

Eighth Meeting of the Children & Young People's Working Group
The Mount
Friday 16th November 2007, 10am-4.30pm

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1. Attendance and Apologies

Members Present: Sorcha McKenna, Children's Law Centre/Save the Children – Chair

Jenny Palmer, DUP

Roy Beggs MLA, UUP 10.30am – 1.00pm

Mathew McDermott, SDLP

Anna Lo MLA, Alliance

Paddy Kelly, Children's Law Centre

Bronagh Byrne, Disability Action

Liam Larmour, Rainbow Project

Pip Jaffa, Parents Advice Centre

Chrissie McAuley

Apologies: Sue Ramsay MLA, Sinn Féin

HR Advisor: Linda Moore

Observers: Caroline Cunningham, CAJ

2. Minutes of Last Meeting

There was not sufficient time between meetings for members to agree minutes by email as such time was taken to agree the content of the minutes which were subsequently amended by Sorcha McKenna.

3. Matters Arising

a) Fiscal implications of legal advocacy for children

Sorcha explained that this provision was not advocating blanket legal representation but was aiming to ensure that children were afforded the same legal aid representation as an adult would be.

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b) Education – full access

- This issue was returned to due to the concern of some members of this working group surrounding the practical implications of using the term 'full access to the curriculum'. It was agreed at the fifth meeting of this working group that the human rights advisor would investigate this matter and report back to the group.
- Linda Moore referred to a document outlining the comments of the United Nations Special Rapporteur on the Right to Education. She alluded that the Rapporteur recognised there is a challenge in terms of implementing this right in fiscal terms, but that it is understood that in practice, Public Authorities are expected to progressively realise the right to education. Reference was also made to General Comment 13 of the Committee on Economic, Social & Cultural Rights.
- Whilst it was conveyed that the right to education is to be progressively realised, it was also highlighted that there exists 'immediate' rights such as the right relating to non-discrimination.
- Bronagh pointed to the United Nations article on CRDP which refers to the right of disabled persons. Chrissie Mc Auley also brought attention to the fact there was a paper on progressive realisation by the Economic Social & Cultural Rights Working Group on a Bill of Rights for N.I.
- Chrissie McAuley pointed out that representatives needed the opportunity to feed 'agreed' text back to their parties. Sorcha McKenna outlined that by the 28/11/07 she would expect parties to have updated their parties on progress to date.

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4. Review of Agreed Text to Date

Education

Previously agreed text

1. Every child has the right to education.
2. The Public Authority shall ensure that the education is inclusive and respects the rights and best interests of all children without discrimination including children with disabilities, children with special education needs, children in care, children in detention, child carers, children with differing sexual orientation, children of ethnic minorities, Traveller children and children living in poverty or other status. To this end, the Public Authority shall take all necessary measures to combat all forms of discrimination in education and shall ensure that all children have the right to full access to the curriculum, as well as to receive an education which is aimed at the fulfilment of their potential and the realisation of their talents. The Public Authority shall promote and encourage the development of different forms of education, and ensure equality of opportunity and access to educational institutions for all children.
3. The Public Authority shall ensure that school exclusions are only imposed as a measure of last resort and for the shortest period of time, and only after consideration of all alternatives bearing in mind the fundamental nature of the right to education. Children excluded from school have the right to be informed promptly of the grounds for their exclusion and of their right to participate and have the right to fully participate in any appeal procedure, together with their parents and/or other representatives. The child retains their right to education during exclusion and should be encouraged by the educational institution to return as soon as possible.

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4. The Public Authority undertakes to adopt all necessary measures to protect the child's right to education and the safety and well being of pupils in the educational environment, to respect their privacy and their right to participate.
5. Children have the right to seek, receive and impart information and guidance in a timely and accessible manner on issues affecting their social, spiritual and moral well being and physical and mental health.

Points of discussion

Paragraph 1

Paragraph 1 was agreed without further discussion.

Paragraph 2

- Clause 2. became clause 3. In relation to this clause, Roy felt that his views on the inclusion of the wording of 'children of different sexual orientation' is problematic as there is no min. age for which the latter can apply to a child from. Sorcha pointed out that the context for this provision is in the context of non-discrimination in the provision of education generally, not in the provision of information specifically which he was referring to. Jenny Palmer echoed Roy's concerns. Other members pointed the fact that whilst children in primary school may taunt another child by e.g. calling them gay without knowing the full meaning, that this can progress into secondary level when it can be devastating to some as children become aware of sexuality and some children could be pushed to the point of suicide due to being stigmatised when they may or may not be of a different sexual orientation.
- Roy highlighted that he would not like such a provision to force on his children ideas around sexual orientation but agreed that no-one should be discriminated against.

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- Anna-Lo believed that it is important for young people to be able to have an open outlook and encounter minorities or others with differing sexual orientation.
- Chrissie McAuley felt that the text reflects an international standard in terms of equality and non-discrimination that 'we' have already signed-up to and that any such provision proposed or agreed on should not regress from that standard.
- Lindsay Conway pointed out that realistically no-one could argue a three year old is sexually developed enough to invoke the provision in the context that Roy was concerned about.
- Pip Jaffa pointed out that statistics show such protections are needed and Roy's concerns are perhaps addressed at home by parent's interaction and teaching of their children.
- Roy Beggs pointed out that this is his opinion and that the next Ulster Unionist Party meeting is in two months time at which is the earliest point he can gain party consensus on this and all other issues.
- Jenny Palmer also felt that the provision as it stands could through the passage of time feed into the education system giving weight to Roy's concerns. Liam expressed that he would rather all information be available to all instead of some information available to some. Jenny maintained that this was where her difficulties with the provision lay as it could give effect to the scenario of inappropriate information being made available to children of a young age.
- Discussion returned back to what age range the term children refers to in this context i.e. 0-18 years of age and therefore encompasses young people also. Roy Beggs reiterated that his view was relating to the age appropriateness of information. Sorcha referred to the health provision which reflected this concern in relation to access information on sexual health.

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- The issue of 'full access to the curriculum' was returned to. Roy Beggs asked for an explanation as to the implementation of this in practice e.g. for a young person on remand for violent behaviour; the provision as he read it meant that this child in the remand centre would have to be provided with full-access in terms of 27 subjects being made available to them. Lindsay recognised Roy's concerns, but explained that in his experiences this should be included as something we aspired to and in terms of practice. He explained that such children are and will be attending young offenders institutions with their subject choices and educational topics already formulated and that the purpose is to continue the standard of access they had in mainstream education.
- Paddy drew on a European case that she had referred to in the initial discussion of this topic, which related to the child's right to education not being an absolute right and that the onus on the public authority will be to act reasonably given the exigencies of the situation in providing for the child's right to education.
- Roy questioned the need to use disability as an example when he felt that the Disability Discrimination Act covered this sufficiently, but other members pointed out that it does not in the particular context of schools and that the point of including such wording was to ensure that everything possible is done to give effect to the child's right to education. Roy felt that 'wide' would have been more appropriate than 'full' in this instance.
- A number of members pointed out that no school at any level, even a model school can provide 'full' access in practice and that the arguments presented do not just apply to young offenders.
- Roy felt that he agreed with the provision in principle but that the wording may be problematic, a concern which he echoed in relation to the stat providing for different forms of education, as he feels that there should be one main system of education.

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- Lindsay agreed with Roy's concern over separate forms of education being permitted with specific reference in his experience with the youth justice system.
- Roy questioned why 'different forms of education' was mentioned and Linda explained the wording was such due to international standards.

Paragraph 3

- Clause 3 became clause 4. Members felt that suspension should be included where expulsion was referred to, as this can be for a period such as thirty days and can be imposed on a child a number of times in the one year. As a result suspension was seen as a imposition which may also impact extremely negatively on a child's education.

Paragraph 4

- Paddy Kelly felt that clause 4 should become moved up to become clause 2 in that it naturally flows from the assertion made in clause 1. It was agreed that clause 4 became clause 2, with no clauses being removed, but the remaining clauses simply being moved 'down one' in numerical order.
- Paddy felt that clause 4 should become moved up to become clause 2 in that it naturally flows from the assertion made in clause 1. It was agreed that clause 4 became clause 2, with no clauses being removed, but the remaining clauses simply being moved 'down one' in numerical order.
- Bronagh feels that in relation to this clause, the right to participate should be contextualised. However, there was general consensus that whilst on the face of it the provision may not be contextualised into where/when/how, the fact that this participation should be appropriate to the child's age etc is implicit.

Paragraph 5

- Clause 5 remained as clause 5 and was agreed in its entirety.

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Agreed text

1. Every child has the right to education.
2. The Public Authority undertakes to adopt all necessary measures to protect the child's right to education and the safety and well being of pupils in the educational environment, to respect their privacy and their right to participate.
3. The Public Authority shall ensure that the education is inclusive and respects the rights and best interests of all children without discrimination including children with disabilities, children with special educational needs, children in care, children in detention, child carers, children with differing sexual orientation, children of ethnic minorities, Traveller children and children living in poverty or other status. To this end, the Public Authority shall take all necessary measures to combat all forms of discrimination and promote equality in education and shall ensure that all children have the right to full access to the curriculum, as well as to receive an education which is aimed at the fulfilment of their potential and the realisation of their talents. The Public Authority shall promote and encourage the development of different forms of education, and ensure equality of opportunity and access to educational institutions for all children.
4. The Public Authority shall ensure that school exclusions are only imposed as a measure of last resort and for the shortest period of time, and only after consideration of all alternatives bearing in mind the fundamental nature of the right to education. Children excluded or suspended from school have the right to be informed promptly of the grounds for their exclusion or suspension and of their right to participate in any process associated with that suspension or exclusion, together with their parents carers and legal guardians or other representatives. The child retains their right to education during exclusion or suspension and should be encouraged by the educational institution to return as soon as possible.

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5. Children have the right to seek, receive and impart information and guidance in a timely and accessible manner on issues affecting their social, spiritual and moral well being and physical and mental health.

Healthcare

Previously agreed text

1. Every child and young person has the right to enjoy the highest attainable standard of health without discrimination and shall enjoy the right to access all appropriate healthcare services including but not limited to child and adolescent mental health services and oral health.
2. The Public Authority shall take all appropriate measures to protect the right to health and social care specific to all children without discrimination including children with disabilities, those with special educational or mental health needs, children from ethnic minorities and those living in a position of social deprivation.
3. The Public Authority shall take all appropriate measures to ensure the child's right to preventative, age appropriate education and early intervention measures to address such social problems as child abuse, drug and alcohol misuse, mental health issues, sexual and reproductive problems and teenage pregnancy.

Points of discussion

Paragraph 1

- In relation to clause 1, Mathew McDermott pointed out that it had been previously agreed to take out and young person, which was confirmed by other members and amended accordingly.

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Paragraph 2

- On analysis of clause 2, Roy Beggs felt that children in care had been omitted and should be included through specific reference which the working group were in agreement on.
- Chrissie McAuley also asked why there were no groups mentioned as there was a sizable list included in relation to education. Paddy Kelly pointed out that this was because the provision was to reflect the groups who were conceived disadvantaged in relation to each provision and most in need of protection. Chrissie McAuley and Anna Lo expressed strong views that if traveller children were mentioned separately from ethnic minorities in prior provisions discussed by this working group they should also be specifically mentioned on this occasion as evidence suggests that such children have higher rates of health problems, which led the group agree with their view.

Paragraph 3

- In relation to clause 3, Sorcha McKenna pointed out that after speaking to a number of interested groups, it became apparent that they felt the word 'problem' should be replaced with 'issues' in order to cover incidents where teenage pregnancy is not seen as a problem.
- A discussion arose around the use of the term teenage pregnancy and the group agreed not to qualify pregnancy.
- The use of 'preventative' was also discussed and it was felt this word was not suitable as in relation to pregnancy, some girls may plan their pregnancy for numerous reasons and therefore it may not be the best word to use. It was suggested that if 'in the best interest of the child' was included it would imply the latter.

Agreed text

1. Every child has the right to enjoy the highest attainable standard of health without discrimination and shall enjoy the right to access all appropriate healthcare services including but not

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limited to child and adolescent mental health services and oral health.

2. The Public Authority shall take all appropriate measures to protect the right to health and social care specific to all children without discrimination including children with disabilities, children in the care of the Public Authority, those with special educational or mental health needs, children from ethnic minorities, traveller children and those living in a position of social deprivation.
3. The Public Authority shall take all appropriate measures to ensure the child's right to accessible, age and understanding appropriate education and information to promote prevention and early intervention measures to address such social issues as child abuse, drug and alcohol misuse, mental health, sexual and reproductive health issues and pregnancy.

Economic Exploitation

Previously agreed text

1. The Public Authority recognises the right of the child to be protected from economic exploitation and from performing any work that is likely to interfere with the physical, mental, spiritual, moral or social development. In all such considerations the best interests of the child should be paramount.
2. The Public Authority shall without discrimination take all necessary legislative, administrative, social and educational measures to ensure the implementation of the present provision including guaranteeing the child's right to advocacy. To this end, and having regard to the relevant international instruments, the Public Authority shall in particular:
 - a) Provide for a minimum age or minimum ages for admission to employment;
 - b) Provide for appropriate regulation of the hours and conditions of employment;

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- c) Provide for appropriate penalties or other sanctions to ensure effective enforcement of the present provision.

Points of discussion

- It was recalled that the Children's Law Centre's feedback from children was that they wanted to work and that there was a need for the provision to reflect these particular needs of children in Northern Ireland by not outlawing all those covered by the legal understanding of who is a children from working.
- Roy Beggs asked how the provision was reflecting the needs of Northern Ireland in supplementing the European Convention on Human Rights.
- Paddy explained that there was evidence which she had presented at an earlier date that current legislation in Northern Ireland was not adequate enough to protect the rights of children.
- As a result, the group agreed that the title of this section, Economic Exploitation should be changed to Employment Protection, to better reflect its content and the circumstances in Northern Ireland to which they apply.
- Roy felt strongly that if there was a problem with current legislation, then it should be improved within current constitutional and legal mechanisms, but by laying out provisions which he felt were actually outlining a right to work in a bill of rights was not the best way forward.
- Anna Lo also alluded to the fact that there exists the culture within small family businesses that children from the family will work, which lead Jenny Palmer to believe that there would be problems in implementing and enforcing this provision.
- There was also suggested that the provisions to protect children in these instances already exist and are simply not being enforced, however a rebuttal was offered by a number of members that the

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purpose of including such a provision was to set a bench mark for current and future legislation.

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Paragraph 1

- Roy reminded the group that the word State should be changed to public authority throughout the recommended provisions.

Paragraph 2

- In relation to clause 2 'present provision' was changed to 'this provision' in the interest of clarity.
- Paddy recapped that there was no advocacy provision for children in relation to employment, whereas adults have such provisions in terms of tribunal representation and that the first sentence of clause 2 is intended to remedy this.
- On examination of clause 2 (c), Roy suggested 'Provide for age appropriate' should be used which was agreed.
- Sorcha proposed that somewhere in this provision reference should be made to wages as there is no regulation of this for children under 16. As a result, Chrissie suggested inserting 'terms' before 'conditions' as this could encompass the latter.
- Members debated about the issue of enforceability and it was recognised that the purpose of this provision was to send out a message as to where it is felt that children need protection in relation to employment, and issues of enforceability wither by statutory and/or non-statutory bodies were not the concern of this working group .

Agreed text

Employment Protection

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1. The Public Authority recognises the right of the child to be protected from economic exploitation and from performing any work that is likely to interfere with the physical, mental, spiritual, moral or social development. In all such considerations the best interests of the child should be paramount.
2. The Public Authority shall without discrimination take all necessary legislative, administrative, social and educational measures to ensure the implementation of the present provision including guaranteeing the child's right to advocacy. To this end, and having regard to the relevant international instruments, the Public Authority shall in particular:
 - a) Provide for a minimum age or minimum ages for admission to employment;
 - b) Provide for age appropriate regulation of the hours, terms and conditions of employment;
 - c) Provide for appropriate penalties or other sanctions to ensure effective enforcement of the present provision.

Protection from Violence, Abuse and Exploitation

Previously agreed text

1. Every child has the right to be protected from all forms of violence, abuse, maltreatment, neglect and exploitation including sexual abuse, child prostitution, trafficking and involvement in pornography.
2. The Public Authority shall act in the best interests of the child in taking all appropriate legislative, administrative, social and educational measure to protect every child from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including, but not limited to such acts or omissions while in the care of the parent(s), legal guardian or any other person who has the care of the child.
3. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide

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necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment and, as appropriate, for judicial involvement.

Points of discussion

Paragraph 1

- Mathew McDermott questioned whether paramilitary organisations should be included as this is an issue with particular relevance to Northern Ireland. Sorcha explained that there had been a gap in the Northern Ireland Human Rights Commission's draft proposals in relation to children in armed conflict and thought that this should perhaps be addressed in a separate section.
- Lindsay Conway also highlighted problems with information technology in relation to exploitation and visual abuse of children. He pointed to the Canadian experience where the issue of visual abuse was tackled from the early 1990s in relation to films, which has resulted in extensive protection in that jurisdiction. The group felt that the issue should be looked at and Linda Moore will return to this issue at the next meeting.

Paragraph 2

- In relation to clause 2 it was suggested that 'and emotional' was placed between mental and violence in third line.
- Lindsay also felt that the provision should be worded in such a way as to place a similar responsibility on volunteers in order to further protect children, which he felt was needed due to the immense involvement of the voluntary sector with the care of children in Northern Ireland.

Paragraph 3

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- Linda suggested a form of investigation that is more child friendly as in relation to children in Public Authority care, it is the practice that if the child complains that they have been punished by a member of staff, ordinary uniformed police officers attend to deal with the matter which is in her view not in the best interests of the child.

Agreed text

1. Every child has the right to be protected from all forms of violence, abuse, maltreatment, neglect and exploitation including sexual abuse, child prostitution, trafficking and involvement in pornography.
2. The Public Authority shall act in the best interests of the child in taking all appropriate legislative, administrative, social and educational measure to protect every child from all forms of physical, mental and emotional violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including, but not limited to such acts or omissions while in the care of the parent(s), legal guardian or any other person who has the responsibility for or care of the child in whatever capacity.
3. Such protective measures should, as appropriate, include appropriate and effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of or responsibility for the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child mistreatment and, as appropriate, for judicial involvement. In determining such protective measures the best interest of the child should be of paramount consideration.
4. A separate clause on technology will be discussed at the next meeting

Non-discrimination

Previously agreed text

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1. Every child has the right to equality, equal protection and the benefit of the law.
2. The Public Authority shall respect and ensure the rights set forth in this Bill of Rights to each child within the jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's, carers or legal guardian's 'race', 'colour', sex, language, religion, political or other opinion, national, ethnic or social origin, economic status, disability, sexual orientation, birth or other status including immigration status.

Points of discussion

Paragraph 2

- Linda suggested that 'immigration status' be changed to 'legal status and other status', a view that there was general consensus on.
- Mathew raised the fact that parents activities in terms of past status e.g. a parent's prison record being considered in the child's application for employment as is the case with Civil Service applications, can have an impact on the employment decision without a right to appeal or redress. The group thought that this was a valid point and should be reflected in the provision.

Agreed text

1. Every child has the right to equality, equal protection and the benefit of the law.
2. The Public Authority shall respect and ensure the rights set forth in this Bill of Rights to each child within the jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's, carers or legal guardian's 'race', 'colour', sex, language, religion, political or other opinion, national, ethnic or social origin, economic status, disability, sexual orientation, birth status, current or previous legal status or other.

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Family

Previously agreed text

1. The Public Authority shall respect the responsibilities, rights and duties of the parents, legal guardians and carers to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of their rights.
2. The Public Authority shall provide all appropriate assistance to parents, legal guardians and carers in the performance of their child-rearing responsibilities and shall support them in enabling children to grow up to realise their full potential.

Points of discussion

Paragraph 1

- Pip Jaffa felt that 'rights' should be placed before 'responsibilities'.
- Bronagh questioned the use of 'respect' as she felt it did not impose a duty on the Public Authority which was strong enough. As a result, other members reasserted that the legal understanding of respect represented giving effect to.

Paragraph 2

- Paddy felt that there was repetition of provisions in this clause and the 1st clause under standard of living and suggested merging the sections as they were inextricably linked.
- Sorcha suggested this section being a stand-alone clause.
- Paddy felt that 'shall support them in enabling children to grow up to realise their full potential' should be moved to the end of sentence 1 of clause 1 of Standard of Living, with the remainder of clause 2 of Family being dropped.

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- Pip suggested if titles were to be used for any of the provisions which this working group recommends, then instead of titling this section family it should be Parents, Carers and Legal Guardians.

Agreed text

1. The Public Authority shall respect the rights, responsibilities and duties of the parents, legal guardians and carers to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of their rights.

Standard of Living

Previously agreed text

1. Every child has the right to grow up in a stable, safe and secure family environment and to this end, the Public Authority shall provide all appropriate support and resources necessary to assist parents, carers and legal guardians to carry out their child rearing responsibilities. The Public Authorities obligation to protect and support the child shall end only when it is no longer required and shall in all circumstances be based on the best interest of the child.
2. A child for whatever reason who is deprived of that environment is entitled to special protection and assistance from the Public Authority. The choice of alternative care shall be determined by the best interests of the child alone and should be provided within a reasonable time. Children leaving the care of the Public Authority should be prepared for and supported towards independent living.
3. All children have the right to an adequate standard of living including appropriate housing to enable the child to realise their full potential.

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4. The Public Authority shall take all appropriate measures to ensure the right of all children to appropriate standard of living, ensuring the right to appropriate levels of housing, health, education, income and if appropriate social services.

Points of discussion

Paragraph 1

- 'to protect and support the child' was replaced with 'under this provision' for increased clarity.

Paragraph 2

Paragraph two was agreed upon without the need for further discussion.

Paragraph 3

- Anna Lo questioned the use of the word 'housing' when it is used in reference to traveller children as they are not exactly living in what is commonly perceived as 'housing'. There were suggestions that the word 'accommodation' may be better suited, but it was felt that 'accommodation' engendered a lower standard than 'housing'. To encompass the need of those such as the travelling community, 'culturally sensitive' was added.
- Mathew McDermott felt that temporary arrangements and the appropriateness of the housing in question needed to be addressed and the group felt that including 'the highest attainable standard' in the provision should reflect this sufficiently.
- Paddy Kelly felt that the best interest of the child also needed to be included.

Paragraph 4

- Upon examination it was felt that 'highest attainable standard' should be reiterated here.

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- Changes were also made to mirror the provision included under Family.

Agreed text

1. Every child has the right to grow up in a stable, safe and secure family environment and to this end, the Public Authority shall provide all appropriate support and resources necessary to assist parents, carers and legal guardians to carry out their child rearing responsibilities and shall support them in enabling children to grow up to realise their full potential. The Public Authorities obligation under this provision shall end only when it is no longer required and shall in all circumstances be based on the best interest of the child.
2. A child for whatever reason who is deprived of that environment is entitled to special protection and assistance from the Public Authority. The choice of alternative care shall be determined by the best interests of the child alone and should be provided within a reasonable time. Children leaving the care of the Public Authority should be prepared for and supported towards independent living.
3. All children have the right to the highest attainable standard of living including appropriate and culturally sensitive housing which is determined by the best interests of the child to enable the child to realise their full potential.
4. The Public Authority shall take all necessary measures to ensure the right of all children to the highest attainable standard of living, ensuring the right to appropriate levels of housing, health, education, income and if appropriate social care services.

Youth Justice

Points of discussion

Paragraphs 1, 2 and 6 were agreed without the need for further discussion.

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Paragraph 3

- Linda Moore explained that she conveyed some of the points on the first few provisions that this working group had made to the Criminal Justice Working Group on the Bill of Rights for Northern Ireland. She said that the only real divergence from what this group felt should be covered was that the age of criminal responsibility should reflect the statutory school leaving age.
- Paddy Kelly felt that if the provision were to link the age of criminal responsibility to the statutory school leaving age it would leave the protection of children open to fortune and emphasised that this provision should reflect the international standard on this issue.
- Lindsay Conway also pointed to a number of negative repercussions in linking the age of criminal responsibility to school leaving age including the fact that the school leaving age can vary from child to child based on what month they were born .
- Paddy reiterated Lindsay's point this by commenting that in practice, the age for some children could be 16 or 16 and 6months or 16 and 3months.
- Anna Lo echoed the above views when she explained that a child starts school depending on whether or not they are 4 on the first of April.
- The issue surrounding age in criminal justice will be returned to on this basis.

Paragraph 5

- Lindsay explained that protection under Northern Ireland's legislation in this area jumped from 1978 to 1995 in terms of amendment, and in this respect, children's rights in this jurisdiction were overlooked. He also commented that Scotland had a system to

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be aspired to as at present it was the region in the UK with the most adequate protection.

- Matthew McDermott also questioned if there should be a limitation on identifying schemes such as community or family based as he felt this may limit the scope for other schemes to be developed which are neither family nor community centric such as youth conferencing, which in some instances are effective and appropriate. He felt that Community based diversion initiatives should be strictly regulated and regularly monitored to ensure that they are in the child's best interest.
- Linda felt that 'strictly' would limit such initiatives in terms of imaginative initiatives.
- Paddy felt that the inclusion of 'best interests of the child' would ensure enough monitoring obligations on such programmes.
- Mathew reiterated and furthered his point, commenting that community based projects are on the same level of contact as the police and other agencies which are under a strict monitoring obligation.
- Lindsay pointed to his own experiences when children have been refused bail around Christmas when it was clearly not in the child's best interest and he felt that the inclusion of 'in the child's best interest' does better regulate this area.
- Matthew wished that it was recorded that he felt that the current provision was not strong enough and he could not support what is in his opinion, a blanket endorsement of Community Based restorative Schemes, a feeling Jenny Palmer echoed.
- Anna Lo felt that the direction in which the discussion was heading was going to result in a provision placing a higher threshold on community based initiatives.

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- To this end the working group agreed on inserting a requirement that all groups be subject to effective regulation and monitoring.

The working group did not have sufficient time to discuss further clauses under this provision and consequently, the issue will be returned to at the next meeting.

Agreed text

1. The Public Authorities recognise the right of every child alleged to, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's human rights and dignity, which reinforces the child's respect for their human rights and the rights of others and taking into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
2. In all decisions taken within the context of the administration of youth justice, the best interests of the child shall be the paramount consideration.
3. No child under the age of 16 will be held criminally responsible.
4. The Public Authority shall progressively increase the age of criminal responsibility to 18.
5. The Public Authority shall provide effective alternatives to the criminalization of children including family based support and community based diversion, which are in the child's best interests. Both statutory and non-statutory programmes should be effectively regulated and monitored to protect the child.
6. The following minimum rights shall be guaranteed to every child:
 - a) the right to have criminal charges explained promptly and in appropriate language;

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- b) the right to have access to appropriate legal and other assistance in the preparation of a defence;
- c) the right to have any criminal charge determined without delay by a competent, independent and impartial tribunal in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is contrary to his or her best interests and taking into account his or her age or situation, of his or her parents or legal guardians;
- d) the right to have an appropriate adult present to represent the interests of the child even if a solicitor is also present;
- e) the right to be tried for a criminal offence in an appropriate setting and manner, having regard to the child's age, maturity, needs, vulnerability and understanding;
- f) the right to have measures taken to ensure his or her participation in and understanding of the criminal proceedings; and
- g) the right to have his or her privacy respected before, during and after the proceedings."

Action Points

- Linda Moore will look at the implications of including a provision to cover paramilitary recruiting of child under the provision titled 'Protection from Violence, Abuse and Exploitation', with regard being given to Chrissie's concerns that if such a clause or provision is proposed, it should not just apply to paramilitaries.
- Linda Moore is to investigate the inclusion of a clause aimed at protecting children from visual/technological abuse under the provision titled 'Protection from Violence, Abuse and Exploitation'.

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- In relation insertions on 'the highest attainable standard of living' Paddy Kelly is to check if there exists any guidance on the implications of using this wording.
- The issue of temporary accommodation has to be returned to under provisions relating to standard of living.
- The paper on progressive realisation of socio economic rights to be requested from the secretariat and circulated.
- The issue surrounding the age of criminal responsibility is to be returned to as discussions highlighted problems in linking the latter with the statutory school leaving age.

Date of next meeting:

Wednesday 28th Nov 2pm-7pm,
Children's Law Centre,
Philip House,
York Street, Belfast.