**Statement of Children’s Rights in NI**

**21st June 2018**

Welcome

The NICCY legislation is clear that in everything we do we must have “due regard” to two things, firstly the views and experiences of children and the role that parents play in their lives and secondly the United Nations Convention on the Rights of the Child.

**PPT 5**

The Convention sets out **minimum** standards for children’s rights across all areas of their lives which include civil and personal protections, health, education and welfare. It affords particular rights for vulnerable groups such as children with disabilities, children in care and in need, those in contact with the justice system and refugee children.

*Thomas Hammarberg*

*Children in need, just like persons with disabilities, have long been the favourite ‘objects’ of charity. They have been given support, not as a matter of right, but because people have felt pity for them. This is one of the attitudes that the Convention challenges.’*

Rights recognise that children’s lives cannot be compartmentalised and must be understood as a whole. **They are not optional, they are not a matter or charity or favours that can be given or taken away on a whim. Nor do they come with responsibilities**. The only responsibilities belong to us as adults.

The 4 general principles that underpin all other rights outlined in the Convention, are:

* Article 2: Children’s right to non-discrimination.
* Article 3: Best interests being a primary consideration in all matters.
* Article 6: Right to life and to survival and development to the maximum extent.
* Article 12: Views being given due weight in accordance with age and maturity.

**PP 6**

You have heard that it is my role to **safeguard and promote the rights and best interests of children** **and young people in NI**. And to be clear I am free to involve my office in any issue that I believe is important to the lives to children and young people.

In keeping with my legal duty to raise awareness of children's rights, particularly amongst children and their parents, to review the adequacy and effectiveness of law, services and practice I am issuing guidance and advice to government and hence we are publishing 2 complimentary pieces of work.

Firstly and the main reason we are here is the **Statement on Children’s Rights in Northern Ireland** and secondly a table outlining the implementation of the UN Committee’s concluding observations and recommendations from 2016. We are very pleased that the department of education has co-ordinated all government departments in beginning to identify progress to date and this will be an incredibly important resource as we monitor compliance with the UN committee’s recommendations. There is a link to the table in the report and you will be able to find it on SOCRNI page of our website. When you read the table it will no doubt elicit different reactions but for me they fall into 3 categories:

1. The enormous amount of work currently being undertaken in children’s policy and services
2. The lack of an explicit rights framework to inform and guide the delivery of this work. Obviously this is not uniform across all areas but in many places there is a feeling of shoehorning rights into existing activities.
3. Finally and I’ll say more about this later the amount of times that no progress is attributed to lack of ministers, executive or assembly. This was annoying a year ago but now we have reached the stage where it is approaching disastrous.

Some of you will have heard that when in answer the usual interview question back in early August 2014 of what would your priorities be if you were appointed Commissioner my answer was mental health, education and poverty. An answer not plucked from thin air but based on the evidence. This report discusses assesses these areas and the others that we in NICCY have worked on. .

I will take you through the report so every so often I will shout out a page number.

PPT 7

I have talked about frameworks and in NI we have the Children Services Co-operation Act. This innovative legislation introduced in 2015 provides a clear legislative framework with its 8 outcomes made up of the 6 areas of children’s lives underpinned by rights, equality and good relations. The CSCA provides a statutory duty for government and all it’s agencies to co-operate and also allows for the pooling of resources. The proper implementation of this legislation has the potential to go a long way to addressing breaches of rights of children and young people. However here we meet our first no executive block – no strategy for children and young people despite the fact that there was extensive pre-consultation and consultation throughout 2016 and early 2017 we still have no strategy. The CYPS gives affect not only to the CSCA but also the PfG (outcome 12 – we will give our children the best start in life) and of course should be the implementation plan for the UNCRC.

**PPT 8**

Moving on to **Education**

Page 19.

A child’s rights compliant education system not only provides free education but it should aim to provide holistic education developing the child’s personality, talents and abilities. Education is so much more than academic attainment but regrettably it’s the only indicator we use to measure the success of our system.

Firstly starting with what we know. We know that there are 340,000 children in funded school places. Of these 30% are entitled to free school meals. Inevitably, this Statement centres on children who are left behind when it comes to the accepted standard of 5 GCSEs A-C (including English and Maths). About 70% of young people achieve this standard at the end of year 12. The report identifies those young people left behind, including children who are care experienced, newcomer and traveller children.

We also focus particularly on children with SEN which gives huge cause for concern. We can no longer ignore the delay in children having their needs assessed, the 79% who have to wait beyond the 26 weeks to have their statements completed, those who have increasingly vague statements making them difficult to enforce, the list goes on.

The most systematic inequality in our education system is between 100,000 children on free school meals and those who are not.

* 50% of children on FSME
* 78% not on FSME

We need to find a way of dispelling the notion that our selective system is some sort of social leveller it is not, only 14% of children FSME attend selective schools in NI.

The statistics tells us that our system is failing too many of our young people but that knowledge of this failure is only based on one measure, what would be more telling is to be able to examine our education system in the round namely children’s well-being. We welcome DE’s considerations in bringing in such a measure which will bench mark NI against the best in the world.

Finally, on education (page 26) there has been some hoo-ha over whether the NI’s deeply segregated education system presents value for money. The jury is out because the relevant data appears to be unavailable.

**PP 9**

But and I quote:

*“It is very evident that there is not enough money to continue to run our education system as currently structured and schools are under severe pressure*

*We need a new education model that is cost effective and sustainable for the future whilst also ensuring that our children and young people can be the best that they can be.”*

I agree with the CEO of the EA our education system cannot continue to spend at its current rate otherwise it will be bankrupt before another minister sets foot in Rathgael House.

**PP 10**

**Mental Health**

You will be aware that we are in the final stages of completing our Child’s Rights Mental Health Review which will be published at the end of September. The review will look at children’s access to child and adolescent mental health services (particularly at step 3 and beyond), data and budgetary information.

On page 30 our paper discusses the definition of mental health and you will see that we have gone with the World Health Organisation who identify the positive aspects of term and that interventions should aim at restoring mental health. This serves as a helpful reminder of the stigma that we attached to those two words.

It remains unclear how many children and young people in Northern Ireland experience mental ill-health but the best estimates are about 25%. We need clearer figures and I am delighted that the Department Health will be funding a prevalence study so that we can have a better understanding of our children’s mental health.

The findings of the survey should inform decision-making particularly with regards to spend on children from early intervention right on as in spite of the strong international evidence that adolescence is the peak time for the onset of mental ill-health, funding for children runs at just under 8% of the whole budget. Surely to goodness we should be spending more money on our children’s mental health.

NICCY welcomes some of the excellent work being undertaken in the health and social care trusts across NI to embed the stepped care model but there remains a dearth of NI-wide robust data on a range of issues including levels of need and impact of interventions. There are numerous reports with countless recommendations concerning the need for accessible services from prevention, early intervention right through to acute care and we await to see the data that measures progress.

A strong and robust community infrastructure is vital if we are to protect our children’s emotional and mental health. Schools counselling is a crucial community resource and it is hugely welcome that every post-primary education setting has access to this service but we must go further and extend it to primary schools.

Within the formal child and adolescent services it would appear and here I quote from **page 33** demand is out-stripping supply. Our review will interrogate more thoroughly the available data particularly the interface between referrals into step 3 services so watch this space.

**PP 11**

There is no doubt that there is a lot of work being undertaken in children’s mental health services however it feels disjointed and you will see that our recommendations concern the provision of an evidence based framework, one that recognises the continuum from universal or early intervention right through to acute, that is based on good robust data and has sufficient long-term investment to ensure implementation of various recommendations but is also responsive to the needs of children and young people .

And now to child poverty.

**PP 12**

This could be one line**. If we are serious about child poverty and we should be working to eradicate it.** 8 years after the passing of the Child Poverty Act we are not significantly closer to its eradication. It is fair to say that the measurement indicators and numbers can be baffling and bewildering but whatever way you look at it there are too many children in NI living in poverty.

Poverty disproportionately affects lone parent families, families where no adult works, families where someone is disabled and larger families. The latter fact does not bode well when the 2 child-rule begins to take effect.

Interestingly you will see on page 41 some findings from a public attitudes survey we commissioned. The majority of people questioned recognised that child poverty was due to circumstances beyond the control of parents and that it was government’s responsibility to address these issues.

At the risk of being repetitive (and I’m only half way through) poverty is the common feature amongst all other disadvantages which of course suggests that it requires a concerted whole government approach. The last child poverty action plan did not have a fair wind and whether we have a dedicated child poverty action plan or an anti-poverty strategy as required by the judicial review is not the issue for me.

As Jebb Eglantine said “child poverty is a war on children”.

**PP 13**

We have to fight this war on a number of fronts but whatever way we view poverty it is as a result of low income so the first thing must be to increase family income to a decent level (and this obviously includes benefits) before we begin to address some of the other systemic issue such as affordable child care, free school day, holiday hunger and other disadvantages.

**PP 14**

**Safeguarding**

Moving on to page 45 Safeguarding. Obviously a crucial area of children’s lives and one which is, I believe, taken seriously across all agencies. We know that 22,737 children were on the ‘children in need’ register and 2,132 on the child protection register mainly for physical abuse and/or neglect, which represents an 11% increase on the previous year.

This section the Statement is by no means a comprehensive and does not address all safeguarding and child protections issues. Before discussing this section I do want to mention ACEs. The Adverse Childhood Experiences framework has received a lot of attention which will presumable ensure that we will embed services that strengthen families and make our children safer.

So the safeguarding areas we are monitoring splits into three; child sexual exploitation, children subject to immigration control and bullying.

**PP 15**

**CSE** – the report expresses (page 50) my deep personal frustration at the lack of information regarding the implementation of the 77 recommendations of the independent inquiry into child sexual exploitation chaired by Kathleen Marshall which reported in November 2014. There has not been a sufficiently robust framework to evidence the implementation of the recommendations that government deem to have been achieved nor are there clear reasons for where there has been little or no progress. Only two progress reports have been published and there as yet has been no final report which was due 7 months ago. There can be no reason for the lack of comfort to the people of NI as to whether children and better protected from CSE than they were five years ago.

It is particularly welcome that the UK government has finally ratified the Lanzarote Convention which addresses child sexual abuse and exploitation.

The issue of providing assurance on the implementation of action plans applies to a number of processes. A lot of work goes into delivering on action plans but not enough on measuring the impact. This does a disservice to frontline practitioners and service providers and most importantly to children and their families as we cannot provide confirmation that NI is moving forward.

**Children subject to immigration control** – as has already been mentioned there has been an increase of newcomer children and families in NI although it is difficult to know how many are seeking asylum. People who are refugees or are seeking asylum face a range of barriers including adequate accommodation, access to health care, language services and education. I attended on Tuesday night with refuges and asylum seekers and they expressed concern regarding induction and understanding NI culture and family norms.

We’re now on page 52.

There have been historically low numbers of separated children and the health and social care system in NI has to be congratulated for radically reducing the number who have gone missing and are now providing services that better meet the needs of young people but we are still on a journey, one that has been enhanced by the long awaited implementation of the guardianship scheme for separated children as legislated in 2015.

The NI government in partnership with the voluntary and community sectors has risen to the challenge of supporting what it now 1000 people through the vulnerable Syrian Persons Scheme. It is regrettable that our community has not been able to take up the opportunity to provide similar hospitality and care to unaccompanied children through the implementation of the Dubs Scheme.

Finally in this section we move to **bullying**. This is an issue which worries so many of our children and young people and their families. The Addressing Bullying in School legislation was a significant development in NI when it was passed in 2016a as it provides a common definition and places a responsibility on Boards of Governors to ensure implementation of anti-bullying policies which include reporting. Well it would have been significant if we were not still waiting for its implementation, which is now predicted to be in the next academic year, and we await to see the extent to which schools recognise and classify bullying behaviour.

Here I’m going off report as I think it is important to mention our LGBT+ young people. We know that nearly 2/3s of LGBT children and young people do not feel welcome in post-primary school and almost half experienced bullying. It is not acceptable that this group of young people continue to receive messages that they are less than.

Cyber-bullying is also of huge concern for children and young people as is on-line safety generally. It is disappointing that despite the many years in development the draft e-safety strategy has been sitting in a pile since December 2016 waiting for approval. On a happier note I am delighted that the next general comment from the UN Committee will be on children’s digital rights.

Oh now it’s **youth justice**.

**PP16**

(page 57) It was not our intention in this report to repeat the recommendations of the Youth Justice Review except to reiterate the importance of their implementation. A key recommendation was the revision of the aim of the system to include the best interests of the child which was achieved in the 2015. However we still struggle to see clear evidence of implementation across the system. And to be clear the youth justice system is not just the Youth Justice Agency but includes the PSNI, PPS, courts, PBNI and the DoJ.

The length of time it takes to complete a young person’s case was an issue that was of huge concern in 2011 when the review group did it’s work but they simply repeated the concern of the CJINI who has consistently emphasised the need to reduce delay in our criminal justice system. More than 6 years after the review reported and despite a number of DoJ consultations, we are no further forward to the introduction of effective time limits. I remind you that we have not had an Executive for only 18 months out of those 6 ½ years.

Moving quickly on to custody, Woodlands Juvenile Justice Centre. I welcome CJINI’s report that notes the improved levels of care and health provision within the centre describing Woodlands as the “jewel in the crown” of the DoJ and the envy of other jurisdictions. I congratulate YJA for a job being well done. Don’t be resting on your laurels as there is still insufficient profile and outcome data for the young people who attend youth justice services generally and custody specifically.

There remains some issues that the rest of childcare and youth justice system needs to answer which we also address in this report. Regardless (page 60) of the numbers of reviews, plans and inspections there are still a disproportionately high number of care experienced young people and those who are not convicted in the JJC. The centre is being used to accommodate young people rather than as a response to their offending behaviour, which is in direct contravention of the UNCRC and our own legislation that states, that custody should be used as a last resort for the shortest possible period.

An examination of the JJC statistics demonstrates an increasing gap between children who identify as catholic and protestant in 2016/17 it was 67% catholic and 17% protestant. Whilst I fully accept that JJC cannot dictate who attends their centre I can find no evidence or discussions that the system is attempting to understand or address this difference.

Moving on to policing and specifically **stop and search**. This is the biggest issue of contention for young people when it comes to policing and they describe feeling discriminated against and labelled. 12% of all stop and search operations involve young people with only 8.5% of operations resulting in arrest. That is not a good return and until we have greater clarity on the purpose and intended outcomes of these power, it will always be viewed as a blunt instrument when it comes to the policing of young people.

**PP 17**

You will see the youth justice recommendations here and those of you who are still awake will realise that I have skipped over one important issue. The second recommendation – if we do one thing to improve youth justice in Northern Ireland it must be to raise the age of criminal responsibility to 14 at least. I’ll say no more.

Let me take you back to the morning of the 24th of June, 2016.

**PP 18**

Regardless of how people voted in the referendum, we all woke up in a very uncertain world one that regrettably 2 years later it isn’t a whole lot clearer. The early discussions concerning Brexit were mainly about agriculture, business, goods and services. Young people’s voices and issues were not heard, a situation that thankfully has changed. NICCY in partnership with OCO and with the support of NGOs facilitated a young people’s conference where they raised their concerns and identified key ask of the Brexit process. You will find them in the report but essentially they were clear about the importance of protecting their rights and the gains achieved by the Good Friday Agreement, particularly the open border. There has been a lot of activity on the implications for Northern Ireland of Brexit and the young people have been well received in Westminster, Brussels and Dublin. But a lot of questions remain unanswered and we have to ensure the protection of the GFA in all its parts, the right of children and young people to identify as British, Irish or both without compromising their access to opportunities, the protections of freedom of movement unhindered by hard borders north/south or east/west.

Brexit has the very real potential to be devastating for the future of our children. There is also no escaping the fact that our land border and the GFA are unique across these islands which must be taken into account by those negotiating. Brexit is not a green or orange issue but one that is relevant for the whole community.

**PP 19**

The GFA marked the end of the troubles, however the legacy of NI’s conflict still deeply affects the lives of children all of whom were born after the signing of the GFA. When I first came to NI punishment beatings were a common occurrence which I had hoped had ended but the last few years has seen a rise in assaults on children who are perceived to have participated in anti-social or criminal behaviour. Such behaviour is not paramilitary it is thuggery which does not make communities any safer and only serves to victimise and traumatise children who are subject or witness these assaults.

The communities affected by these assaults are those most deeply impacted on by the conflict. It is these communities who have the highest rates of mental ill-health, poverty and educational underachievement. Religious segregation characterises our public housing and education – a shared future is still an aspiration that we are edging towards at a sloths pace.

It is not until we can support our young people to understand NI’s past and have an open conversation about it that we can have a future where there is no excuse for people who call themselves paramilitary to find legitimacy and where the future is a truly shared.

We are getting there. As I mentioned earlier there are 4 general principles of the UNCRC. One of which is the voice of children and young people.

**PP 20**

It should not be necessary in 2018 to have still be discussing this issue - we should just be getting on with it. Yet today NI stands as the only jurisdiction on these islands that does not have or plan to have a Youth Assembly and you will see on page 77 that I take very seriously the “dearth of structures for the active and meaningful participation of children and young people”. Whilst there are pockets of good practice for the participation of children and young people it is frustrating that they are not embedded into formal processes particularly education. We don’t need any more legislation or policies (except maybe making pupil participation mandatory) we just need more need action.

Our final area and the second of the general principles is non-discrimination.

**PP 21**

You will see at page 83 that we have identified 3 specific areas. Firstly, Age Discrimination particularly in the provision of goods, facilities and services and the proposals of previous executives to introduce legislation that only applies to people over the age of 15. There is no evidence as to why children should have their rights denied in this way and indeed NICCY and others have provided compelling evidence to support their inclusion.

Our second area is the Mental Capacity Act. This is an incredibly complex legislation but at the heart of it lies the fact that no child under 16 will have the benefit of these protections and even though 16 and 17 year olds are included within the provisions other legislation outlined, on page 84, means that they are excluded. This was not the intention of the drafters of the mental capacity act and we still have the situation that in order to give some protections to under 16s the Mental Health Order must be reviewed as was intended by the Bamford Review.

And now to our final issue. - equal protection from all forms of assault within the home. The UN committee cuts and pastes the same recommendation that the UK must outlaw the physical punishment for children at every examination and it is clear that by the next one it will be NI and possibly England who will have a recommendation as Scotland and Wales race to change their laws before the end of the year.

Banning all forms of physical chastisement does not impinge a parents right to chastise their child instead it provides them with clear guidance, boundaries and support as to the most effective ways that their children can learn.

Our research clearly demonstrates that the people in NI are already there – with 63% either definitely or tending towards supporting a change in the law. That added to clear evidence regarding physical abuse of children is clear that if NI is serious about protecting children and families that we must ban the physical punishment of children. It has no place in family lives.

**PP 22**

Children are not only our future but also our present they are active participant in their community and the world around us.

Lack of government aside there is no reason why the NI can’t be amongst the best in the world in achieving the best outcome for our children. We still have some way to go but the only way to get there is through the embedding children’s rights into everything we do. Rights is not a burden but shines a light on the road to giving our children the very best start in life.