

## STATEMENT ON CHILDREN'S RIGHTS IN NORTHERN IRELAND 2

### CHILDREN AND YOUNG PEOPLE'S RESOURCE PACK



# CHALLENGING DISCRIMINATION

## What does the UNCRC say?

### Article 2: No discrimination

All children have all these rights, no matter who they are, where they live, what language they speak, what their religion is, what they think, what they look like, if they are a boy or girl, if they have a disability, if they are rich or poor, and no matter who their parents or families are or what their parents or families believe or do. No child should be treated unfairly for any reason.

### Article 19: Protection from violence

Governments must protect children from violence, abuse and being neglected by anyone who looks after them.

## What does the UNCRC Committee say?

### Non-discrimination

The government should:

- Make laws to prevent age discrimination against children and young people under 18. This will stop them from treating you unfairly because your age.
- Make sure that you are not discriminated against when trying to prevent terrorism or extremism.

- Do more to prevent people discriminating against particular groups of children and young people.
- Stop the negative stereotyping of young people in society generally, including in the media.

### Corporal Punishment

The government should:

- Ban physical punishment, which includes hitting and smacking in the family, and don't allow legal excuses for hitting children as a form of discipline.
- Make sure that physical punishment is banned in all schools, and all places where children are looked after.
- Promote the use of positive, non-violent ways of disciplining children. This should stop physical punishment from being acceptable.



## **CHALLENGING DISCRIMINATION**

### **What's the situation in NI?**

NICCY is concerned about a lack of progress on the calls to end discrimination made in 2018. We are still waiting for government to finalise laws which will stop age discrimination when accessing goods, facilities and services and there has been no further clarity on whether children of all ages will be included in these laws. There are ongoing issues for children being protected under the Mental Capacity Act and children in Northern Ireland are still not protected from assault in the same way as adults.

### **In 2018 we asked the government to:**

Make sure all children and young people are not discriminated against by:

1. Establish legislation which provides protection from discrimination when accessing goods, facilities and services. This should include all children and young people and not just those over 16 years old;
2. Ensure the Mental Capacity Act Northern Ireland (2016) applies to 16 and 17 year olds in the same way as adults and that all under 16s have equal or enhanced protections under an amended Mental Health (Northern Ireland) Order 1986; and
3. Reform the law to make sure children have equal protection from all forms of assault, including physical punishment, and improve support for families by providing positive parenting information and help.

### **So how is NI doing at preventing discrimination?**

#### **Access to Goods, Facilities and Services**

In Northern Ireland, it is proposed to introduce legislation to protect against discrimination on grounds of age when accessing goods, facilities and services (Age GFS). It is also proposed to apply these protections only to those aged over 16. There is significant evidence that children and young people experience discrimination. NICCY has provided a wealth of compelling evidence to Government which clearly highlights the need to include children and young people of all ages within the scope of the Age GFS legislation.

NICCY does not believe that any of the comprehensive evidence it has provided has been taken into account in developing the current proposals on under 16s. Children and young people already enjoy protection from discrimination on the basis of their age in employment and vocational training and on the grounds of sex, sexual orientation, religion and political opinion, race and disability when accessing goods, facilities and services in Northern Ireland.



## **CHALLENGING DISCRIMINATION**

NICCY welcomes the proposal under the New Decade, New Approach deal to bring an Age, Goods and Facilities and Services Bill forward by the Executive as basis for ensuring that no one is discriminated against because of their age. NICCY also welcomes that the parties agreed that the Executive should commit to becoming a Living Wage employer, that the Executive should move to ban zero hours contracts, and that powers to set minimum wage levels should be made a devolved matter. All efforts are needed to end the discrimination faced by children and young people when accessing goods, facilities and services.

### **Mental Capacity**

The Department of Health, in the development of the Mental Capacity Act, have been clear that the inclusion of 16 and 17 year olds in the Act would mean that the legislation would apply to this age group in the same way as adults. NICCY argued that 16 and 17 year olds who come within the scope of the MCA due to their lack of capacity would be unable to access any of the protections and safeguards in the Act, unless they are considered to be able to give consent. Throughout the development of the Act, NICCY also consistently expressed concern about the application of the Act only to those aged 16 and over, thus denying young people under 16 access to the protections and safeguards under the Act.

### **Equal protection from assault**

The articles of the UNCRC are understood to be indivisible, interrelated and interdependent and this can be clearly seen when examining children and young people's right to non-discrimination, particularly in the area of legal protection from all forms of violence and assault, including physical punishment.

While current law in Northern Ireland doesn't allow physical punishment, it does give parents the opportunity to use 'reasonable punishment' as a defence for common assault. Scotland, Wales and the Republic of Ireland have all taken steps to make sure that children and young people have equal protection in the law from assault and violence against them. It is important that Northern Ireland is not left behind on this issue.



## **CHALLENGING DISCRIMINATION**

The international evidence shows the negative outcomes of physical punishment and how:

- it is not effective in achieving parenting goals;
- It is detrimental to children's health and development (including increased childhood aggression, antisocial behaviour and mental health problems);
- It carries a serious risk of leading to physical abuse.

Research also shows that the use of physical punishment declines more quickly in countries where it has been banned.

In 2017 NICCY carried out a survey that found that 76% of parents thought positive parenting was more effecting than physical punishment and on 18% of parents thought that physical punishment was an acceptable form of discipline. There was also an increase in support for changing the law to give children the same protection as adults from all forms of assault, including smacking. However, fewer parents said they had received information on positive parenting than in earlier surveys. It is now time for Government to change the law to give children in Northern Ireland equal protection from assault and give positing parenting in formation and support to parents.

### **Our recommendations to Government:**

- 1. Introduce law on age discrimination in the delivery of goods, facilities and services legislation which covers all age groups including children and young people.**
- 2. Consider including children under 16 in the Mental Capacity Act and consider including child/parental consent for medical interventions.**
- 3. Change the law so that children and young people are protected equally from all kinds of violence and assault in the same way as adults and give more support to families through effective parenting support.**