

Submission by the Northern Ireland Commissioner for Children and Young People (NICCY) to UN Committee on Economic, Social and Cultural Rights on the Implementation of the International Covenant on Economic, Social and Cultural Rights in Northern Ireland.

The Office of Commissioner for Children and Young People (NICCY) was created in accordance with The Commissioner for Children and Young People (Northern Ireland) Order' (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland.

Under Articles 7(2)(3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. The remit of our Office is children and young people from birth up to 18 years, or 21 years of age if the young person is disabled or in the care of Social Services.

In determining how to carry out her functions, the Commissioner's paramount consideration is the rights of the child and NICCY is required to base all its work on the United Nations Convention on the Rights of the Child (UNCRC).

Our evidence on the UK Government and devolved administration's fulfilment of the ICESCR will be presented under the relevant articles of the covenant.

Article 7

The rules governing the minimum wage are discriminatory to children and young people, as the rates of minimum wage are dependant on age. Young People under 18 are entitled to £3.53 per hour, whereas those aged 18-22years are entitled to £4.77 and those over 22years are entitled to £5.73.

Young People under 18years who are in employment are paid considerably less than those over 18years for doing the same job with the same levels of responsibility. This does not comply with article 7 (a) which states "*fair wages and equal remuneration for work of equal value without distinction of any kind*".

As there is no evidence to show that young people under 18years have lower living costs, this is a discriminatory and unfair restriction placed on young people.

Recommendation



- The UK government should reform minimum wage system to ensure young people aged 16-17 years are entitled to the same rate of minimum wage as those over 25 years.

Article 9

This article provides that everyone is entitled to “social security” however as per the minimum wage, young people aged 16-17 are not entitled to the same levels of benefits as those over 25 years, nor do they have automatic rights to social security. These lower rates are applicable across a range of benefits from out of work benefits to housing allowances.

Again as there is no evidence to show that young people aged 16-17 have lower living costs, this is a discriminatory and unfair restriction placed on young people, and does not comply with article 9 “state parties to the present covenant recognise the right of everyone to social security”, as young people aged 16-17 do not have access to the same level of security as those over 25 years.

Recommendation

- The UK government should reform benefit systems to ensure young people under 16-17 years are entitled to claim the same rate of benefits as those over 25 years.

Article 10

Currently in Northern Ireland there is no law prohibiting the use of physical punishment against children.

The Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006 came into effect on 20th September 2006 and governs the law relating to the physical punishment of children and young people. Article 2 of the Order no longer allows the defence of reasonable chastisement to be used for serious offences such as wounding, assault occasioning actual bodily harm and cruelty to persons under 16¹ but has retained it for common assault. However it does not ban the use of physical punishment of children. The continued existence of a defence to the use of physical punishment in the home can be seen as sanctioning its use and putting children and young people at risk of harm. This is not compliant with article 10 (3) which states “*special measures of protection and assistance should be taken on behalf of children and young persons*”

¹ Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006, Article 2



Despite the fact that children are one of the most vulnerable groups in our society they have less protection from assault than adults. Children are entitled to the same rights as adults. This includes respecting their dignity and integrity. They are entitled to equal protection from the law not only in public but also in the home². Under no circumstances is the physical punishment of children and young people acceptable or reasonable

Recommendation

- The Northern Ireland Office needs to reform the law to introduce an outright ban on the use of physical punishment on children and young people in Northern Ireland.
- The Department of Health Social Services and Public Safety (DHSSPS) should continue to improve the awareness of positive parenting, including introducing support programmes and information for parents, to encourage alternatives to physical punishment.

Article 11

Child poverty is a major issue across all four jurisdictions of the UK but particularly in Northern Ireland. The 2006/07 Households below Average Income Report³ illustrates that over 50% of the child population in Northern Ireland live in families with incomes in the bottom two quintiles of the of the distribution.

The report showed the following groups of children were more likely to live in poverty

- Children living in families with at least one disabled adult
- Children living in families in receipt of Income Support
- Children from workless households
- Children in lone parent families
- Children with a mother aged under 25years

While we welcome commitment to half child poverty by 2010 and eradicate child poverty by 2020, we do not believe the current anti poverty strategy will achieve this.

A UNICEF report found that the UK ranks near the bottom when compared with other western countries in terms of relative poverty and deprivation⁴

² Statement by the Four UK Commissioners for Children and Young People on the Physical Punishment of Children. 22/01/06

³ http://www.dsdni.gov.uk/ch4_children-3.doc

⁴ UNICEF Innocenti Research Centre. Overview of child well-being (2007).



Recommendations

- The UK Government and devolved administrations should use the maximum extent of available resources to eliminate child poverty. Within the block grants given to the devolved administrations, funding should be allocated to eliminating child poverty
- The UK Government and devolved administrations should ensure that the child poverty measures include after housing costs poverty rates.
- The UK Government and devolved administrations should poverty proof all policies and legislation

Article 12

Mental health

In 2002 DHSSPS commissioned an independent review to look at law, policy and provision for people, including children and young people with mental health needs or learning disability. The review produced a number of reports on various aspects of service, 'A Vision of a Comprehensive Child and Adolescent Mental Health Service', outlined the issues pertinent to the mental health of children and young people.

Particular deficits in service provision were highlighted in the report, Children and young people with disabilities, Looked after Children, those with eating disorders, and those at risk to self harm and suicide. In particular the report highlighted difficulties in access in patient care for children with mental health difficulties which results in children accommodated with adults or sent outside the jurisdiction to be treated.

The report made 51 recommendations to reform and modernise Child and Adult Mental Health Services. The response from the Northern Ireland Government has been extremely poor; they have failed address the specific recommendations outlined in the Bamford report.

The Mental Health (NI) Order 1986, in no way fulfils the rights of children and young people as set out in the UNCRC. In particular it does not contain any provisions relating to their rights or best interests. The DHSSPS are current developing a new mental health bill and mental capacity legislation, it is essential that the new legislation recognise that the needs and circumstances of children and young people differ significantly from that of adults, in doing so the legislation must contain provisions to ensure that the 'best interests' of children and young people are paramount.

Recommendations



- DHSSPS develop a strategy to prioritise key recommendations in the Bamford Review, with specific outcome measures; timeframes both immediate and long term and identify a lead responsibility to each action
- The new mental health legislation must contain provisions to ensure the rights and best interests of children and young people are paramount. In particular it must include a statutory right to education, independent advocacy and require children to be treated in age appropriate facilities separate from adults.

Health inequalities

There are significant inequalities in health outcomes; Traveller children, ethnic minority children, children with disabilities and children living in poverty. Section 75 of the Northern Ireland Act 1998 requires the routine collection of data on health services provided to ethnic minority groups. Unfortunately, planning as a result of gathering such data is not in evidence in service commissioning. No regional statistics are routinely kept in relation to the health needs of ethnic minority and Traveller children and young people. Therefore, there remains a gap in matching provision to need.

The Chief Medical Officer⁵ outlined the inequalities of outcomes for the Traveller community; life expectancy is 20% lower for Travellers than in the general population, with specific reference to children, they are 10 times more likely to die before the age of ten years. Northern Ireland based research⁶, highlighted the health problems and difficulties faced by Travellers. The research illustrated that settled Travellers and those in road side encampments have different health issues and problems. Those families who live on encampments on the road side have health problems due to the absence of running water, which results in poor sanitation this coupled with no electricity can have severe health implications for both adults and their children. For settled Travellers; overcrowding in housing, intimidation from local residents and a lack of support when separated from their extended families, results in stress. Travellers also have poor mental health due to their living conditions and attitudes from others.

⁵ Your health matters - Annual Report of the Chief Medical Officer for Northern Ireland 2006 DHSSPS

⁶ Investing in Equality: A mapping exercise and needs assessment in relation to black and ethnic minority groups, including migrant workers in the southern investing for health partnership area. 2007



Migrant children face difficulties when accessing health services, A review of children rights in Northern Ireland by NICCY⁷ has identified these barriers as; racism, cultural misunderstandings and language barriers, in particular the absence of information has a negative impact on their access to health services.

Children living in poverty have poorer outcomes in health than their peers; a review of children's rights by NICCY⁸ outlines some the impacts that poverty has on outcomes in health:

- lower rates of breastfeeding
- lower rates of immunisation
- higher infant mortality rates – 6.5 infant deaths per 1,000 live births compared to an NI average of 5.3
- higher incidence of dental decay – children in the 20% most deprived wards are nearly twice as likely to have experienced dental decay as those from the 20% most affluent wards
- higher prevalence of mental health problems amongst children
- higher rates of suicide – the rate for deprived areas in 2005/06 was 16.8 per 100,000 population compared to a NI average of 11.4
- higher rates of self harm – standardised admission rates to hospitals in deprived areas were almost double the NI average in 2005/06
- higher rates of teenage pregnancy – 28.9 births per 1,000 females in deprived areas in 2005/06 compared to 12.4 in non deprived areas

Children with disabilities face particular disadvantage in their enjoyment of their right to health, illustrated by the poor health outcomes. Issues facing children with disabilities include;

- Poor data collection both in numbers of children with a disability and the nature of this disability, this information is essential in order to effectively plan services to meet demands⁹
- An absence of early intervention services including delays and difficulties in assessment of needs¹⁰

⁷ NICCY *Children's Rights: Rhetoric or Reality, A review of Children's Rights in Northern Ireland* 2008

⁸ NICCY *Children's Rights: Rhetoric or Reality, A review of Children's Rights in Northern Ireland* 2008

⁹ NICCY *Children's Rights: Rhetoric or Reality, A review of Children's Rights in Northern Ireland* (2008)

¹⁰ Keenan M et al (2007) Meeting the needs of families living with children diagnosed with autistic spectrum disorder. University of Ulster



- A lack of advocacy services and information for parents to help them access the most appropriate services¹¹
- Post code lottery in service provision e.g. speech and language therapy
- Moving to adult services when under 18years¹²
- Children inappropriately accommodated in adult settings
- Absence of coordination between service providers¹³

Recommendation

- Greater investment is needed to address the inequalities in outcomes of health experienced by particular groups of children and young people; in particular, those living in poverty, traveller children and migrant children.
- DHSSPS should gather data on the number of children affected by a disability and the nature of the disability
- DHSSPS should address major gaps in service provision and outcomes for children with disabilities

Article 13

Traveller education

Research¹⁴ commissioned by NICCY and the Equality Commission for Northern Ireland illustrated the barriers facing Traveller children in accessing education

- Policy on Traveller education was developed in 1993, this pre dates existing equality legislation
- Poor attendance rates by traveller children
- Inequalities of outcomes in traveller achievement in education
- Bullying and racial discrimination in schools
- Support varies between Education and Library Boards

Current educational provision for Traveller children and young people is unsatisfactory in a number of areas and needs to be improved and made more appropriate to the needs of young Travellers. It is neither adequate nor effective.

Recommendation

¹¹ McConkey, R., Barr, O., Baxter, R., Complex Needs - the nursing response to children and young people with complex physical health care needs. Institute of Nursing Research 2007

¹² McConkey, R., Barr, O., Baxter, R., Complex Needs - the nursing response to children and young people with complex physical health care needs. Institute of Nursing Research 2007

¹³ CRC/C/GC/9

¹⁴ Hamilton at al 'Adequacy and effectiveness of educational provision for Traveller children and young people. NICCY/ECNI 2007



- There needs to be a clear commitment to raising the achievements and opportunities for Traveller children, mainstreamed across Northern Ireland
- The Department of Education must update, Circular 1993/37, the policy on Traveller education to reflect current equality legislation

Special Educational Needs (SEN)

According to the Department of Education, in 2007/08 Northern Ireland there are 4,611 pupils attending 43 special schools with 246 attending 2 hospital schools.¹⁵ There are 170 special units attached to mainstream schools which cater for a range of SEN.

The Special Educational Needs and Disability (NI) Order 2005 (SENDO) has resulted in more children with SEN being educated in a mainstream setting, however concerns have been expressed about the resources that accompanied the introduction of SENDO. Problems facing children with disabilities include

- Delays and difficulties in having a child assessed for a statement of special educational need
- Mainstream education is not prepared, resourced nor trained to meet the individual needs of children with SEN
- Lack of legal aid available for appeals to the Special Educational Needs and Disability Tribunal
- Lack of funding for specific equipment/assistance for children with SEN

Recommendation:

- DE should review education for children to address current gaps in policy and provision

Migrant education

The most recent statistics from DE¹⁶ state that in 2007/08 5,665 pupils attending both primary and post primary have English as an Additional Language. (EAL)

A review of EAL highlighted a number of policy implications for DE, including processes for registering and assessing EAL pupils, meeting the needs of EAL through adequate resourcing and funding, and training and development of staff.

¹⁵ http://www.deni.gov.uk/enrolment_time_series_updated0708-2.xls (as accessed 22nd July 2008)

¹⁶ http://www.deni.gov.uk/eal_time_series_-_suppressed_updated_0708.xls (as accessed 21st July 2008)



In response to the review of EAL, DE developed a draft policy on supporting ethnic minority children and young people who have English as an additional language, for consultation in early 2007. To date there is no information available on the DE website to indicate what the current status of this consultation. It is unclear if the policy has been finalised and implemented throughout the department and in individual schools

Recommendation

- Department of Education in Northern Ireland publish a comprehensive policy on supporting children with English as an additional language.

