices heard. The drawing below highlights the views expressed by many - that children's views are often not sought and when they are, they are often not listened to:



Half of the focus group interviews raised the lack of consultation with children and young people as an issue of concern. They expressed the view that children are generally not consulted within all areas of their lives, and that decisions are made on their behalf by 'invisible people'. Two of the focus groups raised the need to consult with children in the family with regard to bad behaviour, divorce and separation and residential placement issues. Some questioned, for example, whether when children are misbehaving they are really trying to communicate a problem and thought that this highlighted their need and right to be listened to.

While it has been recognised that children and young people need to be involved in all aspects of their lives it was hypocritical, some felt, for children to be consulted in the flagship processes in the public sector only to have their views completely ignored at home and at school for example (NGO Representative). This research, particularly the schools research, highlighted that the failure to involve children in decision making in schools was a significant issue. In particular, children and young people complained that they are not sufficiently involved in every day decisions in schools and that their views on the curriculum are not sought. Widespread concern was also expressed about the failure to consult young people during the exclusion/suspension process. The establishment of school councils is patchy and needs to be mainstreamed along with best practice as to how the councils operate. According to interviewees, councils should allow pupils to be heard with regard to both their schooling and education policy matters generally. Others have argued for a statutory duty to set up school councils to involve pupils in decision making processes (Barnardo's et al., 2001). Young people told stories about being invited to join the school council but then not being given the opportunity to have a say, or alternatively when they raised a problem being simply told that there was no solution. This, they felt, was tokenistic. As one young person explained: "We have every class has a [rep] and I was [rep] last year and I thought this is great and I would be able to like put points across to people like at Form council meetings which were only once a month and as soon as you got in it was just like you got handed the minutes from the last meeting and you had to talk about this and this and it was mainly about the canteen and stuff and you really didn't get the opportunity to bring anything up" (Young female, aged 16 - Youth group).

Other areas where the failure to listen to children was a matter of serious concern were as follows:

- *Criminal Justice*: Children in the criminal justice system feel that their voices are rarely heard (NGO Representative). With particular regard to the court experience, the representative commented that for young people the court is still an "adult construct" and a place where "very often they don't understand what's going on" and they have "no real sense of their having been real participants in that process". Another NGO representative noted that young people have no say in most of the decisions made about them when in custody, leaving them to "just fit into the regime". For example, a common complaint is that they are not allowed to cut their hair very short when this is their normal style. The issue for them, therefore, is that they cannot choose – "this is about their own identity and everything else about their identity has been taken away from them" (NGO Representative).
- *The Family*: Within the schools sample, 18% of responses relating to having no say in decisions referred to this specifically within the family/home setting. Children wanted to be more involved in personal decisions made in the family regarding the level of their pocket-money, use of free-time and bedtime. They were also concerned about their lack of involvement in family decisions such as moving house, choosing cars and financial matters and decisions. Overall, there was a clear awareness among the school children that they were often not consulted on matters which affect their lives (See Chapter 2).
- *Children in care* expressed their frustration at not being involved in decisions made regarding their care plans. This was also reflected in interviews where those working with children in this sector expressed the view that children who enter the care system are often not consulted and are quite powerless. When asked who made such decisions, young people themselves referred to social workers, foster carers and teachers (VOYPIC, 2003). They felt they should be involved in decisions about their lives but found that generally they were not asked how they felt about their situation. By far the greatest contention was the lack of information or feeling of genuine involvement in reviews. They felt that no matter what was said, the decision-makers did not listen or 'had already made up their minds anyway'. They commented that 'no matter what you wrote you didn't know if they read them and nobody listened to you in reviews anyway' others complained that the professionals 'talked like dictionaries' (ibid.: 25). When asked what could help young people in reviews, they said that information should be discussed in a way that they could understand and that whenever the young person is talking the foster carer should be out of the room to facilitate them speaking freely. A further critical issue was the feeling that decisions made were rarely followed up, or if so, it was not explained how the work was completed. In general, young people felt that they should be involved more in decision making and that through this process they would feel better about themselves and

their situation and it would also give them the opportunity to raise issues that were important to them whether they were big or small.

- *Children with experience of bereavement* also feel that they are not listened to, not told the truth and not asked for their views. As one NGO worker put it on their behalf "**Bereaved children are ignored, not seen, and forgotten about. People don't realise that they have very specific needs**". She told us that children themselves commented "no-one told me what happened", "I can cope with the truth - I wish people wouldn't lie to me".
- Concern was expressed that the participation of certain categories of children – such as *Traveller children and children with learning disabilities* – is limited both by their own capacity and ability to communicate, as well as by the attitudes of others (Health Organisation and NGO Representative). There is a particular need to build capacity around consulting with children who do not have verbal communication.
- *Legal System*: Serious concern was expressed about the failure to hear the views of children in legal proceedings, particularly in contact/residence disputes between parents. A related concern was the raising of expectations among children about what the outcome of them being consulted in the court process might be. This is particularly pertinent in the legal system where children are inadequately prepared for the court process around family breakdown. As one professional told us, "...they feel if they're heard it will change everything ... but if ... it doesn't change anything, it could ... make their views more intransigent and it can make them more against society and intervention". In this context, legal professionals expressed the need for greater preparation for young people coming to court and for those who engage with children in this context to be specially trained.
- *Health Care*: it was queried how genuine some nursing staff are about listening to children and was suggested that young children would not be given a lot of information in relation to being involved in such decisions (NGO representative). Concern was also expressed about the extent to which children have medical procedures explained to them in language that they understand. In this context, young people complained about medical staff who have 'swallowed a dictionary' and expressed frustration when a discussion is taking place between parents and medical staff at the end of their bed. The support of play therapists in explaining difficult issues to children can be vital but in NI this is seen as a luxury rather than an essential component of the health system (NGO representative).
- *Play and Leisure*: Children and young people are not involved in planning decisions about play, leisure, recreation and the arts (See Chapter 5).

Overall, there is widespread failure to listen to the views of children in decisions concerning them. This failure to enshrine both parts of Article 12 in all areas of legislation, as recommended by the Committee on the Rights of the Child has resulted in a consequent lack of commitment to implement Article 12 in practice. This is particularly pronounced in education and private family law proceedings.

Participation in policy development

While one-off or regular events like children's parliaments are positive, article 12 requires consistent and ongoing arrangements. Involvement of and consultation with children must avoid being tokenistic and aim to ascertain representative views. With a view to building communication channels with young people, Government must develop a direct relationship with them, not one simply mediated by NGOs, and it must ensure and encourage the active participation of youth in all spheres of society and in decision making processes at all levels (UNCRC GC No 5, 2003: 5).

Unenfranchised children's views must be heard in government and parliament. For consultation to be meaningful, documents and processes must be made accessible.

In 2002, the Committee recommended that the government 'take further steps to promote, facilitate and monitor systematic, meaningful and effective participation of all groups of children in society'. It also recommended that procedures be established to allow the views expressed by children to be taken into account in and to have an impact on developing programmes and policies affecting them (para 30).

The widespread view of NGO representatives and workers interviewed for this research was that the level of consultation with children is extremely patchy at best. It was widely recognised that an attitudinal shift leading to what one NGO representative described as a "**culture of inclusiveness with young people**" was still awaited. It was also acknowledged that experience in some areas - the children's strategy, the physical

punishment consultation and the children's commissioner – has been positive. In particular, in order to help the CYPU in OFMDFM to access the views of a representative group of young people for its work, an Advisory Forum was set up in October 2002. This group, consisting of approximately 50 young people, had a specific role in relation to the development of a strategy for children and young people and participated also in the appointment of a Commissioner for Children and Young People. While the proposal in the latest draft of the strategy is that the Forum has 'a continuing role in the development and roll out of the strategy' and is expected to be reconstituted for the next stage of the strategy's development, concern has been expressed that the Forum should not be accessible to other government departments for other purposes (NGO representative). Moreover, another NGO representative expressed anger and disappointment at the selection process for the original Forum and the way their young people were treated in the process. In particular, they complained that articulate A-level students were picked over others who are less well educated but nonetheless have much to contribute. According to the Committee, such a forum must be genuinely and broadly representative and clearly efforts will have to be made to ensure that any future Forum is fully inclusive so that it represents the full experience of children and young people from a variety of backgrounds.

In this regard, it is significant that particular concerns have been expressed, more generally, about the extent to which the voices of those particularly disadvantaged or marginalised groups of children and young people are heard. While there are many articulate young people who are able to make their voices heard, the importance of involving marginalised or alienated young people in consultation processes was stressed, along with the proposal to establish partnerships with community and voluntary agencies to make that link with groups that are hard to reach (NGO Representative). As one worker involved in AEP commented:

"realistically you need to go out on the street and ask young people that are knocking about there because if you're getting them in youth centres or organisations you're preaching to the already converted, they already made a conscious decision to become involved in a youth service".

Apart from these significant positive experiences, Article 12 was said to have had "little or no impact" (NGO Representative). In particular, other reforms, such as the drafting of the DHSSPS Children in Need Strategy, the process of reviewing the national curriculum and the process of drawing up a race equality strategy, have not involved young people directly. Young people themselves complained about not being given a say in the reviews of the 11+ and the introduction of AS[2] level examinations as two areas which will have major impacts on their lives but on which they were not consulted (CLC, 2002). While those responsible for some of these initiatives involved organisations which they believed to be representative of children, some concern has been expressed about the need to be careful about making assumptions about the representativeness of children's NGOs; nor was the involvement of NGOs a substitute for consulting directly with young people. One NGO representative that we spoke to suggested the need to look at ways of developing "extended panels for young people who can be involved in all stages of consultation around individual pieces but on a rotational basis as well". This was seen as important so that the same one or two organisations are not always used as being identified as representative of all NI young people.

Many surveys of young people in NI have identified an overwhelming desire for inclusion within decision making although this is tinged with scepticism as to the extent to which their views will be genuinely considered and taken on board. While some adults have questioned the capacity of children and young people to make a contribution, the evidence is overwhelmingly to the contrary. For example, even the youngest children – those in the pre-school category – have shown that they have an important contribution to make to future planning (NIPPA, 2002). However, NGO representatives stressed the need to support children and young people through consultation and participation processes and to equip them with the tools to participate in terms of skills to critically analyse and look at what's happening in their lives. Building esteem and convincing children and young people about the value of their views and opinions is a vital part of this process.

Other problematic areas consistently raised by those interviewed were S.75 and the Bill of Rights project. The lack of effective participation by children in these processes threatens to undermine the goodwill generated through positive experiences elsewhere.

S.75: The Equality Duty

S.75 of the NI Act, 1998 places a duty on public authorities to promote equality of opportunity and includes the requirement that public consultations be conducted with reference to a number of variables including age. Guidelines on these statutory duties stipulate that consultation with advocacy organisations alone is insufficient, and that there should be direct consultation with persons who may be affected by policies. In the case of age,

this includes young people themselves. Despite this, however, several interviewees expressed the view that the duty to consult with children under S.75 is not being implemented effectively and there is widespread and serious concern over the commitment of the Equality Commission to children's rights in this context.

This was highlighted by the example of ASBOs where NICCY took judicial review proceedings challenging the lack of a S.75 assessment on the grounds of age. This challenge failed with Justice Girvan finding that there was indeed no duty under S.75 to consult children and young people directly about the draft legislation. According to J Girvan :

“It is argued that there are mechanisms in place for consulting children, though one wonders in practical and realistic terms what meaningful response could be obtained from children unless they were in a position to understand the legal and social issues to anti-social behaviour, the mechanisms of dealing with it, the shortcomings of existing criminal law and effectiveness or otherwise of the English legislation and its suitability for transplant to the NI context, and the interaction of Convention and international obligations. Token consultation would achieve nothing. A decision by the Minister to consult in the way in which he did could not be considered irrational or unlawful”.⁴

Many feel that the future of S.75 and its application to children and young people is uncertain after this judgment. As one NGO representative said, "the ASBOs judgement has just created so much uncertainty and really just questioned the whole relevance of S.75 and whether it has any clout at all" (NGO Representative). Others simply stated that "S.75 is not working well", had "real problems" and was not working to any way near its optimal potential (NGO Representatives). Many recommended that the commitment to S.75 should be renewed by working, root and branch, with all staff in statutory agencies, training people on how to consult and what it means, and engaging with sectors that need to be brought in (NGO Representative).

A formal complaint was lodged in May 2004 with the Equality Commission on behalf of 10 non governmental organisations under Schedule 9 of the NI Act 1998 in respect of the consultation procedures leading up to the introduction of ASBOs. Although the legislation has already been introduced, this complaint is still being formally considered by the Equality Commission. While many were appalled at the introduction of ASBOs into NI (see Chapter 6), as one NGO representative put it "what was really even more concerning was the way the equality commission interpreted S.75 in this case and how they have interpreted the NIO equality scheme to the effect that it does not include a duty to consult directly with children and young people. This has major implications for all future policy development".

Reassuringly, in a document submitted to this research, the Equality Commission (2004: 1) has stated:

'Equality schemes are the key mechanism for taking forward S.75, they are legally binding and include specific commitments around removing barriers to participation and meaningful and direct consultation with all S.75 groups including children and young people and those with learning disabilities' (their emphasis)

As to how this consultation would be done, the Equality Commission unequivocally rejects the notion that direct consultation is not required by S.75 by stating that

[t]here is a danger that the impact of public policies on children and young people can be left to be expressed by voluntary groups interested in promoting the interests of children and young people. This isn't the purpose of these groups and it puts extra strain on their already stretched resources. And anyway, it is not a substitute for direct consultation with children and young people' (their emphasis, ibid.: 1)

According to its Guidelines, the document says, 'specific consideration should be given to how best to communicate the Equality Scheme and relevant information to young people and those with learning disabilities' and that 'consultation on screening and impact assessments must be conducted in accordance with the guiding principles'. In addition, it says 'public authorities' impact assessments will have to take account of age' (ibid.: 1).

⁴ NI Commissioner for Children and Young People, Re an application for Judicial Review [2004] NIQB 40 (23 June 2004), para 12.

Overall, many interviewees felt that the statutory agencies were not taking the lead in this area, that they were under a duty under S.75 to consult with children and young people, and were resourced to put such mechanisms in place, yet had failed to do so (NGO Representatives). As an AEP worker put it 'You see the S.75 groups sometimes I think it's still a token...see unless something is actually actioned or acted upon I think it's just a waste of time, all these discussion groups and consultations ...'

The failure to see the connection between non-discrimination on the grounds of age and respect for children's rights is also evident, according to some NGOs, from the failure of OFMDFM to publish a child-friendly version of their consultation documentation on the Single Equality Bill for NI.

Bill of Rights

There is very serious concern among the children's sector about the lack of a transparent, objective framework and methodology for analysing and weighting the submissions made by children and young people and their representative groups to the NIHRC on the inclusion of children's rights in the Bill of Rights. While consultation with children and young people was carried out – 1,350 children were consulted – their views do not appear to have been taken on board. When the NIHRC published a summary of over 300 consultation responses in July 2003, this summary did not incorporate the views expressed by the children and young people; nor were children and young people's groups listed in the summary of submissions as consultees. The NIHRC has explained that this was because the views of children were published in the 'What you Said' booklet and that this was an adequate analysis of their views. However, NGO representatives have argued that the purpose of this booklet was to communicate with children and young people themselves rather than with decision makers or the wider audience actively engaged in the debate and that there was little distribution of the booklet.

Overall, it is felt that the omission of young people's views both from the summary of submissions and from the index of submissions raised real concerns about the weight attached to the views of children and young people by the NIHRC and the consideration they were then given when the NIHRC drafted the update report (NIHRC, 2004). As one NGO representative said "it's really quite insulting to children and young people and to the sector that has worked very very hard and worked in a very inclusive way. And the fact that it has cross the board support from 180 organisations from all shapes and sizes for a strong, separate chapter for children's rights that are enforceable. It's just a nonsense".

Thus, while it is positive that the NIHRC appointed some-one to consult with children and young people, it was felt that this was very hard fought for by the children's rights sector and that ultimately the NIHRC's response indicated a lack of serious commitment to facilitating the participation of children and young people throughout the entire Bill of Rights process (NGO Representatives).

These concerns were exacerbated by the very real dilution of children and young people's rights protections in the NIHRC's 2004 update report (ibid.: 61-64; See also NIHRC, 2001b). According to the NIHRC, its earlier proposals had been criticised because they gave 'undue prominence to the rights of children and insufficient attention to the other disadvantaged and vulnerable groups' (ibid.: 14). In response to this perceived criticism (no evidence of this appears in the Summary of Submissions - NIHRC, 2003), the NIHRC decided to alter its proposals, seriously weakening the level of children's rights protection offered by the Bill of Rights. In so doing, the perception of the children's rights sector is that the NIHRC has largely rejected the views of children and young people and those organisations who have all argued for the inclusion of the maximum children's rights protections. As one NGO representative put it "the word disillusioned keeps coming up" with respect to this process, which lacks political will and leadership to take it on.

Views of Young People on their Participation

Children and young people have widespread concerns about the failure on the part of adults to listen to them, to consult them and to take their views seriously. Many socially excluded young people do not feel that government or others in positions of authority (teachers, police, lawyers, magistrates/judges, parents) listen to them, much less take their views into consideration. A number of these young people expressed disillusionment and a cynicism that 'nothing they say would make any difference' (Include Youth, 2003).

While surveys of young people repeatedly conclude that they want to have a voice, some young people are already deeply cynical about the sincerity of involvement initiatives when faced with the opportunity to participate (Youth Council, 2001). It is clear that children resent being consulted simply so that the consulting

body can meet its duty under S.75, for example, and instead, want to be consulted as recognition that they have something meaningful to contribute. There is a recognised need to move from getting the views of children and young people, to more active involvement and genuine participation. There is clearly much work to be done to build up the trust of young people with respect to their meaningful consultation and involvement.

Children who have been involved in consultation processes – such as the Bill of Rights, the Children’s Commissioner and the drafting of the children’s strategy – have expressed concerns about the impact of their involvement and they want to see the results of their participation. They expressed frustration at being unaware of what happened to their views and how the information was used or not, as the case may be (Include Youth, 2001). This view was also expressed by a number of children and young people in this research and there were clear examples of feelings of apathy or disappointment regarding consultations. For example, when a professional working with young lesbians asked her group to be involved in this research she told us that they felt that they had been ‘consulted to death’ and were not keen to participate in further research (i.e. they suffered from research fatigue). One young male interviewed as part of a youth group talked about it as follows:

“Yes that’s the problem there has been so many people given responsibility of putting things together like there’s three or four people out there saying we’re advising on the strategy, which would be the best strategy or whatever. There’s so many people devising these strategies and they’re just put on a shelf and ah that was great we got funding for that we’ll do this all over again, you know. Put up on a shelf then and nothing happens on the ground”

Another young female interviewed separately said in relation to previous expectations of consultation: *“That happens over and over again that all this stuff is going to happen and you never hear about it again”* (Young female, aged 15 - Youth group).

When young people are consulted, they say, it can quite often be seen as tokenism or an after thought. For example, some young people involved in the Save the Children research explained that they ‘did not trust that their participation would influence decisions, and consequently were not motivated to become involved’ (Keenan & SC et al., forthcoming: 16). There was a perception among such young people that ‘statutory agencies are not interested in what young people have to say saying ‘they usually don’t want to know ideas’, ‘they don’t listen’ and ‘they might not believe us!’ (ibid.). They also stressed that ‘poor communication’ and ‘lack of feedback’ undermines participation and being treated with respect was a key factor to supporting young people’s involvement. This view was widely shared by NGO representatives in our research who highlighted that equal terms and mutual respect must be part of the process of engaging with young people.

Significantly, evidence of one research project, which evaluated the processes in the statutory and voluntary sectors which involve children and young people in their decision making, found that less than half of those who did so evaluated the process (SC et al., 2001). The same survey found that 80% of respondents provided feedback to children and young people about the consequences of their contribution to decision making through direct or published feedback or implementation of ideas (ibid.). While this is positive, the concerns of young people clearly show that there is a need for this practice to be mainstreamed with further attention being given to implementation of ideas over publishing the responses of children and young people.

This is confirmed by Save the Children’s more recent research (ibid.: 19) where the children and young people consulted explained that their principal desired outcome and expectation of participation was seeing ‘real outcomes and positive change’, not just the production of a report which was not evidence of change.

Regarding consultation, there is some acknowledgement that while flagship consultation processes are positive, they are not always necessary or possible (NGO Representative). There is recognition that different strategies need to be deployed for participation at different levels and that experience – positive and negative - of both long-term and short-term approaches with varying levels of participation and consultation with children and young people should be shared with a view to wider capacity building in the public sector (Youth Council et al., 2001).

Guidance and Training on Consultation

While the flagship consultation processes are evidence that positive, meaningful and inclusive consultation with children and young people is achievable, there is a clear need to build capacity, mainstream best practice and undertake training in this area. Sharing the benefits of such experiences on a wider scale would allow others to avoid the same pitfalls and would also enable the choice of the most appropriate consultation model or

mechanism. At least one NGO representative acknowledged that the view expressed by Judge Girvan in the ASBO judgment – that consulting children would always be tokenistic because they cannot be expected to get their heads around the lofty ideas at stake - articulated what, perhaps, policy makers and public bodies believe, i.e. that there is no point in engaging with children and young people. Thus, beyond being a duty under domestic and international law, NGO representatives expressed the view that much remains to be done to establish best practice and to mainstream ideas and mechanisms for involving children in a meaningful way in decision making at all levels. As one NGO representative put it: "it takes imagination, resources and commitment but it also takes you prioritising it' and 'none of these things are there across departmental and public bodies".

In this regard, there is scope for NICCY to become the focal point of best practice in consulting with children and young people in line with its functions which expressly provide that the Commissioner recognise the child's right to be heard. In the light of this duty, it is vital, therefore, that the Commissioner's own office is seen to demonstrate a genuine commitment to consultation with children and young people across the board, something which is required by the CRC and the guidance of the Committee. Clearly, the highest levels of capacity building within the organisation must first take place.

According to the General Comment on the role of NHRI's in the protection and promotion of the rights of the Child such institutions have a

'key role to play in promoting respect for the views of children in all matters affecting them, as articulated in article 12 of the Convention, by Government and throughout society. This general principle should be applied to the establishment, organisation and activities of national human rights institutions. Institutions must ensure that they have direct contact with children and that children are appropriately involved and consulted. Children's councils, for example, could be created as advisory bodies for NHRIs to facilitate the participation of children in matters of concern to them' (para 16).

The General Comment also provides that such institutions should 'devise specially tailored consultation programmes and imaginative communication strategies to ensure full compliance with Article 12 of the Convention. A range of suitable ways in which children can communicate with the institution should be established' (para 17).

It is apparent on some levels that the requisite level of guidance and training on how to engage in meaningful consultation with children and young people is not provided to those who need it. For example, while the Education and Libraries (NI) Order 2003 provides for school pupils to be consulted about anti-bullying policies, the Department of Education has no plans to issue guidance to schools on consultation with pupils (CLC & SC, 2003).

Moreover, while there are a number of very positive, individual initiatives, there is a need to mainstream best practice and to build capacity in certain sectors, such as among ethnic minorities and children with disabilities (NGO Representatives). It must be recognised also that this exercise is not resource neutral, rather that dedicated resources must be allocated to participation activities in order to build the requisite capacity in the public sector. As one NGO representative put it, "you can't have consultation with people if you don't have resources out there to facilitate that", although he also acknowledged that to date "there haven't been any acknowledgements that there will be higher costs in developing your programmes for particular groups of people". Materials should be produced that are accessible to young people and use terminology, which is easy to understand. This is not currently happening and some interviewees acknowledged that it was a challenge to do so.

There is a lack of expertise and a strategic approach, particularly among the government agencies and departments, about how to consult with children and young people. There are good individual initiatives underway but good practice needs to be joined-up, standardised and more consistently applied. There is a need for details of previous consultation processes to be widely disseminated and to avoid duplication in the sector. Forthcoming research by Save the Children and others concludes that "while there is evidence of a great deal of excellent practice with children and young people in NI, the principles of effective participatory engagement are not always consistently applied" (Keenan, SC et al., forthcoming: 4). The research goes on to find that the majority of statutory agencies do not currently have, 'in-house' the requisite expertise to ensure that participatory practice is strategically and culturally integrated within their organisations' (ibid.). The fact that such consultation is required under S.75 of the NI Act, 1998 and is also a significant part of the forthcoming Strategy for Children and Young People makes it imperative that public bodies identify effective mechanisms and develop capacity to engage children and young people in their processes.

There is also a need for permanent structures to be put in place to facilitate consultation. For example, it has been recommended that Children's Rights Officers or advocates be established in each Health Board or Trust area which would, *inter alia*, facilitate the involvement of young people in service development, provision and evaluation (Barnardo's et al., 2001).

Political Participation of Young People

Education and training in democratic processes and the spirit of citizenship should be undertaken with a view to strengthening and facilitating the commitment of young people to, participation in and full integration into society.

There are currently an insufficient number of structures to allow children and young people to participate in the political process. Young people have expressed little connection with government structures in general and little interest or knowledge of the workings of the NI Assembly and its institutions (Include Youth, 2001).

Young people expressed the view that, for the most part, they are provided with only token opportunities to engage in discussions about their social, economic and environmental futures and are seldom given the chance to express their preferences in adult dominated institutions (NI Assembly, 1999).

While Youth Councils are well established in Fermanagh and Derry/Londonderry, and proposals to set up a Council in Belfast are underway, there is a need to establish these initiatives throughout NI. Young people themselves support the replication of Youth Councils in other areas (although many are unaware of the existing structures and feel the need for more effective promotion of their outcomes) as well as the need to establish:

- A regional youth consultation body;
- Youth forum structures at local and regional level
- A shadow youth assembly, and
- Young representatives on central bodies such as Parades Commission, Police Authority with structures whereby they can gain the views of their peers (NI Assembly, 1999).

No measures have been taken to promote the involvement of children and young people in the work of the NI Assembly, in contrast to the relatively significant progress made in the National Assembly for Wales which has established Funky Dragon, an organisation of and for young people to inform the Assembly itself (Children's Commissioner for Wales, 2002).

In NI, many young people recognise the important role played by schools and education in fostering political awareness and interest among their peers and see it as the starting point to developing political citizenship among young people (NI Assembly, 1999). They have suggested that mock parliaments and a Youth Parliament would give them an opportunity to develop their skills while parties and politicians better informed about and focused on youth concerns would also gain their interest (Democratic Dialogue, 2004). The lack of information both about politics as a concept and practical information about political parties was also viewed as an immediate stumbling block (NI Assembly, 1999).

Key Issues

- There are concerns about the extent to which children's views are being taken seriously in legal proceedings, particularly in residence/contact disputes between parents something which is exacerbated by the lack of independent representation/advocacy. There is also concern over the lack of legal aid to enable children to be represented in employment and other proceedings.
- Children and young people have widespread concerns about the failure on the part of adults to listen to them, to consult them and to take their views seriously.
- Children who have been involved in consultation processes fear tokenism and want to see the real results of their consultation.
- The duty to consult with children under S.75 is not being implemented effectively and there is serious concern over the commitment of the Equality Commission to children's rights.

- There is serious concern about the lack of a transparent, objective framework and methodology for analysing and weighting the submissions made by children and young people and their representative groups to the HRC on the inclusion of children's rights in the Bill of Rights.
- There is a lack of expertise and a strategic approach, particularly among the government agencies and departments, about how to consult with children and young people. Good practice needs to be standardised and more consistently applied.
- There is a need for details of previous consultation processes to be widely disseminated.
- The establishment of school councils needs to be mainstreamed and these should be used to allow children to be heard with regard to both their schooling and education policy more generally.
- There are an insufficient number of structures, such as youth councils, to allow children and young people to participate in the political process. No structures have been put in place to encourage children's participation in Government or to filter their opinions and ideas into the political process.

THE RIGHT TO VOTE AND PARTICIPATE IN CIVIL SOCIETY

While the CRC is silent on the right to vote, Article 1 clearly allows the State to recognise that majority is achieved earlier than 18 years. Accordingly, the establishment of a lower voting age would be compatible with the Convention, and would, if it is submitted, be consistent with its objective to recognise the independent civil rights and freedoms of young people like those reflected elsewhere in the Convention.

The more general right to participate in politics and to participate in civil society may, in any event, be derived from the Convention's recognition that the child has civil and political rights provisions. The recognition of children as rights holders is clearly consistent with conferring on them a right to be politically aware and active with preparation for full participation in society as responsible adults.

In 2004, the Electoral Commission published a report on the minimum ages of candidacy and voting for public elections in the UK. While the document recommends a reduction in the minimum age of candidacy from 21 to 18, it concludes that there are insufficient grounds for lowering the voting age. This latter recommendation has been met with disappointment and criticism by children and young people's organisations (Bridges, 2004).

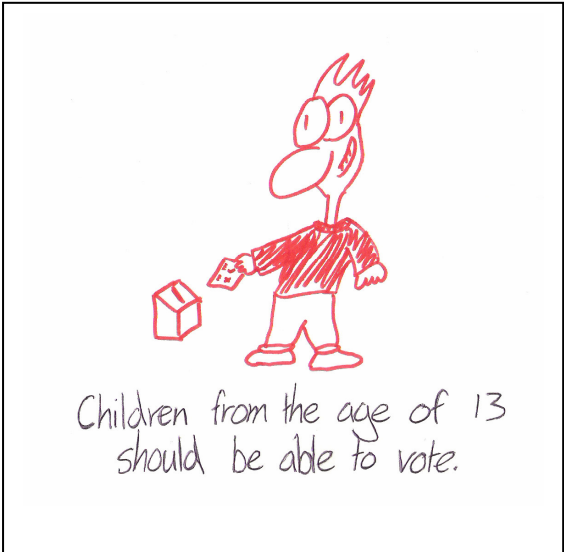
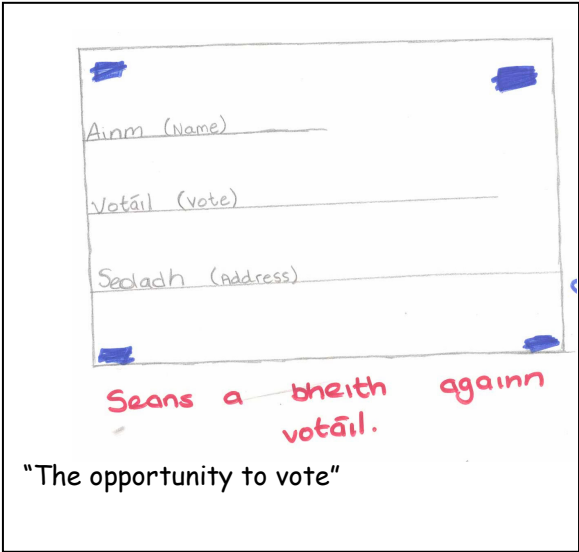
A proposal was made in the NIHRC's consultation paper on a Bill of Rights for NI to reduce the voting age to 17. However, according to the Summary of Replies to the consultation document, only a few submissions supported changing the voting age with many more arguing that it would not be appropriate for a Bill of Rights to change the voting age. Apart from the lack of transparency here which does not allow for an evidence analysis of submissions, there did not appear to be disagreement on the substantive issue, therefore, merely whether such a provision could appropriately be included in the Bill of Rights. In any event, the provision establishing 17 years as the voting age was not repeated in the NIHRC's latest draft of its proposals (NIHRC, 2004).

Only 25% of 18 year olds are registered to vote suggesting either a lack of political awareness or interest among young people. NI's Chief Electoral Officer Denis Stanley has recommended that the process of elections and electoral registration become part of the curriculum in the final years of secondary school and at university (Belfast Telegraph, 23 July 2004).

Young people themselves have raised concerns about the fact that the government takes tax from them when they are over 16 years but they are denied a vote until they are 18 years. They say this is inconsistent (CLC, 2004c). As one young person in our research said: "I'm going to sort of talk about voting and money here. You have to be eighteen or over to vote, yet you're considered an adult on things like buses and in other places you want to go to like cinemas, ice skating, bowling and anything else and tax as well. And you have to pay that up to your sixteen I think there should be a choice you know a vote whether it should be sixteen or eighteen and the taxing should change within that. Within reason" (Young female - Youth group).

An NGO representative put it thus: "I think there is a really strong argument for lowering [the age] if you really want to show that you're serious about it that their views are important".

Some young people recommended the reduction of the voting age. For example, one girl told us "I think it's so unfair the way kids don't get a say in political voting. For flipsake, I know more about politics than some adults" (Girl, aged 11). Another said "I think we should be allowed to vote at 16 in NI as politics is a big part of our lives and I think we are mature and understand enough to vote sensibly and responsibly" (Girl, aged 14). Another girl expressed a similar view: "Voting is an issue that really concerns me. I think that some people under the age of 18 have a valid view of politics but they can't vote or get their point across. I think that people from around the age of 15 up should be allowed to vote if they really want to. If someone this age thinks they really want to vote, then they should apply for it and get information on the parties they want to vote for" (Girl, aged 15).



Others do not particularly want the right to vote as soon as they are 16 but they want to participate nonetheless. As one young person told us "I believe that the legal age for voting is fine but I do believe that younger people should have an input into the peace process and elections in some other way" (Girl, aged 14). This view was also displayed in a poster designed by a group of young men, with regards to young people having a view in relation to global and local issues:



Another 19 year old, however, had a different view when asked whether the voting age should be lowered: "I don't think so. I don't think you should know. Like I'm nineteen nearly twenty and I haven't a clue. The reason I haven't a clue is because those the parties go out there they're sort of saying bla bla bla they give the whole spiel about young people and that's it. Okay you're an adult but you're still young you know".

A gradual reduction in the voting age to 16 is supported by the Youth Council for NI who believe that young people of 16 have both the competence and capability to make informed political decisions. However, this comes with the rider that the proposal is rationalised in a positive manner and not as an attempt to counter negative issues such as political apathy (Youth Council, 2004).

Research by Democratic Dialogue (2004) concluded that young people have a relatively high knowledge of basic political facts, but can struggle when it comes to understanding. This coincides with research by the North Belfast Community Research Project which found that despite an apparently low level of general interest in politics, 73% of respondents were able to identify their local MP although only 44% were able to name the Secretary of State for NI (ICR, 2003). Perceived to have a lukewarm interest in politics, the views of young people conceal a much greater issue in particular issues like war, poverty, health and crime (Democratic Dialogue, 2004).

More needs to be done to promote the inclusion of young people in the political process and to make political parties and politics more 'youth friendly' (NI Assembly, 1999). One NGO representative told us that "political parties are really quite fossilised in terms of accessing young people's issues" and are more likely to see young people as a source of a complaint than a constituent.

The North Belfast Community Research Project discovered that most young people get their information on politics from the television and radio (76%) with only 8% getting it from party political literature and 7% getting it from the education system (ICR, 2003). While only 3% of those surveyed belonged to a political party, 27% said they would consider joining one. Overall, the project suggests that developing more proactive and imaginative ways to engage with young people may well be a fruitful move for local political parties although the typical view expressed by one NGO representative was that "we have a long way to go in terms of how we actually encourage [young people] to engage with political society". Further research on the topic was also recommended.

Young people at a conference with Assembly members in 1999 expressed dissatisfaction with the ability of politicians to talk with and listen to their young constituents and it was suggested that some politicians needed to improve their communication skills if they are to gain the respect of young voters (NI Assembly, 1999). The Democratic Dialogue research also saw young people identify the failure on the part of politicians to engage with the issues in which young people are interested as a barrier to their engagement in politics (Democratic Dialogue, 2004).

In the UK, the Electoral Reform Society has argued for a more integrated approach to political literacy whereby young people receive citizenship education and go on to exercise their right to vote immediately after leaving school (Bridges, 2004).

While conceding that they themselves need to press for inclusion, young people also doubt whether those in authority have genuine intentions about involving young people. In this regard, some young people note they have been excluded from having a say in the political peace process and are unrepresented on the various commissions set up by the Good Friday Agreement reflecting a culture where young people are left out of the fundamental politics of NI (NI Assembly, 1999).

In the formulation of the young person's response to 'Shaping our Future', the young people consulted expressed a sense of great frustration at their powerlessness in terms of influencing local and regional policies. They complained about the inaccessibility of political documents, especially in terms of the language used and the perceived disdain held for young people by local politicians. Calls for both a Minister for Youth and direct youth representation on decision making bodies were made as well as a demand that young people be given a meaningful voice in the political peace process (Shaping our Future, 1998).

Young people recommended action that political parties should take to become more accessible to young people including:

- identifying a youth spokesperson who would have active contact with youth councils and other youth groups,
- publicising political surgeries and making them more youth friendly,
- providing internet access for the purposes of communicating with young people and encouraging Assembly members to go on a roundtable of schools (NI Assembly, 1999).

Young people also recommended that there be more young people represented on the Civic Forum (set up under the GFA article 34 Strand 1) which to date has had only one member under 20 years. Putting Children First, a lobby coalition for children's organisations, challenged the First and Deputy First Ministers to equality proof the Civic Forum and to take measures to increase the involvement of children and young people, no change to its membership has occurred. One NGO representative suggested that reserving a 'youth' place on the forum would be tokenistic, and favoured instead the development of strong links with other youth groups. Nevertheless, it is clear that young people have a positive contribution to make to the Civic Forum, and that the issue of youth representation on and meaningful participation in the Forum should be given further serious consideration.

Key Issues

- Politics and politicians are currently inaccessible to children and young people who have an interest and an understanding in politics, but lack basic information about the political process.
- More research needs to be carried out into lowering the voting age in NI.

KEY PRIORITIES

The following priorities emerge as key to the effective implementation of the Convention. Many of these reflect recommendations made by the Committee on the Rights of the Child, which remain unaddressed, and all are fundamental to ensuring the enjoyment of the rights of all children in NI.

- Given that children's rights and particularly the Convention's guiding principles are inadequately protected in NI law, it is recommended that a key priority for the Commissioner's Office should be to lobby intensively for incorporation of the CRC into domestic law, as well as for the inclusion of a strongly worded and detailed clause protecting the rights of children and young people in the Bill of Rights for NI. NICCY should also promote the return of the children's strategy to its original objective of the mechanism via which the Convention is to be implemented in NI.
- In addition to using all of its powers to monitor the compatibility of law and policy with the Convention, NICCY should also promote the development of children's rights indicators or impact analysis for both law, policy and budgetary decisions. It should lobby for a high level, cross-departmental statutory/Assembly committee and/or Minister for Children with the power and resources to effectively co-ordinate implementation of the Convention and children's rights more generally.
- Raising awareness of the Convention and children's rights among children and young people, and adults, including those working with and for children, all of whom require on-going training on children's rights, should be a priority for the Commissioner's office.
- NICCY should work to establish itself as the central point for information on children's rights in NI and should develop strategic ways to ensure that all children and young people have effective access to information about their rights in child sensitive forms.
- The Commissioner needs to address the serious lack of child-sensitive complaints procedures and independent advocacy services for children and young people, possibly consulting with NGOs on what precisely can be done to fill these gaps and how existing mechanisms can be appropriately adapted.
- Priority should be given to producing and maintaining up-to-date and disaggregated data across government departments and producing an annual, comprehensive publication on the state of children's rights in NI.
- NICCY should take a leading role in seeking to promote the right of all children to be heard and have their views taken into account in individual decisions as well as law, policy and in the political system generally. It should establish firm links with representative NGOs as well as with children and young people directly involving them in a meaningful way in the work of the Office. The Commissioner should also work with the Equality Commission on ways to maximise the potential of S.75 in respect of the age criterion and seek to collate and disseminate best practice on how to consult with children and young people. It should promote the right of children to be heard via the use of schools councils, and youth councils in district councils and in the NI Assembly.