



## **Comments from Include Youth on Draft Report from the Bill of Rights Forum Children's Working Group**

### **Introduction**

1. Include Youth is an independent organisation which actively promotes the best interests of, and best practice with, young people in need or at risk. These aims are achieved through development and promotion of resources; provision of training, information and support to practitioners and organisations; activities to influence policy-making and public opinion concerning young people.
2. Amongst the young people at risk with whom, and on whose behalf Include Youth works are young people from socially disadvantaged areas, those with a learning disability, those with special needs, those who have been truanting, suspended or expelled from school, those from a care background, those who have had a negative parenting experience, young people who have committed or are at risk of committing crime, misusing drugs or alcohol, undertaking unsafe sexual behaviour or other harmful activities, or of being harmed themselves.

### **General Comments**

3. Include Youth welcomes the opportunity to comment on the Draft Report of the Bill of Rights Forum Working Group on Children's Rights. Overall, Include Youth is very pleased to endorse the vast majority of the draft provisions, and we believe that they provide strong protections for the rights of children and young people. In addition, we wish to state our belief that when the Forum comes to determine its final advice to the Northern Ireland Human Rights Commission on the Bill of Rights, that it will be imperative that a strong children's section is included within this advice, together with mainstreaming of the rights of children throughout this document.
4. Moreover, we are grateful to have the opportunity to be consulted on the WG draft report, as we are well aware of the incredibly tight time-frame which has been imposed upon the Working Groups, and indeed the Forum more generally. We wish to state our view of how vitally important it is to ensure that all sections of our society have an opportunity to become meaningfully involved in informing the Forum's process of devising advice on a Bill of Rights for Northern Ireland. Proceeding in the absence of such a participative process, we submit could lead to a lack of knowledge and ownership of any final draft, and leave people feeling at best apathetic and at worst angry, distrustful and disenfranchised.

5. In particular it is essential that the Bill of Rights Forum consults directly with children and young people from across the jurisdiction. Particular attention needs to be had to the rights of children and young people in need or at risk, who may be marginalised from more traditional vehicles used to garner the views of children and young people, in terms of both accessibility and ensuring meaningful engagement and participation. Include Youth's Young Voices participative project which works with children who have been in conflict with the law, both in a community and custodial setting, has been the subject of a recent successful evaluation which found that it is possible to engage and enable the active participation of young people at risk, particularly those with experience of the criminal justice system, in public consultation initiatives, with very positive results. Our experience of managing this process is that young people in conflict with the law have considerable, pertinent experience which they are eager to share when they feel listened to, valued and treated with respect. As one Young Voices participant stated: *'People never listen to me – that's what makes this different is that people in here listened to me and take on my views and asked me about why I did the things I did'*.
6. Colleagues from the statutory sector also extolled the positive benefits of engaging with such an independent participation project: *Before contact with the likes of Young Voices, we tapped into some groups in schools, community based groups etc. and the make up of these groups would vary – the Young Voices model gives us the opportunity to engage with the most hard to reach young people.'*
7. As stated, Include Youth endorses the vast majority of provisions within the draft report from the Working Group. We have included below a number of issues which we wish to be sure are fully covered within the Working Group final draft – in the areas of child victims and children excluded from education. We have also made some comments in support of the approach taken by the Working Group in respect of best interests and youth justice

### **Section 3 – Best interests**

8. Include Youth fully supports the content of the draft provision regarding best interests. We wish to make a comment on the issues raised about rights and responsibilities in the context of anti-social behaviour under the heading 'Level of Agreement'. As an organisation which works to promote the best interests of children and young people at risk, Include Youth understands and appreciates the concerns raised in respect of anti-social behaviour. However, Include Youth strongly asserts that it is in the best of interests of children and young people who have been involved in actions which have harmed themselves or others to be supported to understand and accept the consequences of their behaviour, in a holistic manner within a childcare framework, which seeks to address the underlying reasons for the harmful behaviour and ensures that the child or young person receives the necessary services and support to help ensure that they do not become engaged in such behaviour again. Such an approach, will deliver safer communities for everyone. However, Include Youth believes that such work can and should be carried out without criminalising the child, as this is not in the best interests of the child.

### **Section 5 – Education**

9. We wish to make comment on the draft provisions at section 5 (3) and 5 (4). We welcome the specific inclusion of different groups of children with particular vulnerabilities within this section, and the protection re non-discrimination afforded to such children. We wish to be sure that children are supported and encouraged to receive their education within a mainstream environment save only in exceptional circumstances, particularly those with care experience, experience of the criminal justice system, mental health issues and / or challenging behaviours. This will require different approaches by educational institutions, for example, through employing staff skilled and experienced in working in a positive way with hard to reach young people, and having smaller class sizes. Include Youth believes that the Bill of Rights for Northern Ireland must protect the rights of these particularly vulnerable children and young people, who's experience of education currently is often negative, with poor outcomes and marginalisation.

### **Section 13 – Child witnesses and victims of crime**

10. Whilst we agree with the provisions contained at section 13 in respect of children who are victims and witnesses in the criminal justice system, Include Youth wishes to be sure that child victims have their rights protected in a broader context – for example, that their right to be informed of and receive social care, health care and support is protected; that they are informed, advised and assisted throughout the course of an investigation; that children who are victims remain so in the event that no prosecution is forthcoming – this is particularly pertinent in the case of victims of sexual abuse or violence where there are very low conviction rates involving child victims/witnesses. These and other victim' rights may be included elsewhere within the Bill of Rights for Northern Ireland (Socio-economic or CJ& Victims sections) however we do believe that some statement could be inserted in the Children's Section to acknowledge the variety of rights which are material to children who are victims.

### **Section 14 – Youth Justice**

11. Include Youth wishes to strongly endorse the draft provisions contained within this section. In particular, we welcome section 14 (4) and (5) regarding the age of criminal responsibility. We believe that these measures will truly make an enormous difference to the lives of some of our most vulnerable children and young people, are compatible with international best practice, and indeed provide evidence that the Bill of Rights for NI will be a forward-looking and living document. These provisions will help make NI a world leader in promotion and protection of children's rights.
12. Raising the age of criminal responsibility will however not provide children who have engaged in behaviours which have harmed others with a easy option, nor will it 'let them off the hook'. We are concerned to reassure colleagues who might have reservations about these provisions that children who engage in such harmful behaviours should and must receive the services and support they require which will address the underlying reasons for their actions, and enable them to accept the consequences of their behaviour, make reparation for any harm caused and work to divert them from becoming involved in further destructive or damaging acts. We believe that this can all take place within a childcare framework, which sees the child and their family in a holistic way, rather than as an offender. Very often children who currently find themselves drawn into the criminal justice system are

very troubled and vulnerable children who require our understanding and support in order to deal with a range of complex problems, including sexual abuse, violence, alcohol or drug abuse, homelessness, mental ill health. Evidence is clear that drawing children into the criminal justice system early, and particularly into custody, increases the likelihood of their recidivism. We believe that even with a raised age of criminal responsibility, that there will be some exceptional circumstances in which it is in the child's best interests to be cared for within a secure environment – i.e. if they present a risk to themselves or others. However, it is essential that such circumstances are strictly regulated, approved by judicial process which is subject to challenge, and adhere to the best interests principle.

**Conclusion**

**13.** Include Youth intends the above as a constructive submission, and we are happy to provide any further information to members of the Working Group should you require. We request that we are kept fully informed of progress in relation to the Working Group endeavours and more generally to the Bill of Rights Forum's work to advise the Northern Ireland Human Rights Commission on the scope of a Bill of Rights for Northern Ireland.

**Include Youth**

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