



NORTHERN
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HUMAN
RIGHTS
COMMISSION

**Northern Ireland Human Rights Commission
Submission to the United Nations
Committee on the Elimination of All Forms
of Discrimination against Women**

**Parallel Report on the 7th Periodic Report
of the United Kingdom of Great Britain and Northern Ireland
under the Convention on the Elimination
of all Forms of Discrimination against Women**

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Introduction

1. The Northern Ireland Human Rights Commission (the NIHRC) is a statutory public body established in 1999 to promote and protect human rights. In accordance with the Paris Principles¹ the NIHRC reviews the adequacy and effectiveness of measures undertaken by the United Kingdom (UK) Government to promote and protect human rights, specifically within Northern Ireland (NI). The NIHRC is one of the three A status National Human Rights Institutions in the UK.²
2. In this report, the NIHRC provides updated information concerning nine key areas: equality legislation; violence against women; trafficking and exploitation of prostitution; participation in public and political life; employment; health; economic and social benefits; criminal justice; and multiple discrimination.

Equality legislation (articles 2 and 3; recommendations 25 and 28)

Gender

3. In NI there is a wide range of equality legislation, however, the Equality Act 2010 does not extend to NI. As a consequence, women in NI do not have the same remit of equality protections as women in England, Scotland and Wales. For example, in NI: there is no public authority equality duty to promote good relations between the sexes;³ there is no prohibition on 'pay secrecy' clauses;⁴ it is generally not possible to positively discriminate between women and men in an employment context at the point of selection;⁵ and dual discrimination cases cannot be brought.⁶
4. In July 2008, the Committee anticipated the introduction of a single equality law for NI and urged that it incorporate CEDAW comprehensively.⁷ This has not been achieved. The NI Executive has no plans to introduce a single equality bill but does intend to update the current legislative framework.⁸

The Committee should recommend that the UK Government ensure that the NI Executive consolidates and updates the equality legislation in NI without delay.

Violence against women (articles 2, 3 and 5; recommendations 12, 19, 21 and 28)

Domestic abuse

5. The number of domestic abuse incidents and crimes in NI is high and disproportionately affects women.⁹ 10% of *all* crime in NI has a domestic motivation.¹⁰

6. The NIHRC welcomes the progress that has been made,¹¹ but notes the lack of specialist domestic violence courts (SDVCs), where trained professionals understand the unique issues surrounding domestic violence. At present, there are 127 SDVCs in operation in England & Wales and one pilot scheme in NI.¹² An evaluation report on the 'feasibility' of SDVCs in NI is due in September 2013.¹³
7. The NIHRC also notes the unavailability in NI of domestic violence protection notices (DVPNs) that would allow the police to expel the perpetrator from the victim's residence for a set period of time.¹⁴ Such a system ensures that there is no gap in protection for the victim, and has been found to be successful in many EU states.¹⁵ In England & Wales, DVPNs are permitted by s 24-33 of the Crime and Security Act 2010, and the Ministry for Justice is currently assessing a pilot scheme that completed in June 2012.¹⁶ The NI Minister for Justice has indicated his interest in the outcome of this pilot.¹⁷ A new 'Domestic and Sexual Violence Strategy' for NI is due to be published in September 2013.¹⁸

The Committee should seek from the UK Government information on whether the NI Executive intends to progress:

- **SDVCs in NI as a forum to visibly prosecute perpetrators and comprehensively attend to victim witnesses; and**
- **legislation which allows for the possibility of the police service in NI to issue DVPNs and a subsequent pilot scheme in NI.**

Trafficking and exploitation of prostitution (articles 2 and 6; recommendation 19)

8. NI is the only jurisdiction in the UK that shares an open land border with another State increasing susceptibility to cross-border trafficking. In 2012, 15 potential victims of human trafficking were referred from NI to the National Referral Mechanism: 11 adult females, 1 girl and 3 adult males. 7 of these adult females were designated as trafficked for the purpose of sexual exploitation.¹⁹ In 2011, on a single occasion, 7 victims of internal trafficking for the purposes of sexual exploitation were identified. All 7 victims were reportedly female children in state care.²⁰
9. The Committee has asked for information on measures taken in order to decrease the demand for prostitution.²¹ The NIHRC welcomes that it is an offence in NI to pay for the sexual services of a prostitute that has been exploited, irrespective of whether or not the purchaser had 'knowledge' of the exploitation.²² However, to date, no one has been convicted under this legislation.²³

10. In the absence of exploitation, it is an offence in NI: to pay for the sexual services of a child under 13 years old; and, to pay for the sexual services of a child under 18 years old where the purchaser did not reasonably believe the child to be 18 years or over.²⁴ In the latter context, it is for the prosecution to prove that the purchaser does not reasonably believe the child to be 18 years old or more.²⁵ The NIHRC questions whether the existence of a burden on the prosecution to prove that the purchaser does not reasonably believe the child was 18 years old or above meets international obligations and adequately protects, in particular, girls aged 13, 14 and 15 years.²⁶
11. In July 2008, the Committee urged the UK Government to ensure the provision of adequate support services to victims of trafficking in human beings.²⁷ While progress has been made to combat trafficking generally,²⁸ gaps in protections for victims remain. For example, only one victim of trafficking in NI has received compensation²⁹ and domestic legislation does not require the assignment of a guardian to unaccompanied child victims of trafficking.³⁰ Statutory provision of support for potential victims of trafficking is currently being drafted by the Department of Justice for NI, however, it is not yet available for comment.³¹

The Committee should recommend that the UK Government ensure that the NI Executive reinforce provisions for the criminalisation of paying for the sexual services of a child, and in particular for children aged 13, 14 and 15 years old.

The Committee should seek from the UK Government information on what action the NI Executive is taking to:

- **address the internal trafficking of girls who are in the care of the state;**
- **monitor the incidents of prosecutions for the offence of paying for sex with a prostitute subject to exploitation; and**
- **ensure greater provision of services to victims of trafficking within the forthcoming legislation.**

Participation in political and public life (articles 2, 3, 4 and 7; recommendations 5, 23, 25 and 27)

12. Noting paragraph 15 of the List of Issues, as well as recommendation 285 of the Committee's 2008 Concluding Observations, the NIHRC highlights the continuing underrepresentation of women in public and political life, in particular the judiciary.

The judiciary

13. There are no women judges in the NI High Court and low representation at the county court and magistrates' district levels.³²

Research commissioned by the NI Judicial Appointments Commission found that women regarded themselves less likely to meet the merit test or have the opportunities to gain it.³³ The research also noted that there was a strong view that the judicial applications system itself was the most conservative force and that meritorious candidates would be unlikely to be rewarded by the system at present.³⁴ The Lord Chief Justice has voiced his commitment to take measures to increase the number of women in the professions and within the judiciary, but also pointed out that the statute required strict appointment on merit and made the use of positive discrimination unlawful.³⁵

Public office

14. Legislation allows political parties to take positive measures to reduce inequality between men and women elected to Parliament, the NI Assembly, District Councils and the European Parliament.³⁶ Nevertheless, women hold only one fifth of elected positions in NI (albeit there are variations in the patterns of representation depending on the particular public office concerned).³⁷ Although the majority of employees in the public administration are women, they remain underrepresented in publicly appointed and leadership positions.³⁸

UN Security Council Resolution 1325 (UNSCR 1325)

15. The NIHRC notes the UK's response to the List of Issues of the Committee, stating that the UK Government does not intend to implement UNSCR 1325 in NI or integrate it into its National Action Plan.³⁹ However, the Associate Parliamentary Group on Women, Peace and Security (APG-WPS), tasked with monitoring and holding to account the UK Government in implementing UNSCR 1325, includes a focus on NI. It has initiated an inquiry into women, peace and security in NI.
16. A clear commitment to the implementation of UNSCR 1325 in NI is not only central to increasing women's representation in political and decision-making bodies, but also to ensure their participation in policies aimed to address the legacy of the conflict.

The Committee should reiterate the need for the UK Government to ensure that the NI Executive takes proactive affirmative measures to effectively increase women's participation in political, judicial and public life.

The Committee should seek from the UK Government information with regard to the inquiry of the Associate Parliamentary Group concerning the application of UNSCR 1325 in NI.

Employment (articles 2, 5 and 11; recommendations 13 and 21)

17. Recalling paragraph 16 of the List of Issues, as well as the recommendation of the Committee's 2008 Concluding Observations,⁴⁰ the NIHRC advises that occupational segregation, the pay gap between men and women and the lack of available and affordable childcare to reconcile family and professional responsibilities of parents continue to represent obstacles for women in enjoying the right to work in NI.
18. Women in NI are still underrepresented in managerial positions and overrepresented in administrative and secretarial occupations in comparison with their male counterparts.⁴¹ The gender pay gap persists as the average full time gross weekly earnings of women continue to be lower than men in all occupational categories.⁴²
19. The levels of availability and affordable childcare has continuously presented a barrier to women in pursuing employment. The NIHRC welcomes more recent initiatives by the NI Executive to improve this situation.⁴³ However, childcare in NI is still not readily available, affordable or flexible for parents.⁴⁴ Rather, the current system in place hinders two-person households to reconcile work with childcare and places particular pressure on one-parent households, of which the vast majority are women.⁴⁵ Combined with the predominant view of women carrying the main responsibilities for childcare, this disproportionately impacts mothers, adversely influencing their ability to work, their working patterns and reinforces gender stereotypes.⁴⁶

The Committee should reiterate its recommendation that the UK Government ensure that the NI Executive:

- **undertakes all appropriate measures to eliminate the gender pay gap and occupational segregation; and**
- **intensifies its efforts in adopting an inclusive and integrated Childcare Strategy, ensuring provision of good quality, flexible, available and affordable childcare for parents.**

Health (articles 2 and 12; recommendation 24)

Disadvantaged women

20. Recalling paragraphs 19 and 21 of the List of Issues, the NIHRC notes the difficulties that such groups as Roma women and rejected female asylum seekers face in accessing health care in NI. Registering with a General Practitioner in NI is necessary to access primary health care and is currently restricted to certain categories only.⁴⁷ Particularly Roma from EU Accession States Romania or Bulgaria and rejected asylum seekers have faced procedural and legal barriers in accessing primary health care, which further raises concerns regarding their access to maternal health care.⁴⁸

21. The NIHRC notes that the NI Department for Health, Social Services and Public Safety is in the process of amending legislation to improve access to primary care for non-resident persons in NI, including cooperating or destitute failed asylum seekers.⁴⁹ Further, the restrictions on nationals from Accession States will be lifted in December 2013. Pending the adoption of adequate legislation, the situation remains of particular concern regarding the affected women's rights to access primary and maternal health services.

The Committee should recommend that the UK Government ensure that the NI Executive:

- **guarantees primary and maternal health care for women, taking disadvantaged women into special consideration; and**
- **expedites the consolidation of domestic laws governing access to health care for overseas nationals.**

Reproductive health

22. Recalling paragraph 17 of the List of Issues and the recommendation of the Committee's 2008 and 1999 Concluding Observations,⁵⁰ the NIHRC notes that a public consultation regarding the possible abolition of criminal abortion laws has not been undertaken.⁵¹
23. The NI Executive has initiated a consultation process on a revised set of guidelines to provide direction to health and social care professionals on the 'limited circumstances for a lawful termination of pregnancy in Northern Ireland' ('Draft Termination Guidelines').⁵² According to the guidance, 'a termination of pregnancy ... [is] lawful only where the continuance of the pregnancy threatens the life of the woman, or would adversely affect her physical or mental health in a manner that is 'real and serious' and 'permanent or long term'.⁵³ The NIHRC notes the inadequate levels of support and counselling services for pregnant women and those who have had a termination of pregnancy.⁵⁴ The NIHRC notes the Committee has called for abortions in cases of rape and incest to be lawful.⁵⁵ NI domestic law does not provide exception for unlawful abortions in cases of rape.⁵⁶ This is not addressed in the Draft Termination Guidelines; the only mention made regards the non-recognition of foetal abnormality as grounds for an abortion.⁵⁷
24. The NIHRC notes that the performance or assistance of an abortion carries a maximum penalty of life imprisonment, which is emphasised in the Draft Termination Guidelines.⁵⁸ The failure of a health professional to provide access to an abortion resulting in the death of the woman would, not necessarily have the same penal consequences.⁵⁹ Further, there is a broad entitlement to conscientious objection for both 'health and social care professionals' and 'Trust employees', establishing exceptions in narrowly defined situations only, 'where the life of the woman is in danger *and* action by way of

termination of her pregnancy needs to be taken without delay in order to save her life *and* where the death of the unborn child is not the direct primary purpose of any intervention'.⁶⁰

The Committee should recommend that the UK Government request further information from the NI Executive on the provision of access to safe abortions in cases of rape and incest in its jurisdiction.

The Committee should seek information from the UK Government as to how the NI Executive intends to ensure the right to life of women is adequately balanced against the interests of the State in protecting the foetus.

Fertility treatment

25. The NIHRC observes that lesbian women do not have equal access to fertility treatment as women in a heterosexual relationship.⁶¹ The requirements in place to prove unexplained infertility are such that generally only women in heterosexual relationships can fulfil the criteria.⁶² The NIHRC notes that new guidelines are currently under consultation that would correct the discriminatory situation,⁶³ but wishes to underline the necessity of eliminating discriminatory procedural barriers.

The Committee should seek information from the UK Government on whether the NI Executive intends to amend its guidelines to ensure equal access to fertility treatment for lesbian women.

Economic and social benefits (articles 2, 3 and 13; recommendation 28)

26. In NI, women take on the majority of caring roles, such as care for children and disabled or elderly relatives.⁶⁴ This limits their ability to undertake paid employment and increases their reliance upon the social security system. In addition, NI is one of the poorest regions in the UK and has a relatively large proportion of households with children.⁶⁵
27. In GB, under the Welfare Reform Act 2012, a new single payment known as "the universal credit" replaces most means tested benefits and tax credits and will generally be paid monthly to one member of the household.⁶⁶ As a consequence, where the universal credit payment is paid in a heterosexual couple context, to the man, concerns have arisen that the women's independent access to resources will be negatively impacted.⁶⁷
28. In NI, it is anticipated that the Welfare Reform (Northern Ireland) Bill will largely mirror the GB legislation. However, it is important to note

that social security has been devolved to the NI Assembly and while certain constraints exist,⁶⁸ the NI Assembly is not bound to apply the universal credit system in an identical manner.

The Committee should recommend that the UK Government ensure that the NI Executive protects the access of women in NI to independent economic resources by ensuring that universal credit is paid to the main carer or jointly.

Criminal justice (articles 2, 3 and 12; recommendation 28)

Women in prisons

29. Women in NI are twice as likely as men to self-harm when in prison.⁶⁹ In July 2008, the Committee called upon the UK Government to take further steps towards the establishment of separate women's facilities, in particular in NI.⁷⁰ In October 2011, both the Criminal Justice Inspection NI and the Department of Justice for NI's, Prison Review Team issued reports criticising the facilities available to women prisoners.⁷¹ The Prison Review Team described the women's prison facility as,

wholly unsuitable: because [of] its design, its mixed population of short sentenced, remanded, mentally ill and long-sentenced women, and its co-location with young [male] adults.⁷²

30. The Prison Review Team recommended the construction of a new small custodial facility for women built, staffed and run around a therapeutic model. The Department of Justice for NI has instituted interim measures to adapt the current facilities.⁷³ On 19th March 2013 the Minister for Justice, David Ford MLA committed to establishing a new separate custodial facility for women offenders. The Department of Justice for NI is currently developing a business case and considering options for the location of the new facility.
31. Finally, the NIHRC welcomes that 17 year old girls are no longer detained alongside adult prisoners, but notes that the wording of the legislation does not eradicate this possibility.⁷⁴

The Committee should recommend that the UK Government ensure that the NI Executive commences construction of a new small custodial facility for women prisoners at the earliest possible opportunity. The new custodial facility should be entirely self-contained making provision for all services and facilities including health, exercise and visitation.

Fine defaulters

32. There were 632 receptions into custody in NI for non-payment of a fine in the first quarter of 2012.⁷⁵ Information given to the NIHRC suggested that on the 1st August 2012, 8 women were in prison for the non-payment of fines: seven for failure to pay a TV license and one for failure to pay a dog license. The CJINI follow-up review on 'the enforcement of fines' published in July 2012, noted that imprisonment places undue pressures upon women prisoners and that half the women in prison last year were sent there for fine default.⁷⁶
33. In July 2008, the Committee expressed concern about the large number of women imprisoned for minor offences such as non-payment of TV licences, and recalling its previous recommendation made in June 1999, again urged the Government to 'intensify efforts to develop alternative sentencing and custodial strategies, including community interventions and services, for women convicted of minor offences'.⁷⁷
34. The NIHRC welcomes the concern also expressed by the NI Minister of Justice on this matter⁷⁸ and the two pilot schemes imposing alternative community measures, known as 'Supervised Activity Orders'.⁷⁹ The NIHRC notes the recent NI court decision which concluded that the current procedural practice of imprisonment without the opportunity to make representation is incompatible with Article 6 ECHR.⁸⁰

The Committee should recommend that the UK Government ensure that the NI Executive implements without delay gender-specific alternatives to custody for all women in NI who default on fines.

Women in immigration detention

35. Immigration detainees in NI are held at Larne House short-term holding facility,⁸¹ from where most are then transferred to Dungavel immigration removal centre in Scotland.⁸² An unannounced inspection raised concerns that men and women are not held separately,⁸³ potentially exposing women to intimidation.⁸⁴ A nurse is based at the facility at all times but the UKBA has informed that 'a detainee can request to see a [health care professional] HCP of specific gender'.⁸⁵ Families and children are not held in Larne House.

The Committee should recommend that the UK Government ensure that women in immigration detention facilities can be held separately from men and that the health care services take due regard of the specific health requirements of women.

Multiple discrimination (articles 2 and 5; recommendation 28)

Sexual orientation and gender identity

36. The NIHRC notes the Committee's emphasis on CEDAW Article 2 requiring States to legally distinguish and prohibit intersecting forms of sex and gender-based discrimination, including sexual orientation and gender identity.⁸⁶ Both lesbian, bisexual women and transgender persons constitute diverse and invisible groups in NI society that are subject to multiple discrimination, regularly suffer bullying and harassment and demonstrate heightened mental health problems and self-isolation.⁸⁷ Common concerns regarding these groups include: a lack of strategies to tackle discrimination and negative stereotyping or to enhance understanding and awareness among the wider public, as well as the absence of data collection and monitoring to ensure the protection of the human rights of these groups.
37. The NIHRC welcomes that a number of laws prohibit discrimination on the grounds of sexual orientation in NI.⁸⁸ While civil partnerships were introduced in NI in 2005, they apply to same sex couples only.⁸⁹ Furthermore, they do not confer the same legal rights on partners in civil partnerships as marriages do.⁹⁰
38. A Sexual Orientation Strategy has been under consideration since 2006. Assurances indicating the Sexual Orientation Strategy would be published by the end of 2012 were not fulfilled.⁹¹
39. The NIHRC welcomes that transsexuals are recognised in NI non-discrimination legislation.⁹² However, the prohibition only applies to persons that intend to undergo, are currently undergoing, or have undergone gender reassignment.⁹³ Therefore, the legal protection does not extend to all transgender persons comprised by the protected characteristic 'gender identity'.⁹⁴ There is no NI strategy or action plan on transgender persons.⁹⁵
40. The NIHRC welcomes legal provisions enacted to allow trans persons to register their gender and be issued with a new birth certificate.⁹⁶ However, married transgender persons cannot register their gender, unless they divorce first, as same sex marriages are not allowed.

The Committee should request information from the UK Government on what measures the NI Executive intends to take to:

- **address multiple forms of discrimination experienced by lesbian, bisexual women and transgender persons and ensure they can enjoy all human rights equally; and**
- **challenge stereotypes and prejudices based on sexual orientation or gender identity through the adoption of appropriate strategies.**

¹ 'Principles relating to the status of national institutions', UN Doc. A/Res/48/134 (4 March 1994), Annex.

² The other two NHRIs are the Equality and Human Rights Commission (EHRC) and the Scottish Human Rights Commission (SHRC). The EHRC is also the equality body for Great Britain. The Equality Commission for NI is the equality body for NI.

³ This is available in England, Scotland and Wales, see the Equality Act 2010, section 149(1)(c). In NI, this duty applies only to the protected characteristics of religious belief, political opinion or racial group, see Northern Ireland Act 1998, section 75(2).

⁴ This is available in England, Scotland and Wales, see Equality Act 2010, section 77.

⁵ This is available in England, Scotland and Wales, see Equality Act 2010, section 159. The term 'positively discriminate' is used in the context of temporary special measures as permitted by CEDAW, art. 4, para 1. See CEDAW, General Recommendation No. 25, para 17.

⁶ This possibility is legislated for in England, Scotland and Wales, see Equality Act 2010, section 14.

⁷ CEDAW, 'Concluding Observations on the UK', UN Doc. CEDAW/C/UK/CO/6 (10 July 2008), para 261.

⁸ CEDAW, 'Reply of the UK to the List of Issues', UN Doc. CEDAW/C/GBR/Q/7/Add.1 (5 February 2013), para 17. See also, meeting between NIHRC and Office of the First Minister and Deputy First Minister (OFMDFM) officials (3 May 2013).

⁹ In 2012/13, there were 27,190 recorded domestic abuse incidents and 11,160 domestic abuse crimes in NI. In 2012/13, domestic abuse incidents were 7.9% higher than in 2011/12, and 29.7% higher than the level recorded in 2004/05. In 2012/13, domestic abuse crimes were 7.4% higher than 2011/12, and 31.2% higher than the level recorded in 2004/05. See Police Service of NI (PSNI), 'Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland: Quarterly Update to 31 March 2013' (9 May 2013).

In 2011/12, there were 9 female victims of domestic abuse crimes aged 18+ per 1,000 of the female population aged 18+ compared with 3 male victims of domestic abuse crimes aged 18+ per 1,000 of the male population aged 18+. Comparable figures for 2012/13 will be available in July 2013. See Police Service for NI (PSNI), 'Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2011/12: Annual bulletin' (05 July 2012).

¹⁰ In NI, the police service responds on average to a domestic incident every 21 minutes. See, NI Policing Board (NIPB), 'Human Rights Annual Report 2012', p104-110. In 2012/13, two females were murdered in NI as a consequence of domestic abuse. See, Police Service for NI (PSNI), 'Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland: Quarterly Update to 31 March 2013' (9 May 2013). Gender breakdown information was obtained from PSNI, Crime Statistics branch by NIHRC (email correspondence, 17 May 2013).

¹¹ For example: the first 'Sexual Assault Referral Centre' ('The Rowan') opened at Antrim Area Hospital in May 2013; the removal of upper earnings and capital limits for those seeking legal aid for non-molestation orders; the police service now have specialist domestic abuse officers, situated in the Public Protection Unit; and generally, the DOJNI accepted all 13 recommendations made by the Criminal Justice Inspectorate in 2010 (see, Criminal Justice Inspectorate NI (CJINI), 'Domestic Violence and Abuse: A Thematic Inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland' (December 2010)).

¹² See Crown Prosecution Service website, available at, <<http://www.cps.gov.uk/publications/equality/vaw/sdvc.html>> The NI pilot is in operation in the Derry/Londonderry region, and operates as a 'court listing' scheme whereby domestic violence cases are listed for a set day each month. Unlike SDVCs in England and Wales, only contests are listed in the NI pilot. Informal communications between the NIHRC and a local non-governmental organisation close to the pilot indicate that it is working well (13 May 2013).

¹³ Department of Justice for NI (DOJNI) and NI Department of Health, Social Services and Public Safety (DHSSPS), 'Tackling Domestic and Sexual Violence and Abuse, Action Plan: April 2012 to September 2013', Strand 3.

¹⁴ At present, an emergency occupancy order would be used. However, this must be granted by the court and would be applied for by the victim's solicitor. A DVPN protects victim's in the interim and also protects those who do not wish to take legal action.

¹⁵ It was first piloted in Austria in 1997. See, European Institute for Gender Equality, 'Review of the implementation of the Beijing Platform for Action in the EU Member States: Violence Against Women - Victim Support: Main findings' EU (2013), para 1.3.3.

¹⁶ See Crime and Security Act 2010, sections 24-33. The pilot scheme covered the Greater Manchester, Wiltshire, and West Mercia police areas in England. Although the pilot has finished, these three areas are still using DVPNs pending outcome of the assessment. The report is due out in late summer 2013.

¹⁷ Hansard NIA Deb (6 June 2011).

¹⁸ Department of Justice for NI (DOJNI) and NI Department of Health, Social Services and Public Safety (DHSSPS), 'Tackling Domestic and Sexual Violence and Abuse, Action Plan: April 2012 to September 2013', Strand 1.

¹⁹ See Serious Organised Crime Agency (SOCA), 'National Referral Mechanism, Provisional Statistics 2012', *2012 Devolved Administration Statistics*, available at, <<http://www.soca.gov.uk/about-soca/about-the-ukhtc/national-referral-mechanism/statistics>> For information on police referrals in NI, see Department of Justice for NI (DOJNI), Organised Crime Task Force (OCTF), 'Minutes of Engagement Group on Human Trafficking' (22 February 2013), item 4.2.1., available at, <<http://www.octf.gov.uk/Publications/Human-Trafficking/Minutes-from-the-second-meeting-of-the-Engagement-.aspx>> In 2010/11, the police identified 23 victims of human trafficking in NI; 19 of whom were female, and 18 of these females were trafficked for the purposes of sexual exploitation. In 2009/10, the police identified 25 victims of human trafficking in NI; out of the 21 victims for whom statistics are available, 19 were female and 12 of these females were trafficked for the purposes of sexual exploitation, 4 for labour or domestic exploitation, and 3 for an unknown purpose. See, Police Service for NI (PSNI), Freedom of Information Request, No. F 2011 01522, available at, <http://www.psni.police.uk/human_trafficking-3.pdf>

²⁰ Information provided to NIHRC by Barnardo's Safe Choices (13 May 2013). Barnardo's identified the victims and the identification was reportedly confirmed by the UK Human Trafficking Centre. While the UK's National Referral Mechanism does not provide statistics which give a detailed breakdown of potential victims, they confirm that 7 minors were referred by the Police Service for NI during July-Sept 2011. See, Serious Organised Crime Agency (SOCA), 'National Referral Mechanism Statistics - July - Sept 2011' (April 2012), p15.

²¹ CEDAW, 'List of Issues and questions on report of UK', UN Doc. CEDAW/C/GBR/Q/7 (2 November 2012), para 14. See also, CEDAW Committee, General Recommendation 19: Violence against women, para 15.

²² Sexual Offences (Northern Ireland) Order 2008, article 64A (as inserted by the Policing and Crime Act 2009, section 15).

²³ Based on correspondence between the NIHRC and Department of Justice for NI (DOJNI), Statistics and Research branch (5 October 2012). The information is accurate up until September 2012. The DOJNI provides data on the basis of the principal offence rule, which means that where there is a finding of guilt, the principal offence is usually that for which the greatest penalty was imposed.

²⁴ Sexual Offences (Northern Ireland) Order 2008, article 37.

²⁵ See Explanatory Memorandum to the Sexual Offences (Northern Ireland) Order 2008, article 37.

²⁶ Furthermore, the Optional Protocol to the Convention on the Rights of the Child concerning the Sale of Children, Child Prostitution and Child Pornography, articles 1, 2(b) and 3(1)(b) requires the criminalisation of child prostitution, including 'obtaining' or 'procuring' a child for prostitution. The preamble also states that, '[T]he Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.'

²⁷ CEDAW, 'Concluding Observations on the UK', UN Doc. CEDAW/C/UK/CO/6 (10 July 2008), para 283.

²⁸ The NIHRC welcomes the establishment of the Department of Justice for NI (DOJNI), Organised Crime Task Force (OCTF), *NGO Engagement Group on Human Trafficking*. The NIHRC welcomes the Criminal Justice (NI) Act 2013 which extended the remit of the Asylum and Immigration (Treatment of Claimants etc) Act 2004 to include internal trafficking, and the remit of both the Sexual Offences Act 2003 and the Asylum and Immigration (Treatment of Claimants etc) Act 2004 to include trafficking offences committed by nationals and NI habitual residents abroad. The NIHRC also welcomes the Criminal Justice (NI) Act 2013, section 8, which makes trafficking offences triable on indictment only. However, unlike in England & Wales, the Criminal Justice (NI) Act 2013 does not contain provision that a non-UK national will be culpable for the offence of trafficking for sexual, labour and other exploitation under the legislation if any part of the arranging or facilitating takes place in NI. For example, where a non-national 'person A' arranges via email or telephone while in NI, for the trafficking of 'person B' from India to Lebanon. Under the Protection of Freedoms Act 2012, sections 109 and 110, such an individual could be prosecuted in England & Wales but not in NI.

²⁹ According to information received by the NIHRC from the NI Compensation Agency (13 May 2013), the victim was trafficked for the purposes of sexual exploitation and identified from a police raid. At the time of writing, there is one further claim being processed by the Compensation Agency. The Compensation Agency is also currently working on introducing a flag onto their system to accurately and accessibly record the numbers of claims received from trafficking victims. See also, Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA), 'Report concerning the implementation of the Council of Europe Convention on Action Against Trafficking in Human Beings in the United Kingdom: first evaluation round' (12 September 2012), para 293.

³⁰ See EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, article 16(4), and Council of Europe, Convention on Action Against Trafficking in Human Beings, article, 10(4). See also Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA), 'Report concerning the implementation of the Council of Europe Convention on Action Against Trafficking in Human Beings in the United Kingdom: first evaluation round' (12 September 2012), paras 246-7. The NI charity, Voice of Young People in Care (VOYPIC) currently operates an advocate scheme for separated children in the Belfast Trust area. This scheme should be rolled out to all Trusts.

³¹ See, Department of Justice for NI (DOJNI), 'Northern Ireland Human Trafficking Action Plan 2013-14', Objective 10 and DOJNI, 'Minutes of Engagement Group on Human Trafficking' (25 April 2013), para 4.1.

³² As of April 2011, women represented 22.4% of judges at the County court level, 24.4% at the Magistrates' district court level. See NI Statistics & Research Agency, 'The Judiciary in NI: 2011 Equity Monitoring Report' (figures as of 1 April 2011).

³³ NI Judicial Appointments Commission (NIJAC), 'Rewarding Merit in Judicial Appointments?' (January 2013), p3.

³⁴ *Ibid.*, p46.

³⁵ Hansard NIA, Committee for Justice Briefing from the Lord Chief Justice (2 May 2013), p4-6.

³⁶ The Sex Discrimination (Northern Ireland) Order 1976, section 43A.

³⁷ 23.5% of Councillors in Local Government Districts in NI are women. Of the 26 Districts Councils, 5 have a female Mayor/Chair. Women represent 19% of member of the NI legislative assembly (MLAs). Women represent 22% of *NI Members* of the Westminster Parliament (MPs). See, Department of Finance and Personnel for NI (DFPNI), 'Women in Northern Ireland' (September 2012). Available at, <http://www.detini.gov.uk/women_in_northern_ireland_september_2012_final_version.pdf>

³⁸ 35% of public appointments in NI are held by women. On the 118 publicly appointed bodies in NI, 17 Chair and 8 Deputy Chair posts are held by women. See Department of

Finance and Personnel for NI (DFPNI), 'Women in Northern Ireland' (September 2012). Available at, <http://www.detini.gov.uk/women_in_northern_ireland_september_2012_final_version.pdf>

³⁹ CEDAW, 'Reply of the UK to the List of Issues', UN Doc. CEDAW/C/GBR/Q/7/Add.1 (5 February 2013), para 301.

⁴⁰ CEDAW, 'Concluding Observations on the UK', UN Doc. CEDAW/C/UK/CO/6 (10 July 2008), para 286-287.

⁴¹ It is reported that 77% of all those employed in administrative and secretarial occupations are women and 36% of all managers and/or senior officials are women. See Department of Finance and Personnel for NI (DFPNI), 'Women in Northern Ireland' (September 2012). Available at, <http://www.detini.gov.uk/women_in_northern_ireland_september_2012_final_version.pdf>

⁴² As of April 2012, the median full-time gross weekly earnings amounted to £478.9 for men and £440.0 for women. This is a slight decrease in the gender pay gap from April 2011, where men earned £463.5 and women £427.8. See Office for National Statistics, '2012 Annual Survey of Hours and Earnings' (22 November 2012). Available at, <http://www.ons.gov.uk/ons/dcp171778_286243.pdf> and <<http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-280149>>

⁴³ The NI Executive has earmarked £12 million for childcare in NI and is currently consulting on a Childcare Strategy.

⁴⁴ According to the 2012 NI Childcare Costs Survey, there is one childcare place for every 7.4 children and 44% of a parent's net weekly earnings are allocated to childcare costs. In a family with two children, these costs would be doubled. See Employers for Childcare Charitable Group, 'Northern Ireland Childcare Cost Survey 2012' (November 2012), available at, <<http://vouchers.employersforchildcare.org/media/Northern%20Ireland%20Childcare%20Cost%20Survey%202012.pdf>>

⁴⁵ HM Treasury, 'Overview of the Impact of Spending Review 2010 on Equalities' (October 2010).

⁴⁶ 80% of part-time employees are women and only 10% of men work part-time. The economic activity rate is lower for women with three or more dependent children (60.5%) than those with one or two dependent children, which are 82.9% and 79.3% respectively. See Department of Finance and Personnel for NI (DFPNI), 'Women in Northern Ireland' (September 2012). Available at, <http://www.detini.gov.uk/women_in_northern_ireland_september_2012_final_version.pdf>

⁴⁷ The Provision of Health Services to Persons not Ordinarily Resident Regulations (NI) 2005, section 3.

⁴⁸ NIHRC, 'Access Denied – Or Paying When You Shouldn't: Access to Publicly Funded Medical Care: Residency, Visitors and Non-British/Irish Citizens' (2011), p6.

⁴⁹ NI Department of Health, Social Services and Public Safety (DHSSPS), 'Consultation on the consolidation and updating of the Provision of Health Services to Persons not Ordinarily Resident Regulations (NI) 2005'.

⁵⁰ CEDAW, 'Concluding Observations on the UK', UN Doc. CEDAW/C/UK/CO/6 (10 July 2008), para 289; CEDAW, 'Concluding Observations on the UK', UN Doc. A/54/38 (1 July 1999), para 310.

⁵¹ The Offences Against the Person Act 1861, sections 58 and 59; The Criminal Justice Act (Northern Ireland) 1945, section 25. A pregnant woman, practitioner or secondary party who assists or encourages the performance of an unlawful abortion in NI is punishable with a maximum penalty of life imprisonment.

⁵² NI Department for Health, Social Services and Public Safety (DHSSPS), 'The Limited Circumstances for a Lawful Termination of Pregnancy in Northern Ireland: A Guidance Document for Health and Social Care Professionals on Law and Clinical Practice, April 2013' ('Draft Termination Guidelines'), 2.7ii. Available at,

<<http://www.dhsspsni.gov.uk/guidance-limited-circumstances-termination-pregnancy-april-2013.pdf>> (accessed on 12 May 2013). Previous guidelines were subject to judicial reviews and withdrawn due to lack of legal certainty on a number of points.

⁵³ Termination Guidelines, 2.7ii.

⁵⁴ *Family Planning Association of Northern Ireland v. The Minister for Health, Social Services and Public Safety* [2004] NICA 38, paras 20, 30. 48.

⁵⁵ See most recently CEDAW, 'Concluding Observations on Angola', UN Doc. CEDAW/C/AGO/CO/6 (1 March 2013), para 32(g); CEDAW, 'Concluding Observations on Algeria', UN Doc. CEDAW/C/DZA/CO/3-4 (2 March 2012), para 41(b); CEDAW, 'Concluding Observations on Jordan', UN Doc. CEDAW/C/JOR/CO/5 (23 March 2012), para 40; CEDAW, 'Concluding Observations on Chile', UN Doc. CEDAW/C/CHL/CO/5-6 (12 November 2012), para 35(d).

⁵⁶ Abortions may be lawful in cases where a victim has been raped but this is dependent on the clinical assessment of the victim's health.

⁵⁷ Termination Guidelines, 2.7iv.

⁵⁸ The Offences Against the Person Act 1861, sections 58 and 59; The Criminal Justice Act (Northern Ireland) 1945, section 25; Termination Guidelines, 2.13.

⁵⁹ In exercising their duties, medical professionals are subject to the criminal law only when their actions are grossly negligent. See, *R v Prentice, Sulman, Adamako, Holloway* [1993] 4 All ER 935; In this case the Court of Appeal found that a finding of involuntary manslaughter by breach of duty of care could only be arrived at where the jury felt that there was gross negligence justifying a criminal conviction.

⁶⁰ Termination Guidelines, 4.2.

⁶¹ This does not include situations where clinical tests indicate a known cause for infertility, in which case any woman can avail of NHS funded treatment.

⁶² '[c]ouples should have been actively trying to conceive for one year before seeking medical advice. If, following tests, no known cause for infertility can be identified, couples should not be offered fertility treatment until they have been actively trying to conceive for a total of three years'. Email correspondence between the NI Department of Health, Social Services and Public Safety (DHSSPS) and the NIHRC (13 May 2013).

⁶³ The National Institute for Health and Care Excellence (NICE) Fertility Guidelines make special reference to women in same sex relationships, allowing clinicians to 'consider unstimulated intrauterine insemination as a treatment option (...) as an alternative to vaginal sexual intercourse'. National Health Service (NHS), NICE Clinical Guideline 156, 1.9.1.1. NICE Guidelines do not automatically apply in NI, as the provision of health is a devolved matter. The NI Department of Health, Social Services and Public Safety (DHSSPS) has stated that 'The Department established formal links with NICE on 1 July 2006 whereby all guidance published by the Institute from that date would be locally reviewed for applicability to NI and, where appropriate, endorsed for implementation in Health and Social Care (HSC)', DHSSPS Circular HSC (SQSD) 04/11.

⁶⁴ For example, there are 214,000 carers in NI, 64% of whom are women. See Carers NI, 'Facts about carers in NI', available at, <<http://www.carersuk.org/about-carers-northern-ireland/facts-about-carers-ni>>

⁶⁵ J Browne, 'The Impact of Tax and Benefits Reform to be introduced between 2010-11 and 2014-15 in Northern Ireland', Institute of Fiscal Studies, Briefing Note 114 (2010), p5.

⁶⁶ In GB, The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 states in Regulation 47 that:

"(4) Where the Secretary of State has arranged for universal credit to be paid in accordance with regulation 46, joint claimants may nominate a bank or other account into which that benefit is to be paid.

(5) Where joint claimants of universal credit have not nominated a bank or other account into which that benefit is to be paid, the Secretary of State may nominate a bank or other account.

(6) The Secretary of State may, in any case where the Secretary of State considers it is in the interests of—

(a) the claimants;

(b) a child or a qualifying young person for whom one or both of the claimants are responsible; or

(c) a severely disabled person, where the calculation of an award of universal credit includes, by virtue of regulation 29 of the Universal Credit Regulations, an amount in respect of the fact that a claimant has regular and substantial caring responsibilities for that severely disabled person, arrange that universal credit payable in respect of joint claimants be paid wholly to only one member of the couple or be split between the couple in such proportion as the Secretary of State considers appropriate."

However, the explanatory memorandum makes clear that splitting payments is not envisaged as the norm: 'Whilst Universal Credit will usually be made as a single monthly payment, Regulation 47(6) provides that Universal Credit may be paid wholly to a designated member of a joint couple or be proportioned between the couple, if it is in the interests of the claimant, their family or any severely disabled adult in respect of whom the claimant receives a carer element.' See, Explanatory Memorandum to The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013, (2013 No. 380), para 7.32.

⁶⁷ See Women's Resource and Development Agency (WRDA), 'The Northern Ireland Economy: Women on the Edge?: A Comprehensive Analysis of the Impacts of the Financial Crisis' (Belfast: July 2011). See also, Equality Commission for NI (ECNI), 'Response to the Department for Social Development's consultation on the Welfare Reform Bill (Northern Ireland) 2011 Equality Impact Assessment', para 5.3: "The Commission welcomes the aim of the reform to simplify the benefits system. However, we are concerned that the equality impact assessment has not identified the negative impact on women. Paying the new Universal Credit to the main earner following joint claim and joint assessment will, in many instances, leave women without income. Payment of benefit to women in their caring for dependents role was an important social security reform introduced in the 1970's. It was considered necessary to allow certain benefits, including Child Benefit, to be paid to women, recognising that women more readily spend on children and the household essentials. We expect the Department to consider this matter."

⁶⁸ See, Northern Ireland Act 1998, section 87, which states "The Secretary of State and the Northern Ireland Minister having responsibility for social security ("the Northern Ireland Minister") shall from time to time consult with one another with a view to securing that, to the extent agreed between them, the legislation to which this section applies provides single systems of social security, child support and pensions for the United Kingdom".

⁶⁹ 'In Northern Ireland, 18% of the women committed to Ash House (the women's prison at Hydebank Wood), in the first 6 months of 2010 were subject to the Northern Ireland Prison Service procedures for supporting those who have self-harmed, or who are at risk of, self-harm. That compares to 9% of the male offenders committed to Maghaberry Prison during the same period.' See Department of Justice for NI (DOJNI), 'Women's Offending Behaviour in Northern Ireland: A Strategy to Manage Women Offenders and those Vulnerable to Offending Behaviour 2010-2013', para 2.11.

⁷⁰ CEDAW, 'Concluding Observations on the UK', UN Doc. CEDAW/C/UK/CO/6 (10 July 2008), para 267.

⁷¹ Criminal Justice Inspectorate for NI (CJINI), 'Follow-up inspection of Hydebank Wood Women's Prison 21-25 March 2011' (October 2011) at para 2.1. This report expressed specific concern about shared health services and transportation.

⁷² The Prison Review Team, 'Review of the Northern Ireland Prison Service: Conditions, management and oversight of all prisons' (October 2011), p69. Available at <<http://www.prisonreviewni.gov.uk/final-prison-review-oct11.pdf>>

⁷³ 'Seventh Periodic Report of the United Kingdom of Great Britain and Northern Ireland' to the CEDAW Committee, UN Doc. CEDAW/C/GBR/7 (15 June 2011) at para 27. See also Department of Justice for NI (DOJNI), 'Strategy to Manage Women Offenders and Those Vulnerable of Offending Behaviour, 2010-2013' (October 2010) at para 7.4-7.7.

⁷⁴ Criminal Justice (NI) Order 2008, section 96, states, 'In the case of a child who has attained the age of 17, the court shall make an order committing the child to a juvenile

justice centre (and not to a young offenders centre) if the court has been notified by the Secretary of State that no suitable accommodation for that child is available in a young offenders centre’.

⁷⁵ Hansard NIA Deb (1 May 2012) vol. 74A, no. 6, available at, <<http://www.niassembly.gov.uk/Documents/Official-Reports/Plenary/2012/20120501.pdf>>

⁷⁶ Criminal Justice Inspectorate for NI (CJINI), ‘The enforcement of fines: a follow-up review of inspection recommendations’ (July 2012), forward and para 1.13.

⁷⁷ Concluding Observations on the UK (10 July 2008) at para 267.

⁷⁸ Belfast Telegraph (26 April 2013), available at, <<http://www.belfasttelegraph.co.uk/news/local-national/northern-ireland/woman-pensioner-jailed-for-not-paying-tv-licence-ridiculous-cost-of-jailing-fine-dodgers-in-northern-ireland-29221028.html>>

⁷⁹ These two pilots were running in the Newry & Mourne and Lisburn court districts, and are currently undergoing evaluation.

⁸⁰ *Re. Michael McLarnon et al.*, [2013] NIQB 40 (22 March 2013), para 29: "The system as currently operated and as applied in the instant cases, breached the law in a number of respects. There has been no hearing before a judicial officer before a warrant of commitment is currently issued. The automatic computerised generated issue of warrants of commitment is not subject to judicial oversight. The decision to issue a warrant of commitment requires a judicial consideration of the circumstances to ascertain what the appropriate form of enforcement should be. Commitment is not inevitably or always the most appropriate form of enforcement, particularly bearing in mind that imprisonment should be a last resort. The particular circumstances of the individual case must be properly taken into account. The statutory maximum period of imprisonment, if commitment is considered to be appropriate, is not necessarily and inevitably the period that a District Judge may decide to impose. The fixing of the period requires the exercise of a judicial assessment of the circumstances. The current system does not make provision for a hearing at which the defendant may attend and/or make written and/or oral submissions either in person or by a lawyer. The system does not give the defendant an opportunity to make representations and therefore is not compatible with the requirements of natural justice nor is the process compatible with article 6...For these reasons we conclude that the warrants as issued were not lawful warrants of commitment."

⁸¹ Larne House was opened in July 2011 and can accommodate up to 19 detainees. Detainees may be held for a maximum period of five days, or seven if removal directions have already been served.

⁸² An inspection in November 2012 found that 30% of the detainees were taken to Dungavel House, 25% removed to the Republic of Ireland, 23% were granted temporary admission and 16% were taken to an airport. With regard to six detainees, records were unclear.

⁸³ HM Chief Inspector of Prisons, ‘Report on an unannounced inspection of the short-term holding facility at: Larne House (1-2 November 2011)’, paras 1.11, 1.15. Association and dining rooms are shared and corridors cannot be locked off due to fire regulations. The UK Border Agency (UKBA) has informed the NIHRC that ‘separate sleeping and washing facilities are available for women and included in this area is call button and separate television to enable complete separation if it is requested by the individual detained’, (email correspondence, 26 March 2013).

⁸⁴ HM Chief Inspector of Prisons, ‘Report on an unannounced inspection of the short-term holding facility at: Larne House (1-2 November 2011)’, 1.30.

⁸⁵ Email correspondence between UKBA and NIHRC (26 March 2013).

⁸⁶ CEDAW Committee, General Recommendation 28: The Core Obligations of States Parties under Article 2 of CEDAW, para 18.

⁸⁷ Marie Quiery, ‘Invisible Women: A Review of the Impact of Discrimination and Social Exclusion on Lesbian and Bisexual Women’s Health in Northern Ireland’ (2007); Ruari Santiago-McBride, ‘Grasping the Nettle: The Experiences of Gender Variant Children and Transgender Youth Living in Northern Ireland’ (2013); Eoin Rooney, ‘All Partied OUT? Substance Use in Northern Ireland’s LGB&T Community’ (2012).

⁸⁸ For example, the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 and Employment Equality (Sexual Orientation) Regulations 2003.

⁸⁹ Civil Partnership Act 2004, section 138.

⁹⁰ Differences between marriages and civil partnerships include: terminology (persons in civil partnerships cannot call themselves married and vice versa); eligibility for pension rights; laws relating to adultery, non-consummation and courtesy titles; adoption rights. Hansard NIA Deb (14 May 2013) vol. 85, no. 2.

⁹¹ Hansard NIA Deb (6 February 2012) vol. 72, no. 1; (18 June 2012) vol. 75, no. 7; (17 September 2012) vol. 77, no. 3.

The NI Executive has stated in this respect, 'we remain committed to publishing the strategy. The nature of the office is that we need to seek agreement', Hansard NIA Deb, (11 February 2013) vol. 82, no. 1. See also, Hansard NIA Deb (5 March 2013) vol. 82, no. 8.

⁹² See, the Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999 and the Sex Discrimination (Amendment of Legislation) Regulations 2008.

⁹³ The Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999, section 2A(1). Section 2 defines gender reassignment as 'a process which is undertaken under medical supervision for the purpose of reassigning a person's sex by changing physiological or other characteristics of sex, and includes any part of such a process'.

⁹⁴ The Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity define 'gender identity' to refer to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms'.

⁹⁵ The UK Government adopted 'Advancing transgender equality: a plan for action' in December 2011, however, it is not applicable in NI.

⁹⁶ The Gender Recognition Act 2004.