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## **EUROPEAN SOCIAL CHARTER**

34<sup>th</sup> National Report on the implementation  
of the European Social Charter

submitted by

**THE GOVERNMENT OF THE UNITED KINGDOM**

(Article 7, 8, 16, 17, 19)  
for the period  
01/01/2010 – 31/12/2013)

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**CYCLE 2015**



**COUNCIL OF EUROPE**

**THE EUROPEAN SOCIAL CHARTER**

**THE UNITED KINGDOM'S THIRTY FOURTH REPORT**

**NOVEMBER 2014**

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Department for Work and Pensions  
EU & International Division  
Contact – John Suett ([john.suett@dwp.gsi.gov.uk](mailto:john.suett@dwp.gsi.gov.uk))  
Tel: +44 (0) 207 340 4342

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<sup>1</sup> The United Kingdom has not accepted and does not report on Article 7§§s 1, 4, 7 & 8

<sup>2</sup> The United Kingdom has not accepted and does not report on Article 8§§s 2, 3 & 4

## **ARTICLE 7**

### **Article 7, Paragraph 2**

The United Kingdom has ratified ILO Convention No 138, Minimum Age for Employment, 1973 and ILO Convention No 182, Worst Forms of Child Labour, 1999. Copies of the UK's most recent Article 22 Reports to the ILO on the application of each of those Conventions are appended to this Report as separate files **[Appendices 7A and B]**.

The UK strongly supports the ILO's work to fight child labour including the ILO's programme for worldwide ratification and implementation of both Conventions. The Government remains committed to helping developing countries eliminate child labour. Through the Department for International Development (DFID) it continues to support a wide-ranging programme for poverty elimination and development. DFID also supports programmes specifically targeted at tackling child labour and trafficking people. The Government will continue to support programmes in developing countries aimed at breaking the cycle of poverty, which is essential for the elimination of child labour.

### **The general legal framework**

In the UK children's employment is regulated through national and local legislation. According to national legislation, 14 is the minimum age at which children can be employed, although Local Authorities can make local byelaws which allow children aged 13 to do some forms of light work, such as delivering newspapers or working as shop assistants.

Local authority byelaws also provide for child employment permit schemes. Such schemes require employed children to have permits from the Local Authority, which the Authority will issue only if it is satisfied that the child's education, health and welfare will not be put in jeopardy by the proposed employment.

In Great Britain, under the umbrella of the Health and Safety at Work etc. Act 1974, as amended, the European Directive on the Protection of Young People at Work - 94/33/EC (the Young People Directive) was implemented through the Health and Safety (Young Persons) Regulations 1997, which amended the Management of Health and Safety at Work Regulations 1992. This is now enacted as part of the Management of Health and Safety at Work Regulations 1999 as amended. As a result, employers are required to assess risks to young persons, under 18, before they start work, taking into account their inexperience, lack of awareness of risks, and immaturity.

### **Specific protection**

Apart from the special requirements to assess the risks to young people from the agents, processes and work listed in the Annex to the Young Workers Directive, mentioned above, there are some restrictions by age in specific

legislation in Great Britain and Approved Codes of Practice (ACoP). These include lower dose limits for radiation and lead, and the limitation of specific tasks that can be carried out by young people, and the requirement for closer supervision in some more hazardous environments.

### **Measures taken to implement the legal framework**

Employers' duties in this regard are explained in guidance published by HSE. Where appropriate, ACOPs on specific topics, for example work equipment, particularly woodworking and power presses, give advice on responsibilities towards young people. Leaflets and published guidance on all topics are made freely available on the HSE website and the ACOPs and guidance documents can be downloaded free of charge.

The HSE website has a section dedicated to young people at work: <http://www.hse.gov.uk/youngpeople/index.htm>. This web guidance has been revised, simplified and streamlined to ease navigation and further enhance clarity. The revised guidance was published in June 2013 and covers risks, the law and work experience. There are accompanying answers to Frequently Asked Questions (FAQs) and links to other relevant information and resources, including from the Department for Education.

There was considerable cross-government working to produce and raise awareness of the revised young people guidance, and HSE continues to work with business and education stakeholders to promote the guidance to all those involved in taking on young people for work or work experience.

HSE Inspectors routinely provide guidance to employers on meeting the requirements of the Management of Health and Safety at Work Regulations 1999 during proactive inspections and investigation of complaints and reportable incidents. This includes the provision of guidance to protect the health and safety of young persons where they are in paid work or on work experience. Guidance is available for employers on HSE's website and can be viewed at: [www.hse.gov.uk/youngpeople/index.htm](http://www.hse.gov.uk/youngpeople/index.htm). HSE Inspectors are provided with information as part of their early years training.

When contemplating enforcement action, the protection of vulnerable groups such as children and young people is a factor that is considered by HSE Inspectors when applying the Enforcement Management Model (EMM)<sup>1</sup>. This is a framework used by HSE to ensure that enforcement decisions are taken which are in line with the principles contained within HSE's Enforcement Policy Statement (EPS)<sup>2</sup>.

The involvement of children and other vulnerable groups is also a factor that would be considered by the courts when passing sentence in health and safety cases.

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<sup>1</sup> <http://www.hse.gov.uk/enforce/emm.pdf>

<sup>2</sup> <http://www.hse.gov.uk/enforce/enforcepolicy.htm>

**Please provide pertinent figures, statistics or any other relevant information, if appropriate**

HSE records its interactions with dutyholders and others on its corporate IT system 'COIN'. In this context, 'interactions' can include: safety report/case assessments; site visits; meetings; interviews; telephone conversations; etc. An inspector may record information pertaining to vulnerable workers where this is relevant to their health and safety intervention. However this information is not held in a structured form that would enable HSE to report a count of these instances, and inspectors are not mandated to record specific details on vulnerable workers, e.g. age. HSE is therefore unable to provide data on the number of such interactions.

**Article 7, Paragraph 3**

**Child employment**

***In Conclusions XIX-4, the Committee asks whether the possibility of extending the system, whereby a local authority may revoke a permit if it believes that the child's health, welfare or ability to take advantage of education is likely to suffer, could be extended to all local authorities, or encouraging them to do so, is considered***

As far as the Government is aware, all local authorities already operate such a system and it is not aware of any that do not. It is, in any case, for each local authority to determine how best to ensure compliance with child employment legislation in its area.

***The Committee also asked for the next report to indicate whether the situation in United Kingdom complies with the principles set out in its revised statement of interpretation on Article 7§3 and in particular, it asks whether the rest period free of work has a duration of at least two consecutive weeks during the summer holiday. It also asks - what are the rest periods during the other school holidays? Meanwhile it reserves its position on this point.***

The Government thanks the European Committee of Social Rights for its revised interpretive statement on this issue. With regard to the mandatory rest period for children of compulsory school age, the limits on the hours in which children can be employed are listed below.

Children may work for:

- up to two hours on school days
- up to two hours on Sundays
- up to five hours (13 to 14 year olds) or eight hours (15 to 16 year olds) on Saturdays and during school holidays on weekdays

- a maximum of 12 hours per week during term time;
- during school holidays up to a maximum weekly limit of 25 hours (13 to 14 year olds) or 35 hours (15 to 16 year olds).

Children may not work:

- before the close of school hours (however LA byelaws may allow children to work for one hour before school);
- before 7:00am or after 7:00pm;
- for more than four hours without taking a break of at least one hour.

In addition:

- children must have a two-week break from any work during the school holidays in each calendar year.

Local Authority byelaws may place further restrictions on the hours and conditions of work and the nature of employment children may engage in. Children cannot be employed in any occupations prohibited by local byelaws or other legislation, e.g. in any industrial setting, betting shops or in any work that may be harmful to their health, well-being or education. The Government has no plans to impose further restrictions on children's opportunities to benefit from part time work.

***The Committee asks about the rest periods during school holidays, other than school summer holidays.***

The rules as described above apply throughout the school year.

The Committee might find it helpful to have details of an example of a typical school year. School term and holiday dates in the London Borough of Hammersmith and Fulham for the 2013 -14 year are set out below (these dates were set following local consultation).

The dates apply, as a guide only, to Nursery, community primary, secondary and special schools. Voluntary-aided (church) schools and academies set their own term dates so dates may vary from school to school.

In addition, all schools now set their own professional training days, with 5 days for Continuous Professional Development (CPD) to be determined by each school.

School term and holiday dates for 2013-14

Autumn 2013

- First day - Tuesday 3 September
- Half term - 28 October - 1 November
- Last day - Friday 20 December

Spring 2014

- First day - Monday 6 January

- Half term - 17 February - 21 February
- Last day - Friday 11 April

Summer 2014

- First day - Monday 28 April
- Half term - 26 May - 30 May
- Last day - Tuesday 22 July

**Article 7, Paragraph 5**

***The Committee asks for a full and up-to-date description of the situation of apprentices in respect of Article 7§5***

Guidance on terms and conditions of employment of apprenticeships can be viewed via the following links:

[www.gov.uk/apprenticeships-guide/pay-and-holidays](http://www.gov.uk/apprenticeships-guide/pay-and-holidays)

[www.gov.uk/national-minimum-wage/who-gets-the-minimum-wage](http://www.gov.uk/national-minimum-wage/who-gets-the-minimum-wage)

The Future of Apprenticeships in England

In October 2013, following a consultation, the Government published 'The Future of Apprenticeships in England: Implementation Plan'<sup>1</sup>. The 'Implementation Plan' responds to the consultation and sets out policy, process and timescales for reforming apprenticeships in England.

The Government's reforms will make sure that apprenticeships become more rigorous and more responsive to the needs of employers. The reforms will improve the quality of apprenticeships through introducing:

- higher expectations on English and maths;
- grading, e.g. pass, merit and distinction; and
- increased emphasis on assessment at the end of an apprenticeship.

'Trailblazers' will lead the way in implementing these new apprenticeships. The Government announced the first 8 trailblazers in the 'Implementation Plan'. The 'Guidance for trailblazers – version 2' (March 2014) sets out the next steps for this work.

[www.gov.uk/government/publications/future-of-apprenticeships-in-england-guidance-for-trailblazers](http://www.gov.uk/government/publications/future-of-apprenticeships-in-england-guidance-for-trailblazers)

***The Committee also continues to consider that the minimum wages of young workers aged between 15 and 17 are not fair compared to that of adult workers***

The Government does not share the Committee's view. By the Government's calculations, if the Committee's formula of the 16/17 National Minimum Wage (NMW) were to be set at 80% of the adult rate (which should in turn be 60% of

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<sup>1</sup> [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/253073/bis-13-1175-future-of-apprenticeships-in-england-implementation-plan.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/253073/bis-13-1175-future-of-apprenticeships-in-england-implementation-plan.pdf)

average adult earnings) the resultant NMW would actually equate to some 130% of 16/17 year old average earnings.

An increase on this scale would add significantly to employer's wage bills and put at risk not only future job creation but also the job security of those 16/17 year olds currently in work. The Government would find this unacceptable.

***The Committee refers to the NMW not applying to 15 year olds.***

In the UK compulsory school leaving age is 16. The Government does not consider that it would be appropriate to extend the NMW to children under compulsory school age who are not fully operating within the labour market and who, in the Government's view, should be in full time education. The Government does not believe it is right to encourage them to seek work.

**Article 7, Paragraph 6**

**Time spent on vocational training**

A young person aged under 18 is entitled in law to request reasonable "Time off for Study or Training" with pay.

This applies to

- employees aged 16 or 17;
- who are not in full time secondary or further education; and
- who have not achieved a qualification at NVQ level 2.

18 year olds are entitled to complete study or training they have already begun

NVQ Level 2 means:

- 5 GCSE's grades A-C; or
- An NVQ level 2; or
- An Intermediate GNVQ; or
- A BTEC First or another specified qualification.

For those not covered by the above the general rules on time off for study apply – see guidance via link: [www.gov.uk/training-study-work-your-rights](http://www.gov.uk/training-study-work-your-rights)

**Article 7, Paragraph 9**

**The general legal framework**

In general, there is no legal requirement for young people who are over statutory school leaving age to undergo regular medical examinations whilst in employment. However, employers may have their own internal requirements regarding medical examinations, particularly those involved in health care occupations and food hygiene, or for superannuation purposes.

Local Authority byelaws provide for child employment permit schemes. Such schemes require employed children to have permits from the Local Authority, which the Authority will issue only if it is satisfied that the child's education, health and welfare will not be put in jeopardy by the proposed employment.

Under the Management of Health and Safety at Work Regulations 1999, every employer is required to make a suitable and sufficient assessment of the risks to the health and safety of their employees (including those under 18 years of age) to which they are exposed whilst they are at work. The employer also has to ensure that employees are provided with such health surveillance as is appropriate having regard to the risks to their health and safety that are identified by that assessment.

The Control of Lead at Work Regulations 2002 as amended do require that employees in any occupation where their exposure to lead is significant, (as defined by the Regulations), must be placed under medical surveillance. All employees must have their blood monitored regularly to detect any absorption of lead before clinical effects become evident. Where the employee is a young person (or a woman of reproductive capacity) the frequency of medical surveillance is greater than that imposed for other employees; being at periods not greater than 3 months as opposed to 6 months or 1 year.

### **Measures taken to implement the legal framework**

In relation to the Control of Lead at Work Regulations, medical surveillance for exposure to lead is carried out either by a Medical Inspector employed by the Health and Safety Executive, or by an Appointed Doctor. A young person under 18 and under medical surveillance has the level of lead in their blood measured at least once every three months. If the level reaches or exceeds the suspension level, the measurement is repeated and if it is confirmed, the employer must remove the young person from work which exposes them to lead in accordance with a certificate issued by the examining doctor. This is to protect the employee from any adverse health effects that further exposure to lead might cause. The doctor responsible for medical surveillance will only permit a young person to resume work involving exposure to lead when they consider it appropriate to do so.

In the case of the other health and safety legislation listed above, the administrative arrangements are the same as those listed in the response to Article 7§2, Question 2, above.

Local bye-laws are enacted by local authorities and enforced by appropriately appointed enforcement officers.

### **Statistics and other relevant information**

The Health and Safety Executive completes health surveillance in line with the legal framework for industries where there is high hazard.

- During 2012/13 (the latest statistics available) 4240 people were under medical surveillance because of work with lead, of these 1 was under the age of 18 years.
- During 2011/12 7949 people were under medical surveillance because of work with lead, of these 15 were under the age of 18 years.
- During 2010/11 7472 people were under medical surveillance because of work with lead, of these 6 were under the age of 18 years.

***The Committee asks for a full and up-to-date description of medical surveillance of young workers employed in occupations prescribed by national laws or regulations.***

Under the Management of Health and Safety at Work Regulations 1999 employers must, *inter alia*, make a suitable and sufficient assessment of the risks to the health and safety of their employees, including those under 18 years of age, to which they are exposed at work. Employers must also ensure that employees are provided with health surveillance as is appropriate having regard to the risks to their health and safety that are identified by the risk assessment, and this applies to young workers. In addition, the Control of Lead at Work (CLAW) Regulations 2002<sup>1</sup>, as amended, requires that employees exposed to a significant level of lead, specified in the Regulations, must be placed under medical surveillance.

The objectives of medical surveillance under CLAW Regulations 2002 are similar, in principle, to those which apply to other occupational health risks. They are to:

- (a) make an initial assessment of an employee's suitability to carry out work with lead;
- (b) evaluate the effect of lead absorbed by employees and to advise them on their state of health;
- (c) monitor the exposure of female employees of reproductive capacity;
- (d) assess the suitability of an employee to carry on working where there is continuing exposure to lead;
- (e) detect early signs of excessive lead absorption or early adverse health effects, and to remove employees from exposure to prevent lead poisoning and other health effects developing; and
- (f) help employers in their duty to control the exposure of their employees to lead.

For young workers, surveillance is more frequent and should be at periods not greater than three months. Levels for young males (aged 16 and 17 years) are lower than those for adult males (over 18 years): *action* level is 40ug/dl; *suspension* level is 50ug/dl. However, if the young person is female the levels

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2002/2676/contents/made>

for action and suspension are the same as for female employees of reproductive capacity (*action* level 25 ug/dl, *suspension* level 30 ug/dl). If the level of lead in the blood is too high (at the suspension level) the employer must remove the young person from work. Medical surveillance is carried out either by a Medical Inspector of the Health and Safety Executive, or by an Appointed Doctor.

### **Article 7, Paragraph 10**

#### **Children in employment**

In relation to physical dangers associated with the workplace, the legislation listed, and the systems in place for its enforcement, as set out above in the response in relation to Article 7§2, would be equally applicable here.

The protection of children and young people has remained high on the agenda for the Health and Safety Executive. As reported previously, a continued long-term objective has been to reduce child fatalities in agriculture. HSE commissioned research in 2005 to identify the number of children actively working on farms, the hours they work and the nature of the tasks undertaken.

HSE continues to offer information about protecting children from accidents on the farm. As part of a wider review of all HSE guidance, to ensure it provides a practical, proportionate approach to help duty holders comply with health and safety law, the publications 'Preventing accidents to children on farms' and 'Farmwise' were revised in 2012. Both publications are available as a free download from the HSE website at [www.hse.gov.uk](http://www.hse.gov.uk). Additionally, child safety web pages on the agriculture section of the HSE website have similarly been revised.

In the wake of a significant outbreak of *E. coli* O157 at an open farm HSE worked with the leisure industry and other regulators to produce an Industry Code of Practice 'Preventing or controlling ill health from animal contact at visitor attractions'. This document was made available as a free download from a number of websites including the Farming and Countryside Education [FACE] site. <http://www.face-online.org.uk/codeofpractice>

In 2013 work continued with FACE to produce further guidance on managing risks on farms offering child centred diversification activities.

Other initiatives on the wider young people's protection include:

- The launch of new HSE Vocational Educational Tools (VET) in 2013. The Tools will assist tutors in colleges, and other educational establishments and the workplace, in teaching the key health and safety messages, in welding, stonework and motor vehicle repair. This work was done in response to research commissioned by HSE in August 2009, that looked at how best to

communicate long latency occupational health messages to learners in vocational education (primarily young learners)

- The British Safety Council's (BSC) Speak Up, Stay Safe campaign highlights the particular risks that young people face and puts good communication at the heart of good health and safety. BSC has worked closely with schools and has provided resources to help them develop hazard awareness among young people. There is a dedicated website that is easily accessible, with information that is simple to understand and advice that is helpful for any employer working with young people. It includes fact sheets on the law and good practice, top tips on working with young people as well as videos, a mobile app and links, all freely available.  
<https://www.britsafe.org/speakupstaysafe>
- HSE attended several joint Department for Education and Association of Colleges events in 2013 to promote key messages from the revised work experience guidance. These events helped to promote the need for a proportionate, less bureaucratic process, to maximise the opportunities available to young people to develop new skills and gain experience.

## Statistics

**Work related accidents to young workers under 18, for all years as reported to all enforcing authorities under RIDDOR 95 regulations.**

Severity	2009/10	2010/11	2011/12	2012/13	Total
Fatal	1	1	2	2	6
Major	228	187	158	129	702
Over 3 day	511	459	370	-	1340
Over 7 day	-	-	-	246	246
<b>Total</b>	<b>740</b>	<b>647</b>	<b>530</b>	<b>377</b>	<b>2294</b>

### Change in RIDDOR reporting

From September 2011 the RIDDOR reporting arrangements changed and in April 2012 the legal reporting requirement changed from over 3 days incapacitation to over 7 days.

**Estimated prevalence and rates of self-reported musculoskeletal disorders caused or made worse by work, by age and gender, for people ever employed.**

2011/12

Gender	Age group	Estimated prevalence (thousands)			Rate per 100 000 ever employed		
		central	95% C.I.		central	95% C.I.	
			lower	upper		lower	upper
All persons	16 - 34	77	61	93	720	570	870

2010/11

Gender	Age group	Estimated prevalence (thousands)			Rate per 100 000 ever employed		
		central	95% C.I.		central	95% C.I.	
			lower	upper		lower	upper
All persons	16 - 34	104	82	125	980	780	1180

2009/10

Gender	Age group	Estimated prevalence (thousands)			Rate per 100 000 ever employed		
		central	95% C.I.		central	95% C.I.	
			lower	upper		lower	upper
All persons	16 - 34	111	92	129	1060	880	1240

**Special protection against physical and moral dangers**

UN Convention on the Rights of the Child - Optional Protocol on the sale of children, child prostitution and child pornography

The UK signed the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in September 2000 and ratified it in February 2009. The UK has registered no reservations or declarations in respect of this Optional Protocol. In 2011, the UK submitted its first periodic report on progress made in implementing the provisions of the Optional Protocol. A copy of that Report is attached as **Appendix 7C**.

### **Child sexual exploitation - Rotherham**

The report on the Independent Inquiry into Child Sexual Exploitation (CSE) in Rotherham (1997 – 2013), which was published in late August 2014<sup>1</sup>, was commissioned by Rotherham Metropolitan Borough Council in October 2013. The review was undertaken by Professor Alexis Jay, OBE. The report makes a 'conservative estimate' that there were over 1,400 victims of CSE during the 15-year period.

In response, the Home Secretary is to chair four scheduled meetings with Ministerial colleagues to cover new and existing priority projects to improve accountability and governance of professionals/institutions, culture change among communities, supporting victims and minimising risk (e.g. night-time economy). This includes proposals from other key Departments (Education; Justice; Health; and Communities and Local Government). The work is being supported by a data project to identify other areas of high CSE risk.

This work will feed into the work of the National Group, covering work on prevention, institutions, online child protection, offenders, police, victims, CJS, culture change and local implementation.

The National Group's Strategic action plan is to be published in December 2014.

The head of Ofsted, Sir Michael Wilshaw, wrote to the Secretary of State for Education midway through its inspection of children's services in Rotherham highlighting grave concerns about current arrangements. The Education Secretary agreed on 6 October 2014 to install a Commissioner, with whom the council is compelled to cooperate, to oversee rapid improvements.

The appointment is for three months and the proposed Commissioner is Malcolm Newsam, who presided over significant improvements in Kent and Essex children's services while interim director at each local authority.

On 13 October 2014 it was announced that Chief Constable David Crompton had requested that the NCA hosts an independent investigation into outstanding allegations of child sexual exploitation in Rotherham, raised in the Professor Jay Report. Trevor Pearce, NCA Director of Investigations, has agreed to lead this investigation, and is now working to draw up detailed terms of reference.

On 7 July 2014, the Government announced an Inquiry which will consider the extent to which public bodies and other non state institutions have taken seriously their duty of care to protect children from sexual abuse.

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<sup>1</sup> [www.rotherham.gov.uk/downloads/file/1407/independent\\_inquiry\\_cse\\_in\\_rotherham](http://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham)

### **Protection against child sexual exploitation**

Child sexual exploitation is a reprehensible crime which the Government is determined to stamp out. We are now seeing the true scale of this threat. The Home Secretary has made this a priority for the police. Children must be protected from sexual exploitation so that we never have another case like that of Rotherham, where local authorities and the police failed the children they had a duty to safeguard.

The Government has therefore set up a Home Office led National Group, to tackle sexual violence against children and vulnerable people, through which agencies are working together to better identify those at risk and to create a more victim-focused culture within the police, health and children's services.

The Home Secretary is to chair a series of meetings of Secretaries of State to look at the lessons we can learn from failings in Rotherham, identified in Professor Jay's recent report. These meetings will build on the work of the National Group. The Government will publish an action plan to cover both.

More widely, on 7 July 2014, the Government announced an Inquiry which is to consider the extent to which public bodies and other non state institutions have taken seriously their duty of care to protect children from sexual abuse.

The Home Secretary has written to all chief constables to ask them to take on board the lessons from the Jay report into the failings in Rotherham, and from the rolling HMIC inspections into how forces are protecting children. The police have a national action plan to raise the standards in tackling child sexual exploitation so that they are providing a consistently strong approach to protecting vulnerable young people.

The pressure this creates for forces will be real and there need to be tough decisions in relation to deployment of resources in respect of operations, not only current but also cases of historical child sexual abuse.

#### **Key Facts and Statistics:**

- One in 20 children (4.8%) have experienced contact sexual abuse (Source: NSPCC 2011)
- At least 1,400 children were identified at risk of Child Sexual Exploitation in Rotherham between 1997 – 2013 [Source: Independent Inquiry into Child Sexual Exploitation in Rotherham (1997 – 2013)]
- 16,500 children were at high risk of child sexual exploitation between April 2010 and March 2011 (Source: Office of the Children's Commissioner 2012)
- 2,409 children and young people were confirmed victims of child sexual exploitation in gangs or groups in the 14 months from August 2010 to October 2011 (Source: Office of the Children's Commissioner 2012).

### **Supporting victims of CSE – wider work**

On 7 July 2014, the Government announced an Inquiry which will consider the extent to which public bodies and other non state institutions have taken seriously their duty of care to protect children from sexual abuse.

Victims must be able to come forward to report abuse to the police and get the support they need. If child abuse takes place, it must be thoroughly and properly investigated and those responsible arrested and brought to justice.

As part of a series of meetings that the Home Secretary is chairing in response to Rotherham the Government is looking at how best it can provide urgent support to victims.

The Secretary of State for Communities and Local Government and the Education Secretary have written to the Leaders of every Council with children's services responsibility in the country, asking them to review how they are dealing with exploitation locally. No Council can be complacent about the scale of the issue or the need to deal robustly with it. Ofsted<sup>1</sup> is conducting a review of arrangements in a number of Authorities and the Government will draw lessons from that work in developing best practice across the country.

Her Majesty's Inspectorate of Constabulary (HMIC) is currently conducting a rolling programme of national child protection inspections which will eventually give a detailed national picture of the role of police in child protection and specifically how effectively forces safeguard young people. These inspections are unannounced and the first inspection report, on Norfolk Constabulary, was published on 29 August.

The Government has ring-fenced nearly £40 million of funding up to 2015 for specialist local support services and national helplines. And it has committed funding of £1.72 million per year to part fund 87 Independent Sexual Violence Advisors posts. The Ministry of Justice is providing £4.4million per year until March 2016 to fund 86 rape support centres across England and Wales.

Supporting victims must be at the heart of the Government's response, which includes giving victims confidence to report crimes and to ensure they have access to adequate support and counselling.

### **Child Sexual Exploitation Action Plan**

Chief Constable Simon Bailey, of Norfolk Police, took on responsibility of the Child Protection and Abuse Investigations Business Area in February 2014. He is responsible for the Police's National Child Sexual Exploitation Action Plan which covers online and offline abuse and is a key measure within the policing strand of the National Group to tackle Sexual Violence Against Children and Vulnerable People, chaired by Norman Baker.

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<sup>1</sup> Ofsted is the Office for Standards in Education, Children's Services and Skills

The aim of the action plan is to improve partnership working, prevention and victim protection and support, and the pursuit of offenders. A draft report by Her Majesty's Inspectorate of Constabulary (HMIC) into online child exploitation criticised the lack of a nationally agreed approach to tackling online CSE.

Chief Constable Bailey leads Operation Hydrant, which was set up as a central coordination group to collate and share information, advice and best practice amongst forces that are investigating historic child abuse cases involving prominent individuals and institutions.

Operation Notarise is the operation between the National Crime Agency Child Exploitation and Online Protection (CEOP) command and the police, targeting online sharing of indecent images of children (IIOC) using peer-to-peer (P2P) networks. Over the past six months the CEOP has disseminated a number of intelligence packages about suspected offenders and passed those to forces across the UK. Simon Bailey and his office were involved in the coordination for this operation. Despite the success of Operation Notarise there have been a number of questions about whether the police have the capacity to deal with this crime type. CEOP and ACPO have taken steps to clarify the relationship between CEOP and the 43 forces in England and Wales. However HMIC identified a lack of understanding at local level about the two bodies' relative functions and responsibilities.

In 2012, CEOP received information from the Toronto Police as part of Project Spade, which related to the distribution of videos containing child abuse images. On Monday 15 September, Myles Bradbury pleaded guilty to 25 charges including sexual assault of a child and possession of indecent images of children.

### **Sexual exploitation of children online**

The Government created the National Crime Agency (NCA) to lead the fight against serious and organised crime. Its unique and unprecedented capability to co-ordinate law enforcement efforts has resulted in hundreds of children being safeguarded from abuse. Every NCA officer is required to undertake mandatory training in child protection. The NCA also has a leading and coordinating role across UK law enforcement, so is better able to mobilise and target collective efforts against child sexual exploitation.

#### **Key Facts and statistics:**

- In 2013 more than 1,600 individuals were prosecuted for crimes involving the possession, distribution or publication of indecent images of children online – a number which has increased year-on-year.
- Operation NOTARISE is the first of a range of measures to get to the heart of the problem. In July 2014, the NCA announced it had made 660 arrests. There will be more arrests as investigations progress.

- The Government is also building a single, secure database of all illegal images seized by the police and NCA which will enable better sharing of intelligence and reduce the resource burden for forces in investigating these crimes.
- The Government has also set up a UK-US taskforce to work with industry to develop technical solutions to tackle the problem. We will continue to draw on the brightest and best minds to stop the internet being used to abuse children.
- Alongside the focus on disruption and prosecution, we will continue to develop approaches to prevent people from engaging in this activity, increase our protection of children, and provide effective support to victims.

## **Background**

Other key priorities set out by the Prime Minister in his speech of July 2013 on the subject of the internet are:

- Maintaining good performance on blocking illegal images through work with the Internet Watch Foundation (IWF) and Internet Service Providers (ISPs).
- Changes to search results introduced by search engines (Google and Microsoft) to block images, videos and pathways to child abuse imagery.
- UK-US Taskforce to find new technological solutions to combat online child sexual exploitation by collaborating with the technology sector. Ideas generated at an event branded 'WePROTECT 2014' in May are now being developed further and will be reported back to the Taskforce in December 2014.
- Child Abuse Image Database (CAID): A national capability for collecting, assessing and storing indecent images of children (IIOC) for law enforcement agencies is being developed. The database will be operational by the end of 2014.

## **Protection of victims of trafficking and forced begging**

***The Committee asks what measures are taken to protect street children, victims of trafficking and forced begging.***

The Government is committed to stamping out this abhorrent crime, building on the UK's strong track record in supporting victims and fighting the perpetrators.

The Modern Slavery Bill<sup>1</sup>, which was published on 15 December 2013 and is currently before Parliament, when enacted, would give law enforcement the

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<sup>1</sup> [www.gov.uk/government/publications/draft-modern-slavery-bill](http://www.gov.uk/government/publications/draft-modern-slavery-bill)

tools to tackle modern slavery, ensure that perpetrators can receive suitably severe sentences for these appalling crimes, and enhance support and protection for victims.

To complement the Bill, the Government is taking non-legislative action to tackle modern slavery. This includes:

- trialling child trafficking advocates to give child victims more tailored support;
- establishing specialist multi-agency safeguarding and anti-trafficking teams at the border;
- reviewing the support that victims receive – through the National Referral Mechanism and the victim care contract; and
- making modern slavery a priority for the National Crime Agency (NCA). The NCA will use its intelligence, tasking and coordination functions to build a more comprehensive picture of the threat.

### **National Referral Mechanism (NRM) and support for victims**

The Home Office and Ministry of Justice jointly fund a national support service for adult victims of human trafficking in England and Wales. This provides extremely vulnerable victims of human trafficking with care and support. It also meets the Government's obligations under Article 12 of the European Convention on Action against Trafficking in Human Beings, and Article 11 of the European Directive on preventing and combating trafficking in human beings. It provides a minimum of 45 days support for those positively identified as victims.

This contract is delivered by The Salvation Army. The service is open to all eligible potential adult victims of human trafficking identified through referral to the National Referral Mechanism (NRM).

A review of the NRM is well underway to make sure it is working as effectively and supportively as possible. The review has a broad remit to cover the identification of victims, who should be eligible for support through the NRM, the collection, sharing and use of data, the decision making process, the support provided to victims and the governance of the NRM.

### **Child Victims of Prostitution – Conclusions XIX-4**

***The Committee recalls that under Article 7§10 children victims of sexual exploitation should not be prosecuted. Therefore, the Committee considers that the situation in the UK is not in conformity with Article 7§10 as children who are victims of prostitution can be subject to prosecution. The Committee asks how a child victim of sexual exploitation is defined and what guidance exists to protect children from involvement in prostitution.***

The position remains that it is an offence for someone to engage persistently in loitering or soliciting in the street for the purposes of prostitution. As with

most offences in the UK, this applies to children (aged 10 or over) as well as to adults.

There have been only a handful of prosecutions since 2000, when new guidelines on Safeguarding Children were issued for prosecutors. In practice children are rarely arrested for loitering or soliciting. This is in accordance with “*Safeguarding Children and Young People from Sexual Exploitation*”<sup>1</sup>, which was issued as supplementary guidance to “*Working Together to Safeguard Children*”<sup>2</sup>.

The Association of Chief Police Officers (ACPO) reports that, although rarely used, the power to arrest remains a helpful tool that can be used as a last resort in order to remove a child to a place of safety.

It is an offence, under Section 47 of the Sexual Offences Act 2003, for a person to pay for the sexual services of a child. Depending on the age of the child and the nature of the offending, the maximum penalty available for this serious offence is life imprisonment.

The Government would emphasise that although the offence remains on the statute books, both the Police and Crown Prosecution Service guidance is very clear that a child involved in prostitution should always be treated as a victim of abuse or sexual exploitation.

### **Crown Prosecution Service Policy and Guidance on child victims of prostitution and cases involving children and young people as victims and witnesses**

Crown Prosecution Service guidance<sup>3</sup> on children involved in prostitution includes the following extract:

“Children under 18 involved in prostitution should be treated as victims of abuse. See Guidance on Prosecuting Cases of Child Abuse elsewhere in the Legal Guidance.

When considering a child accused of prostitution, the child should be treated as a victim of abuse. Reference should be made to the policy document published by the Department of Children Schools and Families Working together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children published in 2006. The focus should be on those who exploit and coerce children. Only where there is a persistent and voluntary return to prostitution, and where there is a genuine choice, should a prosecution be considered. It will need to be borne in mind whether there was a genuine choice available to the child. The police should not issue children involved in prostitution with a warning or caution but remove them to a place of safety.

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<sup>1</sup> <https://www.education.gov.uk/publications/eOrderingDownload/00689-2009BKT-EN.pdf>

<sup>2</sup> <https://www.education.gov.uk/publications/eOrderingDownload/00305-2010DOM-EN.pdf>

<sup>3</sup> [www.cps.gov.uk/legal/p\\_to\\_r/prostitution\\_and\\_exploitation\\_of\\_prostitution/#a18](http://www.cps.gov.uk/legal/p_to_r/prostitution_and_exploitation_of_prostitution/#a18)

Those who use child prostitutes should be prosecuted under sections 47 - 51 of the Sexual Offences Act 2003. See guidance in the Rape and Sexual Offences Manual elsewhere in the Legal Guidance. It covers the prosecution of those who coerce, exploit and abuse children through prostitution. These offences carry a higher penalty.

Sections 47, 48, 49 and 50 of the Sexual Offences Act 2003 deal with paying for sexual services of a child; causing or inciting child prostitution or pornography; controlling a child prostitute or a child involved in pornography; and arranging or facilitating child prostitution or pornography respectively. Archbold 2010 20-155 to 20-162.

These offences are specifically designed to tackle the use of children in the sex industry, where a child is under 18. Children involved in prostitution are primarily victims of abuse.

In the above offences, a child is defined as someone under 18. Consent is irrelevant. A reasonable belief that the child is over 18 affords a defence if the child is 13 or over. There is no defence of reasonable belief if the child is aged under 13.

If there is sufficient evidence, the public interest will usually require a prosecution to take place if someone is considered to have used child prostitutes. Prosecutors are encouraged to consider prosecuting strategies without the need for the victim to give evidence in court.”.

Crown Prosecution Service (CPS) policy on prosecuting criminal cases involving children and young people as victims and witnesses can be viewed via the following link:

[www.cps.gov.uk/victims\\_witnesses/young\\_victims/children\\_young\\_policy.html](http://www.cps.gov.uk/victims_witnesses/young_victims/children_young_policy.html)

## **SCOTLAND**

### **Paragraph 10 – Special protection against physical and moral dangers**

The Scottish Government does not tolerate any form of child abuse and the wellbeing and safety of children and young people in Scotland is a key priority for the Scottish Government.

All children and young people have the right to be cared for and protected from harm, and to grow up in a safe environment which their rights and needs are respected. The National Guidance for Child Protection in Scotland<sup>1</sup>, which was recently refreshed, provides a clear definition of what abuse is as well as expectations for all those working with children and young people regarding identifying and acting on child protection concerns.

The recently refreshed National guidance contains a strengthened section on Child Sexual Exploitation, which is defined as follows.

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<sup>1</sup> <http://www.scotland.gov.uk/Topics/People/Young-People/protecting/child-protection>

The sexual exploitation of children and young people is an often hidden form of children sexual abuse, with distinctive elements of exploitation and exchange. In practice, the sexual exploitation of children and young people under 18 might involve young people being coerced, manipulated, forced or deceived into performing and/or others performing on them, sexual activities in exchange for receiving some form of material goods or other entity (for example, food, accommodation, drugs, alcohol, cigarettes, gifts, affection). Sexual exploitation can occur through the use of technology and without the child's immediate recognition.

In all cases those exploiting the child/young person have power over them by virtue of their age, gender, intellect, physical strength and/or economic or other resources. Violence, coercion and intimidation are often common features; involvement in exploitative relationships being characterized in the main by the child/young person's limited availability of choice resulting from their social, economic and/or emotional vulnerability.

In some cases, the sexual activity may just take place between one young person and the perpetrator (whether an adult or peer). In other situations a young person may be passed for sex between two or more perpetrators or this may be organised exploitation (often by criminal gangs or organised groups).

Sexual exploitation is abuse and should be treated accordingly. Practitioners should be mindful that a 'dual approach' is key in tackling CSE; whilst a young person must be both engaged with and supported, there must also be a focus on proactive investigation and prosecution of those involved in sexually exploiting the young person.

### **Protection from other forms of exploitation**

Human trafficking is a heinous crime which we will not tolerate in Scotland. The Scottish Government is therefore working closely with relevant partners to share information, to make Scotland a hostile place for traffickers and to better identify and support victims.

The Scottish Government has made progress on meeting the actions agreed at the Human Trafficking Summit held in October 2012, including legislative proposals for a human trafficking statutory aggravation.

Human Trafficking is an international and cross border crime which can only be solved through working in partnership. The Scottish Government is therefore working with the UK Government to explore the potential for the Modern Slavery Bill to cover Scottish interests.

Combating child trafficking and supporting its victims is a priority for the Scottish Government, and is the joint responsibility of the Scottish Government, the UK Government, the Police, local authorities and support agencies.

Child trafficking has been firmly embedded within the National Guidance for Child Protection, which makes clear that it is essential to take timely and decisive action where a child or vulnerable young person is, or may be, at risk of significant harm in relation to trafficking.

In 2013 the Scottish Government developed and published our Anti-Child Trafficking Toolkit to improve the way risk assessment and identification takes place for child trafficking, based on the models developed by the London Safeguarding Children Board and Glasgow City Council. It was published in September 2013.

## **NORTHERN IRELAND**

The situation as described for Great Britain applies with the exception of the following.

### **Article 7, Paragraph 2**

The equivalent legislative instruments to those in Great Britain are the

- the Health and Safety at Work (Northern Ireland) Order 1978 as amended;
- the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 as amended (S.R. 2000 No. 388);
- the Working Time Regulations (Northern Ireland) 1998 as amended (S.R. 1998 No. 386);
- Working Time (Amendment) Regulations (Northern Ireland) 2003;
- the Ionising Radiations Regulations (Northern Ireland) 2000 (S.R. 2000 No.375);
- the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999, as amended (S.R. 1999 No. 305);
- the Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999, as amended (S.R. 1999 No. 304); and
- The Agriculture (Safety of Children and Young Persons) Regulations (Northern Ireland) 2006.

### **Article 7, Paragraph 3**

In Northern Ireland, The Children Order (Northern Ireland) 1995 and the Employment of Children Regulations (Northern Ireland) 1996 (as amended) require that all employers of children of compulsory school age must apply to the Education and Library Board in which the child resides for a permit. The Children (Public Performances) Regulations (Northern Ireland) 1996 requires all production companies to apply for a licence at least 30 days in advance of the first performance. The arrangements are that the Education Welfare Service within each Education and Library Board deals with applications for employment cards and performance licences which are used to monitor the employment of children and enable checks to be made on working children.

The Education Welfare Service has a responsibility to ensure that working children are registered.

### Article 7, Paragraph 5

**Statistics:** All persons (aged 16 - 18) on adult rates, whose pay was unaffected by absence.

#### Northern Ireland Annual Survey of Hours and Earnings

All employees (Full and Part time aged 16 - 18) **on** adult rates, whose pay was unaffected by absence.

	2013 (Provisional)		2012 (Revised)		2011 (Revised)		2010 (Revised)	
	Count	Mean	Count	Mean	Count	Mean	Count	Mean
Male	4	£6.34	5	£5.67	5	£5.97	4	£6.32
Female	5	£5.82	6	£5.79	4	£5.64	6	£5.70
Group total	9	£6.04	11	£5.73	9	£5.81	10	£5.95
	2009 (Revised)		2008 (Revised)		2007 (Revised)		2006 (Revised)	
	Count	Mean	Count	Mean	Count	Mean	Count	Mean
Male	4	£5.55	6	£5.78	8	£5.51	8	£5.89
Female	6	£5.51	9	£5.75	8	£5.18	11	£5.42
Group total	10	£5.53	15	£5.76	16	£5.34	19	£5.62

All employees (Full and Part time aged 16 - 18) **not on** adult rates, whose pay was unaffected by absence.

	2013 (Provisional)		2012 (Revised)		2011 (Revised)		2010 (Revised)	
	Count	Mean	Count	Mean	Count	Mean	Count	Mean
Male	1	£5.04	2	£5.58	3	£4.83	3	£5.75
Female	2	£5.45	2	£5.05	3	£4.79	3	£4.53
Group total	3	£5.26	4	£5.32	6	£4.81	6	£5.19
	2009 (Revised)		2008 (Revised)		2007 (Revised)		2006 (Revised)	
	Count	Mean	Count	Mean	Count	Mean	Count	Mean
Male	2	£4.71	2	£4.18	3	£4.12	3	£3.86
Female	1	£5.40	2	£4.48	2	£4.12	3	£4.16
Group total	4	£4.93	4	£4.30	5	£4.12	6	£4.02

Hourly earnings excluding overtime.

The survey provides information on earnings and hours worked in April of the particular year.

ASHE estimates are published during reference year and subsequently a final revision to the data is published the following year.

### **Article 7, Paragraph 9**

4. The corresponding Northern Ireland Regulations are the Control of Lead at Work Regulations (Northern Ireland) 2003, as amended (S.R. 2003 No. 35).

5. In relation to the response to Question 2, in Northern Ireland, the Employment Medical Adviser has the same role as that of a Medical Inspector.

### **Article 7, Paragraph 10**

The Department of Health Social Services and Public Safety (DHSSPS) is currently revising Government's key children's safeguarding policy guidance '*Co-operating to Safeguard Children*' to ensure that it is reflective of changes in legislation, guidance, policies and procedures and changes in service delivery structures since it was published in 2003. It is intended the revised document will provide the overarching policy framework for all relevant Departments, their agencies and other key stakeholders in respect of working together to safeguard children in Northern Ireland.

The establishment of the new Safeguarding Board for Northern Ireland and associated statutory duty of all relevant agencies to co-operate will be reflected in the revised policy and in the document.

An independently-chaired, statutory Safeguarding Board for Northern Ireland (SBNI) was established in September 2012. Membership of the SBNI comprises senior representatives from the key safeguarding agencies such as police; probation; social services etc. The SBNI replaced the former Area Child Protection Committees. Five Safeguarding Panels have also been established to support the SBNI and these replaced the former Child Protection Panels. The SBNI has a range of statutory functions; the objectives of the SBNI are to secure effective co-ordination of what is done by each person or agency represented on the Board for the purpose of safeguarding and promoting the welfare of children. The SBNI is also required to acknowledge the importance of the role of parents and carers in safeguarding and promoting children's welfare.

The Safeguarding Board for Northern Ireland (SBNI) has issued a Child Sexual Exploitation (CSE) Definition and Guidance for Professionals working in a safeguarding capacity (e.g. health and social care, policing, youth justice and education) in NI. This definition is as follows:

*'Child sexual exploitation is a form of sexual abuse in which a person(s) exploits, coerces and/or manipulates a child or young person into engaging in some form of sexual activity in return for something the child needs or desires and/or for the gain of the person(s) perpetrating or facilitating the abuse.'* (SBNI 2014, adopted from CSE Knowledge Transfer Partnership NI).

“Co-operating to Safeguard Children” published in 2003 is the Northern Ireland Government’s key children’s safeguarding policy guidance. This is currently in the process of being revised to reflect changes in legislation, guidance, policies and procedures and changes in service delivery structures since it was published in 2003. A definition for exploitation (including sexual exploitation of children and young people) is currently being considered during the current revision of “Co-operating to Safeguard Children” published in 2003. The target for publication of the revised guidance is 2015.

### **Child Victims of Prostitution**

The law in Northern Ireland in relation to prostitution is the same as in England and Wales. An offence is committed if a person persistently loiters or solicits in a street or other public place for the purposes of selling sex. There is no lower age limit attached to this offence but it is an offence which is rarely prosecuted and one which would very unlikely be proceeded with against a person under 18. Other offences in the Sexual Offences Order (NI) 2008, like the Sexual Offences Act 2003, protect child victims of exploitation through prostitution and pornography.

The Northern Ireland Government will soon be reviewing the law on prostitution and offences relating to selling sex are likely to form part of that review.

### **Health Education**

The Board of Governors of every grant-aided school in Northern Ireland has a duty to provide a balanced curriculum, which promotes the spiritual, moral, cultural, intellectual and physical development of pupils and prepares them for the opportunities, responsibilities and experiences of adult life. Relationships and sexuality education (RSE) and education about drugs, alcohol, and smoking are taught mainly through the Personal Development strand of the statutory Areas of Learning, Personal Development and Mutual Understanding at primary level and Learning for Life and Work at post-primary level.

### **Relationships and Sexuality Education**

The Department recognises that good emotional health and well being is important to ensure that a young person can reach their full learning potential. The Department of Education has identified a number of issues that can affect the wellbeing of young people such as Eating Well, Body Image, Alcohol, Drugs and Solvents, Relationships and Coping with Stress / Worry. Homework diary inserts, leaflets and posters have been developed to signpost children and young people to sources of support. These have been issued to schools and youth settings and are also available on the Department’s website in a range of languages and can be viewed at:

<http://www.deni.gov.uk/index/pupils-and-parents/pupils/your-emotional-health-and-wellbeing.htm>

The Department of Education issued a circular in August 2001 on Relationships and Sexuality Education (RSE). The accompanying teacher guidance material produced by the Council for the Curriculum, Examinations and Assessment (CCEA), helps schools develop their own policy on RSE and provide a programme of RSE appropriate to the needs and maturity of their pupils. A further circular was issued in January 2010 to make schools aware of Equality Commission guidance on Eliminating Sexual Orientation Discrimination. Furthermore, work is being progressed during 2014/15 to update the guidance and review available resources for teachers.

### **Drugs, Alcohol and Tobacco Education**

The revised curriculum includes the area of Personal Development (PD) & Mutual Understanding/Learning for Life and Work, which provides opportunities for young people to develop the knowledge, understanding and skills to deal with issues such as drugs alcohol and tobacco. Schools must also have a drugs education policy and publish details of this in their prospectus.

In May 2004, the Department of Education issued a circular, along with comprehensive guidance produced by a CCEA-led working group, to all schools on drawing up a drugs and alcohol policy and drug and alcohol education programme and on managing suspected drug and/or alcohol related incidents. Work is being progressed during 2014/15 to update this guidance. The Education and Training Inspectorate continues to monitor drugs education provision in schools, youth clubs and FE colleges.

Education and Library Boards receive funding as part of their overall block grant to enable them to support teachers in delivering drugs and alcohol education as part of the Personal Development strand of the revised curriculum in schools. Funding is also provided to each of the five Education and Library Boards and the Youth Council to support youth provision which includes addressing drugs and alcohol awareness sessions for young people.

As stated above the Department provides advice and sources of help on these issues, including posters, leaflets and diary inserts.

## **ISLE OF MAN**

### **Article 7, Paragraph 2**

#### **Question 1**

The position remains as previously described except that in April 2010 the Department of Education was renamed as the Department of Education and Children (DEC).

#### **Question 2**

The position remains largely as previously described. However, the DEC has been working with the Child Employment Unit, School of Social Sciences University of West Scotland to review the effectiveness of the current Regulations. This project continues and it is expected that it will be concluded in June 2015. The DEC will then be able to review the need for any changes to the Regulations concerning the employment of children with the benefit of detailed statistics on the number of children who work and the level compliance of employers.

### **Article 7, Paragraph 3**

#### **Question 1**

The position is as previously described.

#### **Question 2**

Authorised officers make visits to schools and employers to ensure compliance with the legal framework.

### **Article 7, Paragraph 5**

#### **Question 1**

The position is largely as previous described. The Minimum Wage Act 2001, the Minimum Wage Regulations 2001, the Minimum Wage (Young Workers etc.) Regulations 2007 and the Minimum Wage (Single Hourly Rate) Regulations 2013 provide the current legislative framework in the Isle of Man.

#### **Question 2**

Following a reorganisation of the Isle of Man Government in 2010 the functions of the former Department of Trade and Industry which relate to the minimum wage were taken over by the newly created Department of Economic Development.

The Department of Economic Development supports a number of vocational programmes aimed at supporting young people into sustained employment.

Approved programmes may attract a weekly allowance to support the young person during the period of placement. This is currently £90 per week, with additional support also available for travel on public transport where necessary.

### **Question 3**

As at 31 December 2013, for a person who had reached the minimum school leaving age but was under 17 years old, the minimum rate was £4.67 per hour. A minimum rate of £5.24 per hour applied to workers aged 17 and the minimum rate for workers aged 18 and over was £6.40 per hour, unless they were workers undergoing training when the rate of £5.24 per hour also applied.

Although an annual Earnings Survey is undertaken (a sample of employees is drawn at random from income tax records and a questionnaire is sent to the last known employer of each of the selected employees) this survey does not include employees on junior or trainee rates of pay. The numbers of persons in the age range from 16 to 18 years who are on adult rates of pay is considered to be too small to be used for statistical purposes.

The 2011 Census found that the numbers of economically active persons aged 16 -19 in employment 1,893 (1005 male and 888 female). Included within these numbers, 257 such persons were unemployed (149 male, 108 female).

### **Article 7, Paragraph 6**

#### **Questions 1, 2 & 3**

The position is as previously described.

### **Article 7, Paragraph 9**

#### **Questions 1, 2 & 3**

The position is as previously described.

### **Article 7, Paragraph 10**

#### **Question 1**

The position is as previously described with the following developments.

The Organised and International Crime Bill, which was referred to in the previous report, was enacted as the Organised and International Crime Act, 2010 and came into force in July 2010.

The Children's Bill, which was referred to in the previous report, was not progressed. The Safeguarding Children Board is now the Protecting Children Board.

### **Question 2**

As referred to under Article 7§2, the Department of Education and Children is currently working with the University of West Scotland. This work should enable the Department to establish a definitive list of employers and by closer monitoring of the employment being offered to children it will be in a stronger position to ensure no child is being exposed to either physical or moral danger.

## **Article 8 – The right of employed women to protection**

### **UNITED KINGDOM**

#### **Paragraph 1**

#### **Questions 1- 2**

The position remains as previously described, with the following developments.

#### **The right to maternity leave**

##### **Northern Ireland**

The Employment Rights (Northern Ireland) Order 1996 (as amended) provides for protection from detriment by any act, or any deliberate failure to act, by the employer done for reasons including seeking to take, or avail of the benefits, of ordinary maternity leave; and taking or seeking to take additional maternity leave.

The Maternity and Paternity Leave etc. Regulations (Northern Ireland) 1999<sup>1</sup> also provide that an employee will be unfairly dismissed if the reason for dismissal relates to those matters set out above. The regulations also set out the details of the employee's right to return to work, and specify the application of terms and conditions during periods of additional maternity leave. These provisions amount to legal safeguards which exist to avoid undue pressure from employers.

### **UNITED KINGDOM**

#### **The right to maternity benefits**

Statutory Maternity pay (SMP) is paid by the employer up to a maximum of 39 weeks. However, the Government reimburses employers 92% of the SMP they pay out (or 100 % plus 3 compensation in the case of small employers). Thus the lion's share of expenditure is borne by the Government.

The rate of SMP over the reporting period is as follows:

- a) For the first 6 weeks SMP is paid at 90% of the woman's average weekly earnings (no upper limit).
- b) The following 33 weeks are paid at that 90% rate or, if lower, a standard rate. The standard rates for SMP are: April 2010 - £124.88; April 2011- £128.73; April 2012 - £135.45; April 2013 - £136.78.

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<sup>1</sup> <http://www.legislation.gov.uk/nisr/1999/471/contents/made>

Women who do not qualify for SMP may qualify for Maternity Allowance (MA). This is funded by the Government.

To qualify for MA the woman must:

- a) have been employed and or self-employed for at least 26 weeks in the 66 weeks up to and including the week before the baby is due. This is known as the “test period”; and
- b) have average weekly earnings of at least £30 (Maternity Allowance Threshold) over any 13 weeks in the test period.

MA is paid at 90% of the woman’s average weekly earnings subject to a maximum weekly rate equal to the standard weekly rate of SMP – see rates above.

To fully comply with EU Directive 2010/41, The Social Security (Maternity Allowance) (Participating Wife or Civil Partner of Self-Employed Earner) Regulations 2014<sup>1</sup>, which came into effect from 1 April 2014, introduce MA payments for pregnant women who are neither employed nor self-employed, but regularly take part in activities related to the business of their self-employed spouse or civil partner. This change applies to women with an expected date of childbirth on or after 27 July 2014.

These women must not be a partner or an employee of the business. The payment is for 14 weeks and will enable them to take time out from the activities they perform around the end of their pregnancy and following childbirth. Therefore the qualifying conditions are not based on earnings or employment but on regularly taking part in activities relating to the business of their self-employed spouse or civil partner for which they receive no income.

To qualify the woman must:

- a) not be entitled to SMP or MA for 39 weeks for the same pregnancy; and
- b) be due to give birth on or after 27 July 2014; and
- c) have been taking part in activities related to the business of her self-employed spouse or civil partner for at least 26 weeks in the 66 weeks up to an including the week before the baby is due (known as the ‘test period’) and;
- d) not be an employee or partner in the business; and
- e) not be employed or self-employed earner for the same 26 weeks; and

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2014/606/made>

her spouse or civil partner, for the same 26 weeks must :

- f) be self-employed and be working as a self-employed earner; and
- g) have liability for Class 2 National Insurance Contributions (self-employed earner's contributions)

MA for these women is payable at the weekly rate of £27, which is equivalent to the minimum rate payable for MA.

***The Committee considers that the standard rates of both SMP and MA are inadequate. The Committee asks for evidence that the level of maternity benefit is adequate and asks how the rates compare to average and minimum wages.***

The Government has made significant and beneficial changes to maternity payments over the last few years and now spends around £2 billion a year on maternity payments to support pregnant women and new mothers. In comparison with 1997 women are able to receive more than £3,000 extra in maternity payments and have the opportunity to stay off work for longer giving them more time to decide on the best balance between work and their family commitments. The UK has opted to provide maternity pay and leave well above the minimum level of statutory sick pay set by the EU Directive 92/85/EEC on the protection of pregnant workers and workers who have recently given birth or are breastfeeding. The standard rates of Statutory Maternity Pay and Maternity Allowance are 55% above the minimum level set by the Directive.

The hourly rate of the minimum wage for workers aged 21 years or more in the UK is £6.31. For previous reporting periods the age range was 22 or over, but in 2010 this was reduced to 21 or over. Women in receipt of the minimum wage would receive SMP worth 66% of their wages over the 39 week payment period for SMP. If the same worker were to receive MA, her MA would be worth 62% of her wages over the 39 week period. Average female wages in the UK were £327.50 a week in 2013<sup>1</sup>. The UK Government has increased spending on maternity benefits by extending the period and increasing the standard rate. The Government believes that this is the best way to help low paid pregnant working women. It takes the view that to increase spending on earnings related benefit alone would simply mean that most of the money in available resources would go to higher earners which would not be a progressive measure.

The UK provides one of the longest periods of paid leave in the European Union, up from 18 weeks in 2002 to 39 weeks now. In 2008<sup>2</sup>, about 90% of mothers took more than 26 weeks off work on maternity leave with 88% of

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<sup>1</sup> Source: 2013 Annual Survey of Hours and Earnings, Office for National Statistics. Figure for median all female earnings, including overtime.

<sup>2</sup> Source: Maternity and Paternity Rights and Women Returners Survey 2009/10 (DWP research report No 777)

women taking all of their paid maternity leave; 77% of mothers returned to work within 12 to 18 months of having their child and, after maternity leave, the vast majority of women (84%) returned to work with the same employer. Only 14% of women take less than 26 weeks off work on maternity leave.

## **ISLE OF MAN**

### **Article 8, Paragraph 1**

#### **Question 1**

The position is as previously described.

#### **Question 2**

Detailed information concerning Maternity Allowance is provided on the Isle of Man Government website at:

<http://www.gov.im/categories/benefits-and-financial-support/>

#### **Question 3**

The number of women receiving the Maternity Allowance at 31 December 2013 was 458.

The rates of the allowance per week in the last two years are as follows:

	<b>April 2012</b>	<b>April 2013</b>
Employed earners (maximum)	£179.85	£179.85
Self-employed earners (standard)	£135.45	£136.78

## **Article 16 – The right of the family to social, legal and economic protection**

### **UN Convention on the Rights of the Child**

The Government submitted the UK's 5th Periodic Review Report on the application of the UN Convention on the Rights of the Child in March 2014. The report sets out how successful the UK has been at implementing the UNCRC since 2008. A copy of the report is attached as **Appendix 16A**.

### **Legislation**

#### **The Children and Families Act 2014**

The Children and Families Act, 2014<sup>1</sup> gained Royal assent on 13 March 2014. The Act will reform services for vulnerable children - reflecting the Coalition Government's deep determination to give every child, whatever their start in life, an equal chance to make the best of themselves.

Adoption reforms will help the 6,000 children who need loving homes to be adopted. The Government's reforms to special educational needs will see a system introduced which is designed around the needs of children and will support them up to the age of 25.

For children coming into the care system, the new 26-week time limit for care proceedings will reduce unnecessary delays. Virtual school heads will champion their education; children in residential care will live in safer, better quality homes and care leavers will have the option to stay with their foster families until they turn 21

The Act will also make it easier for families to access more flexible childcare, and give greater support to young carers.

The act includes a number of new measures to protect the welfare of children, including:

- changes to the law to give children in care the choice to stay with their foster families until they turn 21;
- a new legal duty on schools to support children at school with medical conditions better;
- making young carers', and parent carers', rights to support from councils much clearer;
- reforms to children's residential care to make sure homes are safe and secure, and to improve the quality of care vulnerable children receive;
- a requirement on all state-funded schools - including academies - to provide free school lunches on request for all pupils in reception, year 1 and year 2; and

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<sup>1</sup> [www.legislation.gov.uk/ukpga/2014/6/contents](http://www.legislation.gov.uk/ukpga/2014/6/contents)

- amendments to the law to protect children in cars from the dangers of second-hand smoke.

The Act will also help people to better balance their work and home life with the following measures:

- from April 2015, mothers, fathers and adopters can opt to share parental leave around their child's birth or placement. This gives families more choice over taking leave in the first year - fathers and mothers' partners can take up to a year, or parents can take several months at the same time;
- from 1 October 2014, prospective fathers or a mother's partner can take time off to attend up to 2 antenatal appointments;
- adoption leave and pay will reflect entitlements available to birth parents from April 2015 - no qualifying period for leave; enhanced pay to 90% of salary for the first 6 weeks; and time off to attend introductory appointments. Intended parents in surrogacy and 'foster to adopt' arrangements will also qualify for adoption leave and pay;
- extending the right to request flexible working to all employees from 30 June 2014; and
- the current statutory procedure, through which employers consider flexible working requests, will be replaced by a duty on employers to consider requests in a 'reasonable' manner.

## **Social Protection of Families**

### **Housing for Families**

***In the previous Conclusions, the Committee refers to the Housing Green Paper, which was published in 2007 and which set out the previous Government's plan to deliver 240,000 additional homes per year by 2016. It includes action to offer new and improved options to social tenants, provide better conditions and more choice for those who rent with decent homes for all social tenants and to reduce homelessness. The Committee asks for information on the practical impact of this government statement.***

In February 2013, the Coalition Government published the Guide 'Social Housing: what choices do I have?', which sets out the choices that exist for nearly four million households in England. The guide covers some of the choices social tenants have about social housing, where to get more information and how to complain when those choices are not offered. The guide can be viewed via the following link:

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/85870/130219\\_Social\\_Housing\\_Choice\\_Framework\\_final\\_.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85870/130219_Social_Housing_Choice_Framework_final_.pdf)

The number of non-decent local authority homes has reduced from 47.2% in April 2001 to 6.5% in Apr 2013. The Government is providing funding amounting to £1.6 billion to local authorities between 2011 -15 to tackle the backlog of non-decent homes. In the Government's spending review of 2013, a further £160m has been allocated for 2015/2016 to ensure that by April

2016 the backlog of non-decent council homes in each local authority represents no more than 10% of the total stock. At April 2013 only 1.1% of social rented stock owned by Private Registered Providers (PRPs) did not meet the Decent Homes Standard. £0.5bn in gap funding was given by government to enable PRPs to take on negative value stock from local authorities to allow these homes to be brought up to standard.

If tenants are not satisfied with the way their local authority or PRP is performing against the Standard, they can make a formal complaint against the authority. If, after this, they remain dissatisfied they can ask their local Member of Parliament, local councillor or a recognised tenant panel to help. If none of these parties are able to resolve the issue directly, the tenant can refer the case to the Housing Ombudsman<sup>1</sup>. The Ombudsman can also consider complaints raised directly, but only after 8 weeks have passed since the Landlord's own complaints procedure has been completed.

Almost 200,000 affordable homes have been delivered in England since 2010<sup>2</sup>. The Government's affordable homes programme is on track to deliver 170,000 new affordable homes between 2011 and March 2015, with £19.5 billion of public and private funding. Over 125,000 affordable homes have already been delivered.<sup>3</sup> A further £23 billion will help ensure another 165,000 new affordable homes are provided between 2015 and 2018. This will be the fastest rate of affordable house building for at least 20 years.<sup>4</sup>

This Government has invested over £500 million to tackle and prevent all forms of homelessness over the spending review period (2010 -14). The homelessness legislation in England provides one of the strongest safety nets in the world for families with children and vulnerable people who become homeless through no fault of their own. In addition to the statutory protections offered by the legislation, homelessness prevention work by local authorities identifies problems early on and resolves them before they become a homelessness crisis. Preventing homelessness in this way means families and vulnerable people do not need to experience the stress of a homelessness crisis. In 2012/13, 202,400<sup>5</sup> households were helped in this way. For example:

- over 7,000 Sanctuary Scheme installations to enable victims of domestic violence remain safe in their own homes;
- debt advice to over 11,000 to help better manage budgets; and
- over 3,000 cases of family mediation helping young people stay with their parents.

On 10 June 2014 the Government announced that a further £65m of funding

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<sup>1</sup> <http://www.housing-ombudsman.org.uk/>

<sup>2</sup> HCA, GLA delivery, (including FirstBuy) and other sources in 2010/11 and 2011/12 plus HCA/GLA delivery in 2012/13.

<sup>3</sup> DCLG Affordable Housing Supply, 2012-13, DCLG; Affordable housing starts and completions funded by the HCA and GLA, April 2013 to March 2014 (12 June 2014).

<sup>4</sup> DCLG Live tables (Table 1009)

<sup>5</sup> [www.gov.uk/government/publications/homelessness-prevention-and-relief-england-2012-to-2013](http://www.gov.uk/government/publications/homelessness-prevention-and-relief-england-2012-to-2013)

across Whitehall is being offered to councils and other organisations to tackle homelessness around the country and to ensure that vulnerable people can access a range of support and lead independent lives. The funding will support:

- the Help for Single Homeless Fund that will improve council services for single people facing the prospect of homelessness;
- the Fair Chance Fund, an innovative “payments by results” scheme, that will provide accommodation, education, training and employment opportunities for around 2,000 of our most vulnerable young homeless people;
- the Homelessness Change programme that will provide tailored temporary hostel accommodation for rough sleepers to get them off the streets and transform their lives through health, training and education facilities;
- the Platform for Life Fund that will provide shared accommodation for young people at risk of homelessness so they have a stable platform for work and study; and
- the Homelessness Gold Standard scheme that will help councils to improve frontline housing services for homeless families and single people.

### **Gypsy Traveller Accommodation**

***The Committee concluded that the situation in the United Kingdom is not in conformity with Article 16 of the 1961 Charter on the ground that the right of Gypsy/Traveller families to housing is not effectively guaranteed***

The Government is very concerned about the poor social outcomes of Gypsy and Traveller communities. The following steps were taken: the Secretary of State for Communities and Local Government chaired a cross-governmental ministerial working group set up in 2010 to look at what the Government could do to tackle these inequalities. The working group published a progress report in April 2012 that includes 28 commitments that will help mainstream services work better for Gypsies and Travellers particularly in health and education, but also in tackling hate crime against Gypsies and Travellers and improving their interaction with the criminal justice system. The Government is reviewing the progress made against those commitments and will be publishing a further progress report in due course.

<https://www.gov.uk/government/publications/reducing-inequalities-for-gypsies-and-travellers-progress-report>

As far as encouraging site provision is concerned, the Government is encouraging local authorities to provide appropriate sites for travellers, in consultation with local communities. The Government’s Planning Policy for Traveller Sites sets out the Government’s aim to increase the amount of authorised traveller site provision in appropriate locations to address historic undersupply and meet current and future site needs. The policy states that local authorities should objectively assess their own traveller site needs and identify a suitable five-year supply of traveller sites to meet their site needs.

This is consistent with national planning policy.

<https://www.gov.uk/government/publications/planning-policy-for-traveller-sites>

Since April 2011 local authority traveller sites have been included in the Mobile Homes Act 1983. This means that those living on authorised traveller sites have improved protection against eviction and a secure home in line with residents of other residential mobile home sites.

To support councils to meet their traveller site needs and deliver increased authorised site provision, the Government has made available £60 million in Traveller Pitch Funding to help councils and housing associations build new traveller sites. This is currently forecast to deliver almost 700 new and 300 refurbished pitches by April 2015.

<http://www.homesandcommunities.co.uk/ourwork/traveller-pitch-funding>

Traveller pitches also attract a New Homes Bonus (council tax match funding) in exactly the same way as other forms of housing. In addition, the Government funded training to support councillors with their leadership role around traveller site provision; including advice on dealing with the controversy that can sometimes accompany planning applications for traveller sites. Nearly 1,000 Councillors and council officials have benefitted from this training.

This support for authorised traveller pitches goes hand in hand with action against unauthorised traveller sites as unauthorised development and encampments can fuel community tensions and undermine public trust in the system as a whole. In the Localism Act, 2011 the Government introduced provisions in England to allow for an appeal against either enforcement or a retrospective planning application, not both. In 2013 the Government removed a previous restriction on the use of Temporary Stop Notices that prevented local authorities in England taking enforcement action against a caravan used as a main residence. To further assist local authorities the Government sent Council Leaders a summary of the existing strong enforcement powers available to them to deal with illegal and unauthorised sites.

<https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments-a-summary-of-available-powers>

Since Planning Policy for Traveller Sites was introduced in 2012, the Government has become increasingly concerned that it is not providing sufficient protection for the Green Belt and the countryside; and that planning rules are not applied fairly and equally to everyone. The Government therefore published consultation proposals in September 2014 that seek to ensure transparency and fairness in the planning system and to ensure the Green Belt and other sensitive areas are properly protected.

<https://www.gov.uk/government/consultations/planning-and-travellers-proposed-changes-to-planning-policy-and-guidance>

## **WALES**

### **Housing**

In 2012, the Welsh Government set out an ambitious programme of legislative and non-legislative action to help people to meet their housing needs. The approach is based on three strategic objectives, namely more homes, better homes, and better housing related services.

In late 2013, a Housing Bill was introduced and, subject to it being passed by the National Assembly for Wales, will bring benefits for many people. Amongst other things, it will improve the conditions for people who rent their home from a private landlord. It will place a new duty on local authorities to do more to prevent homelessness in the first place, which will result in more help for more people who are homeless or who are at risk of becoming homeless. The Bill will also ensure more is done to meet the needs of Gypsy and Traveller communities (see below).

In 2015, the Welsh Government will bring forward proposals to improve the arrangements for renting homes in Wales. The improvements were set out in a White Paper (May 2013). The proposals will simplify the law for renting a home to make the whole housing system more effective and more flexible in responding to housing and housing market challenges. It will result in benefits for tenants and landlords alike.

Increasing Housing Supply is a priority for the Welsh Government and that includes both affordable homes and market homes. We have taken a number of actions to support this priority, including entering a Housing Supply Pact with Community Housing Cymru to support an increased target of an additional 10,000 affordable homes in this term of Government. To support this further we have launched the Housing Finance Grant which is a £130 million investment that will deliver more than 1,000 affordable homes for rent in the next two years.

Sixty per cent of social housing in Wales, some 134,000 homes, now meet the Welsh Housing Quality Standard. This means that thousands of our poorest families now live in safe, secure homes. We have targeted 100% of these homes to meet the standard by 2020. We are also currently reviewing standards in new affordable housing, recognising that we need to provide housing that is appropriate and accessible but we are able to maximise delivery.

The Welsh Government has now established Help to Buy - Wales Shared Equity scheme, which is a £170 million initiative supporting the construction and sale of 5,000 homes across Wales, providing a welcome boost to the economy by stimulating the building of new homes.

### **Gypsy Traveller Accommodation**

The Welsh Government introduced the Housing (Wales) Bill in November

2013, which includes a proposed duty upon local authorities to provide Gypsy and Traveller sites where there is unmet need. This need will be identified through Gypsy and Traveller Accommodation Assessments (GTAAAs). The Housing (Wales) Bill restates the duty to undertake GTAAAs that was previously included in the Housing Act 2004. However, the new Bill would also require local authorities to submit their GTAAAs for Welsh Ministers' scrutiny before adoption. If this legislation is adopted, these duties are expected to commence in January 2015. This duty seeks to address the shortfall in authorised Gypsy and Traveller sites in Wales.

In July 2013, the Welsh Government also implemented Section 318 of the Housing and Regeneration Act 2008, which brings local authority Gypsy and Traveller sites within the scope of 'protected sites' under the Mobile Homes Act 1983. These provisions have since been restated in the Mobile Homes (Wales) Act 2013. This legislation will improve security of tenure for Gypsies and Travellers living on these sites as it introduces necessary procedural safeguards to eviction.

The Welsh Government's Travelling to a Better Future: Gypsy and Traveller Framework for Action and Delivery Plan states our aims and proposed actions to ensure that Gypsies and Travellers can access culturally appropriate accommodation in Wales. As part of this process, the Managing Unauthorised Camping guidance was revised and published in December 2013 to provide assistance to local authorities when resolving these camps and to emphasise the importance of authorised sites.

The Welsh Government also provides the Gypsy and Traveller Sites Capital Grant, which has provided over £7.8m for the refurbishment of existing sites and development of new sites between 2011 and 2015. One new local authority site has been constructed and 44 separate refurbishment projects have been completed on existing sites during this period.

## **SCOTLAND**

### **Housing for Families**

The supply of new affordable housing remains a high priority for the Scottish Government. The Scottish Government is committed to delivering at least 30,000 affordable homes over the lifetime of this parliament. At least 20,000 of the 30,000 affordable homes will be for social rent, which includes at least 5,000 council houses.

From April 2011 to June 2014, the Scottish Government has delivered over 21,300 affordable homes – 15,088 of these are for social rent and this represents 75% of the social rent target.

From 2012–2013, a new three-year resource planning approach was adopted, and each council has been given a combined three-year resource planning assumption through to March 2015. This enables each of the 32 councils to exercise its strategic role more flexibly and to put forward to Scottish

Government strategic local proposals for social and affordable housing developments, based on their Local Housing Strategy.

In the three years to 2014-15, the Scottish Government plans to invest £970 million in affordable housing, and in 2015-16 will invest a further £390 million. Over the lifetime of this Parliament (2011-12 to 2015-16), the Scottish Government plans to spend over £1.7 billion to deliver the target of 30,000 affordable homes.

The majority of the Scottish Government's target is for social housing. Scottish social housing has always been based on a principle of affordability to tenants in low paid employment without recourse to benefits, a principle which the Scottish Government believes should be upheld.

The condition of social housing in Scotland has significantly improved since the introduction of the Scottish Housing Quality Standard (SHQS) in 2004. The Scottish Government expect social landlords to meet SHQS for all social housing by April 2015. Landlords must have investment plans in place to achieve this target and their progress is monitored by the independent Scottish Housing Regulator. The Regulator estimated that, at 31 March 2014, 18% of social housing failed SHQS and that landlords intend to invest approximately £852 million in 2014 and 2015 to bring homes up to SHQS.

In June 2013 the Scottish Government launched a Sustainable Housing Strategy setting out a vision for warm, high quality, affordable, low carbon homes and a housing sector that helps to establish a successful low carbon economy. As part of this strategy, we will be launching a forum before the end of 2014 to consider proposals for a new common housing standard for Scotland.

In December 2012, the homelessness legislation was changed so that now all unintentionally homeless households are entitled to settled accommodation.

In Scotland the main focus in homelessness is on the prevention of homelessness. This is being addressed through a housing options approach where all the options available are discussed with the household. This is so that the best, most sustainable outcome can be achieved, which may be through a homelessness application, but other options are considered. This has led to a reduction in homelessness applications and assessments over the last five years benefiting families with children as well as single people.

All 32 local authorities are an active member of one of five regional hubs which promote sharing practice and learning around housing options as well as commissioning joint research, procuring joint IT systems and being involved in sharing training. This has enabled the housing options approach to be established in Scotland and achieving not just a reduction in numbers but also delivering on better outcomes for all homeless people.

There is a focus on the number of children in temporary accommodation, and with the total numbers of households in temporary accommodation

decreasing, the number of children in temporary accommodation also decreases: 4,156 children were in temporary accommodation on 31 March 2014, a reduction of 14% compared to one year ago.

The private rented sector has grown significantly over the past 15 years and is now an integral part of the Scottish housing system. The Scottish Government published its strategy for the private rented sector in May 2013, the first of its kind since devolution. This strategy aims to grow and improve the sector by enabling a more effective regulatory system, targeting enforcement action and attracting new investment.

Recent action includes, through the Housing (Scotland) Act 2014, making provisions for the regulation of the letting agent industry in Scotland, creating a new tribunal to hear private rented housing cases, and enhanced powers for local authorities in tackling poor property management and condition. The Scottish Government is supporting the house-building industry, through work led by Homes for Scotland, to attract new sources of investment for the building of more new homes to rent. The Scottish Government is also currently consulting on a new tenancy for the private rented sector, with the aim of improving security of tenure for tenants, while providing appropriate safeguards for landlords, lenders and investors.

### **Gypsy Traveller Accommodation**

In Scotland, the provision of sites for Gypsies/Travellers is the responsibility of local authorities, who are best placed to understand the needs of the community in their areas. In 2008, the Scottish Government introduced far reaching reforms to the way in which local authorities plan for new housing provision. These reforms supported by the introduction of a new process of peer review have strengthened the requirements in relation to provision for Gypsies/Travellers and now include requirements for local authorities to:

- assess the housing needs of Gypsies/Travellers and ensure that the needs of equality groups, including Gypsies/Travellers, are addressed in their local housing strategies; and
- identify suitable locations for sites for Gypsies/Travellers in their development plans and involve Gypsies/Travellers in decisions about sites for their use.

The way in which local authorities address each of these requirements is subject to scrutiny by the Scottish Government. In 2012 the Scottish Government's Social Housing Charter came into effect and included outcomes relating to services provided by social landlords to Gypsy/Travellers. The Scottish Housing Regulator will collect site satisfaction data for the first time in 2014 to ensure that the needs of Gypsies/Travellers are properly addressed. A National Working Group has further been established this year to progress a strengthened approach to coordination of all Gypsy/Travellers policy areas.

In relation to planning for Gypsy/Traveller sites, the guidance document Scottish **Planning Policy 3: Planning for Homes** (revised 2008) – which can be found at:

<http://www.scotland.gov.uk/Resource/Doc/233260/0063937.pdf>) – also states that planning authorities should:

- set out policies for dealing with planning applications for small privately-owned sites; and,
- make provision for such communities as are in their area already, as well as those who may arrive at a later date.

The Scottish Housing Regulator, who has responsibility for inspecting local authority housing services, has a series of Performance Standards which are used for self-assessment by local authorities and assessment by the inspectors. The description of the "Sites for Gypsies/Travellers" Performance Standard is:

*"We plan and provide or arrange good-quality, serviced stopping places for Gypsies/Travellers. We let pitches in a way that ensures fair and open access for all. We take Gypsies/Travellers' views into account in delivering our services, and we are responsive to their needs."*

Data collected by the Scottish Government in 2014 identified 43 local authority, Registered Social Landlord, and private Gypsy/Traveller sites in Scotland. 19 local authorities had Gypsy/Traveller sites in their area, although some local authorities provided a site (or sites) between them. Together these sites provided 743 pitches, an increase from the 626 pitches identified in a previous data collecting exercise in 2009. The Gypsy/Traveller Site Working Group, established by the Scottish Government in early 2014, is considering the number and quality of Gypsy/Traveller sites in Scotland and what further work may need to be undertaken in this area.

The Social Housing Charter in relation to Gypsy/ Travellers says that Local Councils and Social landlords with responsibility for managing sites for Gypsy /Travellers should manage the sites so that sites are well maintained and managed. This outcome applies only to those councils and other social landlords that are responsible for managing these sites.

## **NORTHERN IRELAND**

### **Housing**

The Northern Ireland Department of Social Development's 'Facing the Future' Housing Strategy 2012-17' sets out its plans for the provision of social and affordable housing in Northern Ireland. The approach is to develop a strategy for housing, across all tenure types, which recognizes the need for a balanced housing market, providing households in Northern Ireland with a range of good quality housing choices at a price they can afford.

The key principles and themes of the strategy are:

- Ensuring access to decent, affordable, sustainable homes across all tenures;
- Meeting housing needs and supporting the most vulnerable;
- Housing and Welfare Reform;
- Driving regeneration and sustaining communities through housing; and
- Getting the structures right.

In addition the Department of Social Development is committed to meeting the Northern Ireland Programme for Government targets of delivering 8,000 social and affordable homes by 2015.

### **Housing Provision**

The Planning (Northern Ireland) Order 1991, Part II and Article 3 - (1) , states: *“The Department shall formulate and co-ordinate policy for securing the orderly and consistent development of land and the planning of that development.”*

The Department’s Planning Policy Statement 12 ‘Housing in Settlements’ (PPS 12, published July 2005) acknowledges that the planning system has an important role to play in creating communities with a wider range of housing in terms of tenure, size, type and affordability. PPS 12 indicates that social housing should be provided by developers as an integral element of larger housing developments where a need is identified; and that a mix of house types and sizes should be provided to promote choice and assist in meeting community need.

The development plan process is the primary mechanism to facilitate an identified need for social housing by zoning land or by indicating, through key site requirements, where a proportion of a site may be required for social housing.

Additionally, there are planning policy and guidance documents that strive to ensure good quality housing schemes are delivered. Planning Policy Statement 7 ‘Quality Residential Environments’, published June 2001 (PPS 7), sets out the Department’s policy for achieving quality in new residential development and advises on the treatment of this issue in development plans. It embodies the Northern Ireland Government’s commitment to sustainable development and the Quality Initiative.

A second addendum to PPS 7: ‘Safeguarding the Character of Established Residential Areas’ was published by the Department in August 2010 with a primary purpose of reinforcing existing planning policy on housing within urban areas by introducing additional provisions to protect areas of established residential character, environmental quality and local amenity. A minimum size limit was introduced on dwellings which are intended to be converted to flats or apartments, as part of the addendum

## **Gypsy Traveller Accommodation**

In Northern Ireland the provision of sites for Travelers' is the responsibility of the Northern Ireland Housing Executive. In order to provide adequate sites for Travelers', the Housing Executive carries out a 'Traveller Accommodation Needs Assessment' every five years. The latest Traveller Accommodation Needs Assessment is due for completion in June 2014 and will inform the future 5 year Traveller Accommodation Programme.

The Department of the Environment published an addendum to Planning Policy Statement 12: Housing in Settlements, Policy HS 3 (Amended) 'Travellers Accommodation' in January 2013. Travellers have distinctive needs which are assessed as part of the local housing needs assessment undertaken by the Northern Ireland Housing Executive (NIHE). Development Plans are the primary mechanism for identifying suitable sites for housing needs, however, in the absence of such sites in development plans, or where other proposals come forward, proposals are assessed under the provisions of the policy addendum to PPS 12 'Travellers Accommodation' and other relevant planning policy.

## **Childcare facilities**

***The Committee asked for an updated description of the situation regarding childcare facilities throughout the United Kingdom.***

For many parents, women and men alike, childcare is essential to support them moving into, and remaining in, work. The cost of childcare is an important factor for parents when considering work. Providing help with the costs of formal childcare, and improving access to childcare, continues to be at the forefront of our policies. This is in recognition that, for many parents, formal paid-for childcare is essential both to lift them out of worklessness and to allow them to progress once in work.

The Department for Work and Pensions (DWP) has a strong interest in childcare policy because of its impact on the employment rate of lone and couple parents. The success of DWP voluntary and compulsory interventions, in helping lone and couple parents back into the labour market, relies on the availability and affordability of suitable childcare for working parents.

Children's educational and social development benefits from good quality pre-school childcare/education and this is especially so for children from disadvantaged backgrounds.

As of April 2012, 5.2 million families with around 9.3 million children received tax credits and of those around 450,000 receive childcare support.

Under Universal Credit, the Government is investing an additional £200 million in childcare support for parents working fewer than 16 hours a week for the first time.

This extra investment is expected to help 100,000 additional families. In the current system, working families can claim up to 70 per cent of actual childcare costs up to a monthly cap of £532 for one child and £912 for two or more children.

From 2016 on Universal Credit, working families will be able to claim up to 85 per cent of actual childcare costs up to a cap. This equates to a monthly cap of £646 for one child and £1108 for two or more children.

All three and four-year-olds are entitled to 570 hours each year of funded early learning, usually taken as 15 hours per week for the 38 weeks that schools are open. Latest Department for Education figures show that 97% of all three and four-year-olds are accessing some or all of their entitlement.

In September 2013, this entitlement was extended to around 130,000 two-year-olds in England where their family was claiming certain benefits, or if they are looked after by the local authority. In May local authorities reported that around 116,000 children were already benefiting from funded, high-quality early years education.

From September 2014, the entitlement will be extended further to include those children from low income working families, those who are adopted or who have a special educational need or disability. The new entitlement means that around 260,000 two-year-olds will be eligible for a Government-funded early years education place. Investment in early learning for two-year-olds is £755m in 2014-15.

Guidance and information on childcare out of school, after school hours and through holiday clubs is provided by local authorities and for residents of England and Wales is accessible via the GOV UK website: - [www.gov.uk/childcare-out-of-school-hours](http://www.gov.uk/childcare-out-of-school-hours)

## **WALES**

### **Childcare facilities**

The Childcare Act 2006 places a duty on all local authorities in Wales to secure, as far as is reasonably practicable, sufficient childcare to meet the needs of parents in their area, who require childcare in order to train, work or study.

In order to fulfil this duty, local authorities must undertake an assessment of the supply and demand for childcare within their area via a Childcare Sufficiency Assessment (CSA). These are undertaken by the 22 local authorities in Wales every three years, with a 'refresh' carried out in the years in between the full assessments. The results of the last full CSA in 2011 highlighted affordability as the most significant issue in Wales, with nineteen out of the twenty-two local authorities reporting that high childcare costs were the principal barrier families face to accessing childcare. Analysis of the 2012 and 2013 CSA 'refreshes' indicates that affordability remained the most

significant childcare gap in Wales. Other gaps included holiday childcare provision, especially in rural areas, lack of specialised 1:1 childcare for disabled children, lack of information to parents about what type of childcare is available; and provision of childcare in the medium of Welsh.

Local Authorities have recently submitted their full CSAs for 2014. These are currently being analysed and evaluated, and will provide the Welsh Government with an up to date picture of childcare provision throughout Wales, including an analysis of gaps in provision and costs of childcare across Wales.

A review of the CSA duty on local authorities has commenced. A consultation with all relevant stakeholders will commence in August 2014. The review will look to ensure there is a fit for purpose mechanism in place to help Local Authorities in Wales address their provision of childcare duty.

## **SCOTLAND**

### Early Years: Childcare Facilities

The Scottish Government's 'Early years Framework' sets out the case for action with regard to the early years and the importance of getting it right for every child in the early years. It sets out the vision that government in Scotland has for giving children the best start in life and the transformational change that needs to happen to deliver that vision.

The elements of transformational change identified are:

- A coherent approach;
- Helping children, families and communities to secure outcomes for themselves;
- Breaking cycles of poverty, inequality and poor outcomes in and through early years;
- A focus on engagement and empowerment of children, families and communities;
- Using the strength of universal services to deliver prevention and early intervention;
- Putting quality at the heart of service delivery;
- Services that meet the needs of children and families;
- Improving outcomes and children's quality of life through play;
- Simplifying and streamlining delivery; and
- More effective partnerships.

The framework contains a number of national actions, including a campaign to reinforce the importance of parents and parenting and highlighting the importance of play. However, the real meat of implementation has to be embedded at local level. The measure of success will be based on improved outcomes for children, rather than implementation of specific actions or measuring narrow inputs.

### Early Education & Childcare

A variety of public, private and voluntary services relating to early education and childcare are available in Scotland. These include the following:

- Nursery provision including pre-school education for 3 and 4 year olds;
- Private/voluntary day nurseries and nursery schools provide daycare services, play and educational opportunities for children under school age. They are usually open all year round and can care for children on a full or part day basis. Some may provide out of school care in addition to the normal nursery service. These establishments may be managed by individual owners, companies or voluntary bodies;
- Nursery centres are usually managed by the local authority and provide daycare and education from birth until school entry. They are generally open for between 48 and 52 weeks of the year between the hours of 8.00 a.m. and 6.00 p.m.;
- Community nurseries are similar to nursery centres but provide a greater variety of support services to meet local needs. This may include home visiting, out of school care, parents' 'drop in' and information/advice services. Sometimes this type of facility is jointly managed;
- Local authority nursery classes are attached to local authority primary schools while nursery schools are usually separate from primary schools and have their own head teacher. Both types of centre provide term-time pre-school education; and
- Child and family centres provide services similar to those available in community nurseries and nursery centres. Daycare/education is provided along with a range of support services for families which can be adapted to meet local needs. They are usually managed by voluntary organisations or by the local authority's social work or education department. Family support centres also provide services to support families to suit local requirements but generally do not provide daycare or education.

### Crèches

A crèche provides 'drop in' care for children in order to enable adults to engage in activities such as further education, shopping or attending a meeting.

### Childminders looking after children in the childminder's home

Childminders provide childcare in their own homes for children of any age. Childminders must be registered with the Care Inspectorate and the service they provide must meet the National Care Standards. Childminders can enter

into partnership with local authorities to provide the statutory entitlement of funded early learning and childcare, where local authorities can be assured that provision is of sufficiently high quality.

### Community Childminding

Community Childminding services provide intervention for families at a time of temporary crisis. They offer short term, part-time placements with a specially selected childminder. Most children that are cared for by community childminders are under the age of 3.

### Childcare Agencies

Childcare agencies provide childcare in the child's home, via mainly nanny or sitter services. These can be public, private or voluntary services – sitter services tend to fill a gap in provision for parents on low incomes who work unusual hours, or who are returning to education or training. Childcare agencies are regulated by the Care Commission.

### Out of school care provision

Out of school care clubs offer care for school age children in the absence of parents or carers from the end of the school day until parents can collect their children, and also before school starts. They can be before or after school, or during school holidays and can also include breakfast clubs.

The role of a breakfast club (as opposed to breakfast provision alone) is to offer a holistic service with a person-centred ethos in a safe environment. The most successful clubs are those offering additional health and social activities, such as health promotion or childcare. A breakfast club should involve young people, parents, carers and the wider community, and aim to improve their health and health behaviours so underpinning the goals of the “health promoting school”.

Holiday playschemes cater mainly for school age children and provide opportunities for children to participate in a broad range of supervised leisure and educational activities during school holidays.

### Playgroups

These provide sessional care for children aged between 3 and 5 although some groups will also cater for younger children and some will provide full daycare. Most are run by groups of parents with parent led committees, although some may be owned by individuals or organised by other voluntary bodies or by the local authority. They rely heavily on parents/carers who volunteer their services although many employ a paid playleader or assistant. Some playgroups will provide pre-school education in partnership with the local authority. Includes Mother & Toddler groups where there is at least one member of staff providing care/support.

All childcare services are regulated (if provided for more than 2 hours per day) by the Care Commission. National care standards<sup>1</sup> apply to all provision regulated, and these include input ratios depending on the children's ages as follows.

In non-domestic premises:

- Age under 2, ratio 1 adult to 3 children;
- Age 2 to under 3, ratio 1 adult to 5 children;
- Age 3 and over, ratio 1 adult to 8 children; and,
- All children aged 8 or over, ratio 1 adult to 10 children.

In addition, 2 adults must be in attendance at any one time.

In domestic premises:

- Age under 12, ratio 1 adult to 6 children, of whom no more than 3 are not yet attending primary school and of whom no more than 1 is aged under 1.

This ratio includes the childminder's own children.

All staff working in early years services, including early years education, will be required either to possess a relevant qualification or be working towards one once registration with the Scottish Social Services Council (SSSC) becomes mandatory from November 2010. The SSSC published its qualification criteria for registration in March 2004.

## **NORTHERN IRELAND**

The first phase of the NI Executive's *Bright Start* Childcare Strategy was launched in September 2013. This included 15 Key First Actions intended to address the main childcare needs and priorities identified during consultation and research. With the first phase of the *Bright Start* Strategy now underway, work to develop the full, final *Bright Start* Strategy has begun. The Executive aims to publish the full Strategy in 2015. The full Strategy will build upon the Key First Actions, taking account of any childcare needs not currently addressed. The Office of the First and deputy First Minister (OFMDFM) has been leading the development of *Bright Start* and will continue to engage fully with the childcare sector and childcare stakeholders to progress the final version.

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<sup>1</sup> <http://www.scotland.gov.uk/Topics/Health/care/17652>

## **Family Counselling Services**

### ***The Committee asked for updated information on counselling services including in Wales, Scotland and Northern Ireland***

'Relate', which is part funded by National and Local Government grants, is the UK's largest provider of relationship support to people of all ages, backgrounds and sexual orientations with a view to strengthening their relationships. Further information can be viewed via the following link: [www.relate.org.uk/](http://www.relate.org.uk/).

Organisations such as 'Relationship Scotland' provide a similar service in Scotland:

[www.relationships-scotland.org.uk/](http://www.relationships-scotland.org.uk/)

## **WALES**

In Wales, parents and carers have access to a range of family support and counselling services and the Welsh Government provides significant funding for three key family support programmes: Flying Start; Families First; and Integrated Family Support Services. There is a clear emphasis in all these programmes on multi-agency working to help develop and maintain stable family relationships. The focus for Flying Start and Families First is on early intervention and prevention and working with the whole family to prevent problems from escalating towards crisis.

The Families First programme is a strength-based, whole-family approach to family support to improve outcomes for families. Two key elements of the Families First programme that local authorities are expected to put in place are: a Joint Assessment Family Framework (JAFF) used to assess the needs of the whole family; and a Team Around the Family (TAF) model that brings together a wide range of professionals to work with a family to address their needs in a holistic way and support them to improve relationships within the family.

Local authorities are also expected to have a coherent set of strategically commissioned, time limited, family-focused services or projects (in response to a community based needs assessment). Some of these projects and services provide family counselling. This takes a number of different forms: face to face counselling; community and school based counselling; and counselling using electronic technology. Counselling is also available to families who have specific needs e.g. those that have experienced domestic violence and sexual abuse. In some areas Family Group Conferencing is also provided. These are formal mediated meetings between family members and other officials representing agencies involved with the family. Working with the family, the meeting is intended to facilitate the process of making decisions about the best way to support the family and take care of their child.

### School Based Counselling

From 2008-09 to 2012-13 the Welsh Government put over £13 million grant funding into school based counselling, with the result that counselling was being delivered in all maintained secondary schools from September 2010. From April 2013 local authorities in Wales have been required, under the School Standards and Organisation (Wales) Act to make reasonable provision of counselling services for children and young people aged between 11 and 18 in their area and pupils in year 6 of primary school. At the same time £4.5m was transferred to local authorities' Revenue Support Grant for the continued support of this service.

### **NORTHERN IRELAND**

The Family Support NI website ([www.familysupportni.gov.uk](http://www.familysupportni.gov.uk)) provides a list of counselling services that are available to Families in Northern Ireland. As in England, there is a broad range of counselling services available to families, including those which seek to support families with complex needs.

#### **Participation of associations representing families**

***The Committee refers to the 2009 Annual Parental Opinion Survey and asked for information on participation of families in defining policies to be included in the next report including Wales, Scotland and Northern Ireland***

The last Annual Parental Opinion Survey was completed in 2010 and details can be viewed via the following link:

[www.gov.uk/government/publications/parental-opinion-survey-2010](http://www.gov.uk/government/publications/parental-opinion-survey-2010)

Information, in respect of all four countries, on respecting the views of the children and young persons in matters that affect their lives is set out in paragraphs 4 to 7 on pages 14-15 of the UK's 2014 Report on UNCRC (see **Appendix 16A**).

### **WALES**

The duty to promote and facilitate participation by children and young people in decisions which might affect them is a duty on local authorities in Wales. The legal basis for this duty is Section 12 of the Children and Families (Wales) Measure 2010. It requires local authorities to *make such arrangements as they consider suitable to promote and facilitate participation by children in decisions of the authority which might affect them, and to publish and keep up to date information about its arrangements.*

In order to meet the requirements of the legislation, local authorities are expected to work with relevant partners to:

- promote and facilitate participation within the broad context of children and young people's rights as part of their policies, services and wider citizen engagement;

- embed children and young people's participation into all aspects of planning, delivering and reviewing services.;
- publish information about arrangements for promoting and facilitating participation in the authority in the Local Service Board's annual public report on progress, as well as using media which are accessible to children and young people such as relevant web-sites ensure that a range of opportunities and the appropriate required support are provided for effective participation; and
- establish a County Youth Forum to act as a channel for young people's views across their local authority and represent those views to local and national decision-making bodies. They will need to be effectively linked into national participation structures and more information about these can be found at:  
<http://participationhub.org.uk>

### **Working with partners**

Whilst the statutory guidance, issued under the [Children and Families \(Wales\) Measure 2010](#), relates only to Local Authorities they are encouraged to work closely with each of their relevant partners. Working in a multi-agency way is good practice and the [Children Act 2004](#), Section 25, places a legal duty on local authorities to promote cooperation with a view to improving the wellbeing of children in the area.

There are many examples of partners contributing to children and young people's participation and mainstreaming it into their areas of work and their arrangements for citizen engagement. Some of these can be found on [www.pupilvoicewales.org.uk](http://www.pupilvoicewales.org.uk).

There are many examples of good practice and a significant number of these have adopted the '[National Children and Young People's Participation Standards](#)' for Wales as a means of ensuring that participation happens meaningfully and effectively.

### **NORTHERN IRELAND**

There is no formal mechanism by which families participate in the definition of policies in Northern Ireland. This is currently achieved through the existing mechanisms for public consultation. Government Departments are also able to make use of a number of organisations who seek the views of parents and children where specific issues necessitate a more targeted consultation process.

## **Legal Protection**

### **UNITED KINGDOM**

#### **Mediation Services**

***The Committee asks for information on mediation services throughout the United Kingdom.***

Such services are mainly non-governmental. The Family Mediation Council (FMC) is made up of national family mediation organisations in **England and Wales**. Further information can be viewed via the following link: <https://www.familymediationcouncil.org.uk/family-mediation/>.

Similar family mediation services operate in **Scotland**, for example see the following link: <http://www.relationships-scotland.org.uk/family-mediation>, and in Northern Ireland <http://www.familymediationni.org.uk/>.

Following on from a general study of mediation in **Northern Ireland**, DHSSPS provided funding for a pre-court mediation service and associated publicity campaign. It has also provided funding for court welfare officers who provide mediation services at the magistrates' court level. The Legal Services Commission may provide limited funding for mediation services in the context of certain court proceedings.

#### **Domestic Violence**

### **ENGLAND and WALES**

#### **Legal framework**

There is no specific statutory offence of domestic violence but a number of pieces of legislation provide the tools for the prosecution. The most commonly used are the: Offences Against the Person Act 1861; Criminal Damage Act 1971; Criminal Justice Act 1988; and the Protection from Harassment Act 1997.

The Domestic Violence, Crime and Victims Act 2004 overhauled domestic violence legislation and introduced powers for the police and the courts to tackle offenders, while ensuring that victims get the support and protection they need. The majority of sections were implemented in 2007 and 2009. The Act contained a provision whereby a breach of a civil non-molestation order became a criminal offence and a provision which allows the court to impose a restraining order, where appropriate, following conviction or acquittal for any offence. This latter power is particularly important as it enables the criminal court to address the issue of safety, where a criminal case may have ended in an acquittal.

In April 2011, the Government implemented section 9 of the Domestic Violence, Crime and Victims Act 2004. This means that local areas and

agencies are expected to undertake a multi-agency review following a domestic violence homicide to assist all those involved in the review process in identifying the lessons that can be learned.

The Government has also implemented sections 24-33 of the Crime and Security Act 2010 to introduce Domestic Violence Protection Order (DVPOs). DVPOs are a new power that fills a “gap” in providing protection to victims by enabling the police and magistrates courts to put in place protection in the immediate aftermath of a domestic violence incident. Where there is insufficient evidence to charge a perpetrator and provide protection to a victim via bail conditions, a DVPO can prevent the perpetrator from returning to a residence and from having contact with the victim for up to 28 days, allowing the victim a level of breathing space to consider their options, with the help of a support agency. Following a successful one-year pilot between 2011 and 2012, DVPOs are being rolled out across England and Wales from March 2014.

### **Definition of ‘domestic violence’**

In March 2013, the Government introduced a revised definition of domestic violence to replace previous definitions used by government departments and other agencies.

The new definition of domestic violence and abuse is:

“Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse:

- psychological
- physical
- sexual
- financial
- emotional<sup>1</sup>

Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

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<sup>1</sup> This definition, which is not a legal definition, includes so called 'honour' based violence, female genital mutilation (FGM) and forced marriage and is clear that victims are not confined to one gender or ethnic group.

### **Domestic violence - strategy**

Domestic violence is unacceptable in our society and tackling domestic violence is a key Government priority. These crimes have a huge impact on victims, as well as our society, public services and economy. In 2010, the Government published a cross-government strategy, A Call to End Violence Against Women and Girls and supporting action plan. Our approach focuses on the guiding principles of prevention; provision of services for victims; partnership working; and risk reduction and improved justice outcomes. The Home Office and Ministry of Justice have collectively ring-fenced nearly £40 million of stable funding up to 2015 for specialist local support services and national helplines. The Home Office contribution is £28m over the spending review period.

### **Key measures taken**

In 2013, the Home Secretary commissioned Her Majesty's Inspectorate of Constabulary to undertake a comprehensive review on how the police deal with domestic violence because she was concerned that the response is inadequate. HMIC's report exposed significant failings, including a lack of visible police leadership and direction, poor victim care and deficiencies in the collection of important evidence.

HMIC made a series of recommendations to forces and the Government expects them all to be implemented quickly. To make sure that change happens, the Home Secretary has established a new national oversight group, which she will chair. The Home Secretary has also written to chief constables making it clear that every police force must have an action plan in place by September 2014.

The Government is committed to ensuring that the police and other agencies have the tools necessary to tackle domestic violence, to bring offenders to justice and to ensure victims have the support they need to rebuild their lives.

On 8 March 2014, the Government announced the national roll-out of Domestic Violence Protection Orders (DVPOs) and the Domestic Violence Disclosure Scheme (DVDS) across England and Wales from March 2014. DVPOs can prevent the perpetrator from returning to a residence and from having contact with the victim for up to 28 days. The Domestic Violence Disclosure Scheme (DVDS) – also known as “Clare’s Law” introduces recognised and consistent processes to enable the police to disclose to the public information about previous violent offending by a new or existing partner where this may help protect them from further violent offending.

The Government introduced Domestic Homicide Reviews in April 2011 so that local areas and agencies identify lessons learned to help to prevent future homicides and violence.

Since 2010 the Home Office has run the ‘This is Abuse’ campaign which is

targeted at 13 to 18 year old boys and girls with the aim of preventing them from becoming victims and perpetrators of abusive relationships. The current burst of advertising finished at the end of April 2014. The campaign aims to prevent the onset of domestic violence in adults by changing attitudes amongst teenagers about abuse in relationships. It encourages them to re-think their views of controlling behaviour, violence, abuse, sexual abuse and what consent means within their relationships and directs them to places for help and advice.

### Key facts and figures (Domestic Violence)

Statistics from Crime Survey 2012/13	
Estimated number of <u>female</u> victims of domestic abuse in the last year	<b>1.2million</b>
Estimated number of <u>male</u> victims of domestic abuse in the last year	<b>700,000</b>
% of <u>female</u> population experiencing domestic abuse	<b>7.1%</b>
% of <u>male</u> population experiencing domestic abuse	<b>4.4%</b>

Characteristics of victims of domestic abuse	
Age	<b>Women aged 16-19</b> were <b>more likely</b> to be victims of domestic abuse in the last year (11%) than women aged over 45. <b>Women aged 20-24</b> were <b>more likely</b> to be victims of domestic abuse in the last year (13%) than every age group of women over 25.
Marital Status	<b>Women</b> who had <b>separated</b> had the <b>highest risk</b> of any domestic abuse in the last year (21%) though it may be that domestic abuse contributed to the separation.
Income	<b>Women</b> living in households with an income of <b>less than £10,000</b> per year were <b>more likely</b> to be victims of domestic abuse in the last year than women living in households with an income greater than £20,000
Long-term illness / disability	<b>Women</b> with a <b>long-term illness or disability</b> were more likely to be victims of any domestic abuse in the last year (11%) compared to those without a long-term illness or disability.
Employment status	In 2011/12, women who were unemployed were more likely to be victims of domestic abuse in the last year than women were employed; however, this difference was not significant in 2012/13.

*Figures based on 2011/12 and 2012/13 CSEW self-completion modules.*

- Domestic violence has the highest rate of repeat victimisation of any crime, accounting for 75% of all incidents of domestic violence - 26% of victims have been victimised three or more times.
- In 2012/13, 15 men and 77 women were killed by a partner, ex-partner or lover. This equates to around six women being killed by a partner or ex-partner every month.
- Female homicide victims were far more likely than male homicide victims to be killed by a partner or ex-partner (45% and 4% respectively) and less likely to be killed by a stranger (11% compared with 35%);
- Around half of female homicide victims aged 16 or over, and around 1 in 20 male homicide victims aged 16 or over were killed by a partner or ex-partner.

### Domestic violence protection orders (DVPOs)

#### Data collected from pilot

Force	Number of DVPN applications to Superintendent	Number of cases authorised by Supt	Number of DVPOs applied for to court	Number of DVPOs granted by courts
GMP	188	183	176	164
Wiltshire	161	151	150	122
West Mercia	39	38	34	33
<b>Totals</b>	<b>388</b>	<b>372</b>	<b>360</b>	<b>319</b>

*Source: Local police monitoring data: 1 July 2011 – 30 June 2012.*

### Domestic Violence Disclosure Scheme (DVDS)

#### Volume and throughput of DVDS cases during 1 year pilot (14 July 2012 – 6 Sept 2013)

Force:	Gwent	Wiltshire	Greater Manchester	Notts	Total
Right to Ask Applications	60	39	73	59	<b>231</b>
Right to Know Applications	16	79	36	24	<b>155</b>
Total Applications	76	118	109	83	<b>386</b>
Disclosure from Right to Ask	8	7	39	5	<b>59</b>
Disclosure from Right to Know	5	15	27	5	<b>52</b>
Total Disclosures	13	22	66	10	<b>111</b>
Disclosure Rate	17%	19%	61%	12%	<b>29%</b>

## **SCOTLAND**

The main specialist Domestic Abuse Courts have operated at Glasgow Sheriff Court since 2005/06 (where a trial and a procedural court sit every day) and Edinburgh Sheriff Court since January 2012 (where there is one specialist court which currently sits every Tuesday of every week). Elsewhere a range of dedicated and cluster courts are held including at Falkirk, Dunfermline, Livingston and Ayr. Where cluster courts are not in operation, cases known to be domestic abuse related are fast-tracked through court, where possible, through allocation of earlier trial diets.

The differences in approach have arisen principally as a result of Local Criminal Justice Boards using the different models all of which were outlined in the toolkit on domestic abuse (published in 2008), which was provided by Scottish Government to assist in the handling of such cases. The toolkit has been designed to aid Sheriffs Principal and local criminal justice partners consider and shape a specialist approach to domestic abuse cases in their area. It offers flexibility to Sheriffs by acknowledging that different approaches will be suitable in different areas due to variations in factors such as the number of cases processed in each court, the case processing times and attrition rates.

The provision of advocacy and support services is recognised as having an important role to play in supporting victims and bringing offenders before the courts.

ASSIST is the advocacy and support service for victims of domestic abuse linked to the dedicated court in Glasgow. It also provides support to male domestic abuse victims whose cases are being dealt with in the Ayr cluster court or the new specialist court in Edinburgh. ASSIST provides support to people who have been affected by domestic abuse and ensures they and their children are safe, informed, and supported before, during, and after the case goes to court. ASSIST is a multi-agency initiative funded by the Scottish Government, Glasgow City Council and the Glasgow Community safety Partnership. Scottish Government is providing funding of over £1m per year for Assist for the period 2012-2015.

With financial assistance from Edinburgh Women's Aid, an independent advocacy and support service (EDDACS) has been established to help female victims who decide to accept a referral to the service.

The Scottish Government has strengthened the criminal law to ensure prosecutors and courts have the appropriate powers they need to deal with domestic abuse offenders and have introduced a new criminal offence of 'threatening and abusive behaviour' in 2010 to help ensure those who commit domestic abuse can be held to account. The Domestic Abuse (Scotland) Act came into force in July 2011 and introduced a new section to the Protection from Harassment Act 1997 which provides that one incident rather than a course of conduct as previously constitutes harassment.

The Victims and Witnesses Act 2014 improves the support available to victims and witnesses throughout the justice system, putting victims' interests at the heart of on-going improvements. The Act makes offenders pay by introducing a victims' surcharge and restitution order to ensure that offenders pay towards the support needed by victims. It also makes support available for vulnerable witnesses including victims of sexual offences or domestic abuse by introducing an automatic entitlement to special measures.

The Scottish Government will be establishing a multi-agency group will be to develop a pilot Disclosure Scheme (Clare's Law) in Scotland. Clare's Law is the result of a campaign by the family of Clare Wood who was murdered by her former partner, George Appleton, in Greater Manchester in 2009. George Appleton had three previous convictions under the Protection of Harassment Act 1997.

On 25 June 2014, the Scottish Government published publishing Equally Safe<sup>1</sup>, Scotland's first national strategy to tackle all forms of violence against women and girls, including domestic abuse.

## **NORTHERN IRELAND**

### **The Inclusion of Domestic Violence as a qualifying offence in the Public Protection Arrangements Northern Ireland (PPANI) arrangements.**

In this context, under the PPANI banner, an assessment tool (for perpetrators) has been developed and rolled out amongst the agencies involved in PPANI. The tool is known as Framework for Assessment of Domestic Abuse (FADA).

The Integrated Domestic Violence Programme (IDAP) is delivered by PBNI in Northern Ireland. PBNI will also commence delivering (in 2014) the domestic violence programme for alleged perpetrators. The programme will be delivered on behalf of each of the five local Health and Social Care Trusts.

From the establishment in January 2010 of Multi-Agency Risk Assessment Conferencing (MARAC) across Northern Ireland to 31 May 2014, over 6,800 high risk victims of domestic violence have had safety plans put in place to protect them - plans which have included over 9,000 children.

In December 2011 a process was introduced which allows all victims of domestic violence to access legal aid quickly in order to assist in obtaining Non-Molestation Orders.

The Government funded Domestic Violence 24 hour Helpline (recently extended to deal with sexual violence) continues to experience an increase in calls with a total of 47,597 calls being managed during the period 1 April 2012 to 31 March 2013. The Helpline obtained the Helplines Partnership Quality

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<sup>1</sup> <http://www.scotland.gov.uk/Publications/2014/06/7483>

Standard in December 2012. E-mailing and texting access facilities have also been introduced to the service.

Steps have been taken to improve services to victims and their experience of the criminal justice system, including domestic and sexual violence and abuse victims. Central to this is the five year Victim and Witness strategy published in June 2013. Key elements include a new Victim Charter and a victim and witness care unit.

A public consultation on the draft strategy, 'Stopping Domestic and Sexual Violence and Abuse' took place from 15 January 2014 to 11 April 2014. The draft, which was developed through discussions with key stakeholders, contains a number of proposed priorities to prevent and address domestic violence and abuse. The responses to the consultation are currently being considered and will help develop proposals in this important area.

A listing arrangement for criminal cases involving domestic violence is currently being piloted at Londonderry Magistrates Court. All cases falling within this category are listed at a set time each week ensuring that victims of domestic violence who attend court to give evidence are given priority and have access to specific support services from Victim Support NI and Foyle Women's Aid. At court, experienced domestic violence prosecutors and judiciary are assigned to these cases, ensuring continuity and expertise.

The use of body worn cameras by police response officers is also being piloted in Foyle. While this technology will be used for various types of reported incidents, it is expected that they will have a particular relevance in cases of domestic violence and will support the prosecution of these offences which are characterised by a low rate of witness participation. Local judiciary, solicitors, Northern Ireland Courts and Tribunals Services, voluntary services and prosecution representatives have been involved in preparing for this pilot.

## Economic protection of families

### UNITED KINGDOM

#### Family Benefits

The position remains as previously described with the following update.

#### Working Tax Credit rates

##### Working Tax Credit - £GB per year

Rates	April 2013	April 2014
Basic element	£1,920	£1,940
Couple and lone parent element	£1,970	£1,990
30 hour element	£790	£800
Disabled worker element	£2,855	£2,935
Severe disability element	£1,220	£1,255

#### Childcare element of Working Tax Credit

The maximum childcare costs claimable, and percentage of help with them are shown below.

##### Childcare element of Working Tax Credit

Rates	April 2013	April 2014
Maximum eligible cost for 1 child	£175 per week	£175 per week
Maximum eligible cost for 2 or more children	£300 per week	£300 per week
Percentage of eligible costs covered	70%	70%

#### Child Tax Credit rates

The maximum Child Tax Credit rates are shown below.

##### Child Tax Credit - £ per year

Rates	April 2013	April 2014
Child Tax Credit Family element	£545	£545
Child element	£2,720	£2,750
Disabled child element	£3,015	£3,100
Severely disabled child element	£1,220	£1,255

#### Tax credits income thresholds

The tax credits income thresholds and withdrawal rates are shown below.

**Income thresholds and withdrawal rates - £ per year (unless stated)**

<b>Rates and Thresholds</b>	<b>April 2013</b>	<b>April 2014</b>
Income threshold	£6,420	£6,420
Withdrawal rate (%)	41%	41%
Threshold for those entitled to Child Tax Credit only	£15,910	£16,010
Income rise disregard	£5,000	£5,000
Income fall disregard	£2,500	£2,500

**Child Benefit rates**

The Child Benefit rates are shown below.

**Child Benefit - £ per week**

<b>Rates</b>	<b>April 2013</b>	<b>April 2014</b>
Eldest/Only Child	£20.30	£20.50
Other Children	£13.40	£13.55

**Guardian's Allowance rates**

The Guardian's Allowance rates are shown below.

**Guardian's Allowance - £ per week**

<b>Rates</b>	<b>April 2013</b>	<b>April 2014</b>
Guardian's Allowance	£15.90	£16.35

***The Committee asks for information in respect of equal treatment of foreign nationals and stateless persons with regard to family benefits***

Under UK national law, all claimants of Child Benefit (ChB) and Child Tax Credit (CTC), regardless of nationality, must be "in the UK" and responsible for a child or qualifying young person. Being "in the UK" means that they must be present here (apart from short temporary absences: normally up to 8 weeks), ordinarily resident (that is, they must normally reside in the UK and such residence has been adopted voluntarily and for settled purposes) and have a right to reside here under UK or EU law.

Since 1 July 2014, persons who enter the UK, and who are not working, need to live in the UK for three months before they can claim ChB and CTC, although there are exceptions to this rule (e.g. if the person is a family member of a worker or self-employed person).

To be eligible for Working Tax Credit (WTC), the claimant must be present and ordinarily resident in the UK and be in qualifying remunerative work for

the required number of hours per week.

Persons who are subject to immigration control in the UK - namely, persons who require leave to enter or remain in the UK, but who do not have it or who have such leave but are subject to a condition that they do not have recourse to public funds - are generally not entitled to ChB, CTC or WTC.

However, nationals of other states party to the European Social Charter, who are lawfully present in the UK, are entitled to WTC, provided they meet the other conditions of entitlement.

### Stateless persons

Schedule 1 of the Family Allowances, National Insurance and Industrial Injuries (Stateless Persons) Order, 1965 SI No. 1540, incorporates certain provisions of the Convention relating to the Status of Stateless Persons, including Article 24 (3) on the equal treatment of stateless persons in so far as labour legislation and social security are concerned.

<http://www.legislation.gov.uk/ukxi/1965/1540/schedule/1/made>

### **Gypsy Traveller Families**

***The Committee recalls States' positive obligations under Article 16 include implementing means to ensure the economic protection of various categories of vulnerable families, including Roma families. The Committee asks for the next report to provide information on measures which are taken to ensure the economic protection of Gypsy/Traveller families throughout the United Kingdom***

Gypsy Traveller families have access to the same range of family benefits as is available to all other families in the UK and which is described above.

### Gypsy and traveller site rents and mooring fees in Housing Benefit

People who live in caravans, mobile homes or houseboats can pay rent on just either site or mooring alone or on that and the living quarters.

In Housing Benefit, which is a form of means-tested social assistance, if they make a claim for assistance with such charges, they are exempted from the Local Housing Allowance system as there is no real rental market in this type of accommodation, meaning that rent levels based on a rental market for bricks and mortar properties only has no relevance to this housing sector.

A site rent for a caravan or mobile home is eligible for Housing Benefit when it is used as the home, unless it is paid under a long lease, even if the caravan or mobile home is owned by the claimant. However, the eligible rent for gypsy and traveller sites is subject to different rules depending on the type of organisation that is the landlord for the site, as follows:

- private gypsy and traveller site rents attracting rent allowances are referred to the rent officer and their eligible rents decided by the rent officer's maximum rent;
- county council site rents attracting rent allowances are not automatically referred to the rent officer and their rents are usually met in full;
- registered housing association site rents attracting rent allowances are not automatically referred to the rent officer and their rents are usually met in full; and
- district and unitary council site rents attracting rent rebates are not referred to the rent officer and their rents are usually met in full.

Therefore, county council and registered housing association gypsy and traveller sites are referred to the rent officer only when the rent is considered to be unreasonably high or the pitch too large. These will have their eligible rent decided by the maximum rent.

The Committee might find of some interest the judicial summary of the situation with regard to Romani Gypsies' access to the Housing Benefit Scheme as set out in Mr Justice Hickinbottom's judgment of 17 January 2013 in the case of *A and J Knowles v The Secretary of State for Work and Pensions*, which can be viewed via the following link:  
[www.bailii.org/ew/cases/EWHC/Admin/2013/19.html](http://www.bailii.org/ew/cases/EWHC/Admin/2013/19.html)

### **Vulnerable Families - Troubled Families**

The Troubled Families programme was launched by the Prime Minister in December 2011 and aims to turn around the lives of 120,000 troubled families in England by the end of the current Parliament.

The programme operates on a payment by results model which has funding of £448 million to support Local Authorities (LAs) with up to 40 per cent of the cost of working with their families. The success of the cross-Government programme is measured by:

- getting children back in to school;
- reducing their criminal and anti-social behaviour;
- getting parents on the road back to work, or in work; and
- cutting costs to the taxpayer.

Approximately £9 billion is spent annually on the 120,000 most troubled families. This works out at £75,000 per family per year. Only £1 billion is spent trying to 'turn around' their lives in a targeted and positive way.

The Troubled Families Programme is led by the Department for Communities & Local Government (DCLG) and is a cross-departmental initiative to change how Government intervenes and helps families with multiple problems. The programme is delivered through LAs focusing on juvenile crime, education and worklessness.

On 4th March, 2013, the Department for Work & Pensions (DWP) and the Department for Communities & Local Government (DCLG) published a Delivery Agreement designed to boost employability and employment outcomes for troubled families, which can be viewed at:

[www.gov.uk/government/publications/delivery-agreement-putting-troubled-families-on-the-path-to-work](http://www.gov.uk/government/publications/delivery-agreement-putting-troubled-families-on-the-path-to-work)

The first stage of the programme was an identification process of 120,000 troubled families which was led and managed by Local Authorities. DWP's role in this was to provide specific information on the named individuals provided by the Local Authority. This enabled the Local Authority Troubled Families Team to identify eligible families who could benefit from participating in the Troubled Families Programme. The initiative was launched on 2nd April, 2012.

DCLG have issued the 'Troubled Families Framework' to Local Authorities, which sets out a financial framework and background information, and which can be viewed at:

[www.gov.uk/government/publications/the-troubled-families-programme-financial-framework](http://www.gov.uk/government/publications/the-troubled-families-programme-financial-framework)

The next stage of the programme was the secondment of 152 Troubled Families Employment Advisers (TFEA's) into 94 Local Authorities and the introduction of LA Programme marker to help DWP Jobcentre Plus advisers ensure that any employability support they offer a family member dovetails with the support they are receiving from the Local Authority and to enable DWP to track the interventions and outcomes of these families. From April 2015 the number of TFEAs is set to increase to 300.

## Child Poverty

### Child Poverty Act 2010

The Child Poverty Act<sup>1</sup> put into legislation commitments to end child poverty by 2020 and established an accountability framework. The Act:

- Established four income<sup>2</sup> targets to be met by 2020, which together define the “ending” of child poverty:
  - Relative poverty: that less than 10 per cent of children live in relative low income poverty (defined as below 60 per cent of median household income);
  - Absolute low income: that less than 5 per cent of children live in absolute low income (for the 2020 target this is defined as below 60 per cent of median income for 2010/11 adjusted for price indices);
  - Low income and material deprivation: that less than 5 per cent of children live in combined material deprivation and low income (defined here as less than 70 per cent of median income); and
  - Persistent poverty: reducing the percentage of children living in relative poverty for three out of four years (the target level will be set before 2015).
- Required the publication of a UK child poverty strategy every three years;
- Established a Child Poverty Commission to provide advice on the development of the child poverty strategies; and
- Placed duties on local authorities and other delivery partners to work together to tackle child poverty, conduct local needs assessments, produce child poverty strategies, and take child poverty into account in the production of their Sustainable Communities Strategies.

In 2011 the [first Child Poverty Strategy](#) was published. In 2012 the UK Government set up the Social Mobility and Child Poverty Commission (SMCP), an independent body to hold Government to account for its progress against the legislative targets. The Commission monitors the progress of government and others in improving social mobility and reducing child poverty in the United Kingdom. The SMCP Commission is an advisory non-departmental public body, sponsored by the Department for Education. It published its [first annual report](#)<sup>3</sup> in October 2013 and the Government published its [response](#)<sup>4</sup> in March 2014. The Commission’s second report was published in October 2014<sup>5</sup>.

The Government’s approach to ending child poverty, as set out in the [2014-17](#)

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<sup>1</sup> [http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100009\\_en\\_1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100009_en_1)

<sup>2</sup> Measures of low income are taken before housing costs

<sup>3</sup> [www.gov.uk/government/publications/state-of-the-nation-2013](http://www.gov.uk/government/publications/state-of-the-nation-2013)

<sup>4</sup> [www.gov.uk/government/publications/government-response-to-the-annual-report-of-the-smcp-commission](http://www.gov.uk/government/publications/government-response-to-the-annual-report-of-the-smcp-commission)

<sup>5</sup> [www.gov.uk/government/publications/state-of-the-nation-2014-report](http://www.gov.uk/government/publications/state-of-the-nation-2014-report)

[Child Poverty Strategy](#)<sup>1</sup>, is to tackle the root causes, including: worklessness: low earnings: and educational failure. Tackling the root causes of poverty is the only means of bringing about real, lasting change for the poorest in society. This approach is based on an in-depth evidence review which identified what leads families to be stuck in poverty and what leads poor children to become poor adults. By identifying and understanding the root causes of child poverty, now and across generations, the Government targets action effectively.

Evidence is clear that work remains the best route out of poverty; children are around three times as likely to be in poverty if they live in a workless family. The Government's approach is to make work pay and tackle low pay by:

- Cutting tax for millions of people by announcing six increases to the personal tax allowance, from £6,475 in 2010 to £10,500 from April 2015 onwards. By April 2014 the personal allowance increases since 2010 have cut income tax for those working full time on the minimum wage by almost two thirds;
- Reforming the welfare system through Universal Credit, which will lift up to 300,000 children out of poverty, and cover 85% of childcare costs for every hour worked; and
- Increasing the National Minimum Wage to £6.50 per hour from October 2014. This is the biggest cash increase since 2008 and will increase the pay of more than one million people.

The Government is supporting the living standards of poor families by:

- Reducing costs of living, for example by reducing the typical energy bill this year by around £50 on average and extending the Warm Home Discount to 2015/16;
- Tackling rising housing costs by increasing the supply of new housing – the Government is investing £11.5 billion, including £4.5 billion in affordable housing, to get Britain building more homes in the four years to 2015, and a further £13 billion, including £3.3 billion in affordable housing, over the 3 years from 2015 to 2018; and
- Increasing access to affordable credit through expanding credit unions and cracking down on pay day lending (including by imposing a cap on the cost of credit);
- Providing funding for successive Council Tax freezes, saving the average household £1,100 during this Parliament; and
- Freezing fuel duty, whereby a typical motorist will save £680 by March 2016.

Poor children are four times as likely to become poor adults compared to other children. The Government is addressing this through improving poor children's educational attainment. That is why the Government is:

- Introducing the Pupil Premium, which will be worth £2.5 billion in 2014-15, reforming school accountability so that funding is directed

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<sup>1</sup> [www.gov.uk/government/publications/child-poverty-strategy-2014-to-2017](http://www.gov.uk/government/publications/child-poverty-strategy-2014-to-2017)

- effectively and introducing targeted support through summer schools;
- Introducing an Early Years Pupil Premium, worth £50 million in 2015-16, to help ensure 3 and 4 year olds from the most disadvantaged backgrounds get the best start in life;
- Providing free school meals for all infant school children from September 2014;
- Improving teacher quality by raising qualification requirements, introducing rigorous new Teacher's Standards, investing in Teach First and incentivising and rewarding high performing teachers by linking pay to performance; and funding 15 hours of free early education places a week for all 3 and 4 year olds and extending 15 hours of free education and care a week to 260,000 two year olds from low income families.

### Progress against the Child Poverty Act targets

This Government has shown that child poverty can be addressed. 300,000 fewer children are in relative income poverty and 290,000 fewer children are growing up in workless families. The attainment gap for deprived pupils has narrowed and we have just seen the largest annual fall in unemployment since 1989. But there is more to do and the Government is setting the right policies to tackle the root causes of child poverty.

Since 2009/10, the proportion of children experiencing relative low income has fallen from 20 per cent to 17 per cent in 2012/13.

In 2010/11, the list of items on the material deprivation list was updated to make it more representative of families' needs today. This means that data from 2010/11 onwards cannot be compared with previous years. Since 2010/11, the proportion and number of children experiencing combined low income and material deprivation has remained broadly flat and was 13 per cent in 2012/13.

Figures on the proportion of children in persistent child poverty are not currently available.

Proportion and number of children (millions) below official poverty thresholds in 2009/10 to 2012/13.

<b>Child Poverty Measures laid down in the Child Poverty Act 2010</b>	<b>2009/10</b>	<b>2012/13</b>	<b>2020 Target</b>
Relative low income (before housing costs)	20% (2.6m)	17% (2.3m)	Less than 10%
Absolute low income (before housing costs)	18% (2.4m)	19% (2.6m)	Less than 5%
Low income and material deprivation	n/a	13% (1.8m)	Less than 5%

To note: Data from Households Below Average Income: <https://www.gov.uk/government/statistics/households-below-average-income-hbai-199495-to-201213>

Percentages are rounded to the nearest whole number and the number of children in millions is rounded to the nearest 100,000.

Due to changes in the set of material deprivation items, comparable combined low income and material deprivation figures are not available for 2009/10.

## **SCOTLAND**

### **Requirement under Child Poverty Act**

The Child Poverty Act, 2010 requires that the Scottish Ministers must develop and lay before the Scottish Parliament a Child Poverty Strategy. The Act required the first strategy to be published and laid within 12 months of the Child Poverty Act being passed. The Act also requires the Scottish Ministers to review the strategy and publish and lay before the Scottish Parliament a revised Scottish strategy. A revision of the strategy is required every three years and must outline how the work contained in it will contribute to the UK-wide 2020 Child Poverty Target. These targets relate to the levels of child poverty in terms of relative low income, combined low income and material deprivation, absolute low income and persistent poverty.

### **Child Poverty Strategy for Scotland**

The Scottish Government published their first Child Poverty Strategy on 15 March 2011 and in it outlined an approach which focused on maximising household resources and improving children's wellbeing and life chances.

### **Child Poverty Strategy for Scotland – Our Approach 2014 – 2017**

The Scottish Government published their revised Child Poverty Strategy on 10 March 2014. The 2011 strategy set out two key aims, maximising household resources and improving children's wellbeing and life chances. At the same time, communities and place were both key to the 2011 strategy. These elements remain central to our approach but there is a change to the way in which the refreshed Strategy presents these and ultimately, how these are reported on. The refreshed strategy reformulates the two overarching aims as outcomes to be achieved and recognises the increasing emphasis on place-based policy via the introduction of a third outcome. These three outcomes are set out in the convenient shorthand as Pockets, Prospects and Places (the 3Ps).

The three outcomes are:

Maximising household resources – Our aim is to reduce income poverty and material deprivation by maximising financial entitlements and reducing pressure on household budgets among low income families, as well as maximising the potential for parents to increase family incomes through good quality, sustained employment, and promoting greater financial inclusion and capability.

Improving children's wellbeing and life chances – Our aim is to break inter-generational cycles of poverty, inequality and deprivation. This requires a focus on tackling the underlying social and economic determinants of poverty and improving the circumstances in which children grow up – recognising the particular importance of improving children's outcomes in the early years.

Children from low income households live in well-designed, sustainable places – Our aim is to address area-based factors which currently exacerbate the effects of individual poverty for many families by continuing to improve the physical, social and economic environments in local areas, particularly those in areas of multiple deprivation in which child poverty is more prevalent.

### **Child Poverty Annual Reports**

The first annual report for the 2011 Child Poverty Strategy for Scotland was published on 22 March 2012 and the second followed on 6 September 2013. The final report on the progress made against the 2011 strategy will be published later in 2014.

The first report against progress made in the revised strategy will not be required until 2015.

### **Ministerial Advisory Group on Child Poverty**

The group was established by the Deputy First Minister following the publication of the 2011 Child Poverty Strategy for Scotland. The Ministerial Advisory Group on Child Poverty has met four times since its inception with its inaugural meeting taking place in December 2012. The group includes representatives from local authorities, health boards, business, the third sector and academics.

The group provides Scottish Ministers with advice on priorities and actions relating to child poverty and acts as the advisory body for the [Child Poverty Strategy](#) and the annual reports on the strategy, and for child poverty interest in related strategies, such as [Achieving Our Potential](#), [The Early Years Framework](#) and [Equally Well](#).

They will have a key role, alongside other bodies such as the Welfare Reform Scrutiny Group, in helping the Government to best understand the impacts of Welfare Reform in Scottish children and their families.

It will also provide a forum for the discussion of evidence, dissemination of good practice and the development of new thinking to support the delivery of the strategy.

## **WALES**

### **Child Poverty Strategy for Wales**

The Welsh Government published its Child Poverty Strategy in February 2011 and also a progress report on that strategy in 2013. They can be viewed via the following links:

<http://wales.gov.uk/docs/dsijg/policy/110203newchildpovstrategy2en.pdf>

<http://wales.gov.uk/docs/dsijg/policy/131129child-poverty-strategy-progress-reportv2-en.pdf>

## **NORTHERN IRELAND**

### **Requirement under the Child Poverty Act**

The Child Poverty Act 2010 enacted on 25 March 2010 placed a statutory obligation on the Northern Ireland Executive to develop a Child Poverty Strategy and lay it before the Northern Ireland Assembly by 25 March 2011. The Northern Ireland Executive is also required by the Child Poverty Act 2010 to report on progress against the Child Poverty Strategy annually and to issue a revised Child Poverty Strategy every third year. The Executive published the Strategy 'Improving Children's Life Chances' in 2011 and has been producing an annual report on its implementation since then. A new Child Poverty Strategy for Northern Ireland will be published in 2014 along with the 2012-2013 annual report.

### **Aims and priorities**

The Northern Ireland Executive's aim, as stated in the 2011 Northern Ireland Child Poverty Strategy '[Improving Children's Life Chances](#)' is to provide the opportunity for all children and young people to thrive and to address the causes and consequences of disadvantage.

To achieve this four strategic priorities have been adopted in the current strategy:

- Ensure, as far as possible, that poverty and disadvantage in childhood does not translate into poorer outcomes for children as they move into adulthood;
- Support more parents to be in work that pays, or pays better;
- Ensure the child's environment supports them to thrive; and
- Target financial support to be responsive to family situations.

Priority policy areas were identified as:

- Education
- Early Years
- Childcare
- Health and Social Care
- Family Support
- Parental employment and skills
- Housing
- Neighbourhoods
- Financial support

### **Measures taken**

The Northern Ireland Executive has led the development of a range of interventions under the banner of 'Delivering Social Change' to deliver a sustained reduction in poverty and associated issues, across all ages; and an improvement in children and young people's health, well-being and life

opportunities; thereby breaking the long terms cycle of multi-generational issues.

Six signature programmes worth £26 million, announced in October 2012, have been implemented which:

- Provide literacy and numeracy help to struggling pupils;
- Provide positive parenting programmes;
- Establish 10 family support Hubs, 10 Social Enterprise Incubation Hubs and 20 additional nurture units; and
- Provide skills programmes to help young people not in education, employment or training.

A seventh signature programme –‘Play and Leisure’ was announced by Ministers in October 2013 with a potential investment of up to £1.6m to enhance play and leisure opportunities for children and young people.

In addition, Bright Start, the Northern Ireland Executive’s Programme for Affordable and Integrated Childcare launched its first phase in September 2013. Bright Start aims to give children the best possible start in life – better social skills; better performance at school and beyond. Bright start will also aim to help parents who want to work and are deterred by a lack of quality, affordable childcare.

### **Child Poverty Outcomes Framework NI**

In 2012, The Office of the First and deputy First Minister (OFMDFM) commissioned the National Children’s Bureau to assist in establishing an approach for bringing together government departments so that each department has an opportunity to understand its role in terms of reducing child poverty. A significant amount of research and consultation with stakeholders from across government departments and statutory, community and voluntary sectors was undertaken in the development of an outcomes framework. OFMDFM published the Child Poverty Outcomes Framework NI in October 2013. This Framework set out a proposed outcomes-based approach, including outcomes and indicators.

The Northern Ireland Child Poverty Strategy 2011-14 ‘[Improving Children's Life Chances](#)’, Annual Reports 2011-12, 2012-13 and the Child Poverty Outcomes Framework NI can be viewed via the following links:

[http://www.ofmdfmi.gov.uk/final\\_child\\_poverty\\_strategy\\_-\\_agreed\\_by\\_executive\\_-\\_22\\_march\\_2011.pdf](http://www.ofmdfmi.gov.uk/final_child_poverty_strategy_-_agreed_by_executive_-_22_march_2011.pdf)

[http://www.ofmdfmi.gov.uk/final\\_first\\_annual\\_report\\_re\\_child\\_poverty\\_strategy.pdf](http://www.ofmdfmi.gov.uk/final_first_annual_report_re_child_poverty_strategy.pdf)

<http://www.ofmdfmi.gov.uk/child-poverty-strategy-second-annual-report-2013.pdf>

<http://www.ofmdfmi.gov.uk/child-poverty-outcomes-framework-september-2013.pdf>

## **ISLE of MAN**

The position in the Isle of Man remains largely as previously described except as set out below.

Section 34 of the Education Act 2001 states that the Department (of Education and Children) may provide, or assist in the provision of:

- a). schools for children under compulsory school age (nursery schools); and
- b). classes for children under compulsory school age at provided schools and maintained schools.

During the budget review in 2012 it was agreed that the Department would cease to provide nursery classes at its schools. Of the then 35 primary schools only 11 had nursery classes and insufficient funding was available to increase the number of nurseries to provide universal availability across the Island. After consideration the Department decided to offer the existing facilities to private organisations. In addition, it agreed to provide Pre-School Credits to all parents with children in the year before starting school, this credit could then be used to pay towards the cost of sending their child to one of the privately run nurseries.

A further development since the information presented in the 30th report is the introduction of the Children and Young Persons (Amendment) Act 2013 which changed the way in which unmarried fathers achieve parental responsibility. Previously they had to apply to the Courts for this, even if they were named on the birth certificate. From 1 November 2013 if they are named on the birth certificate then they have parental responsibility. This small but significant step equalises the acquisition of rights and responsibilities concerning children for fathers whether they are married or unmarried.

Parents apply for the Pre-School Credits annually and are issued with a certificate which they can exchange at the Pre School of their choice. The value of the credit is currently £350; those families who are in receipt of additional benefits due to the family income receive an additional £800. It is anticipated that these amounts will increase in 2014/2015.

Further information about Pre-School Credits is available on the Isle of Man Government website at:

<http://www.gov.im/categories/education,-training-and-careers/pre-school/>

Information about social benefits can be found on the Isle of Man Government website at:

<http://www.gov.im/categories/benefits-and-financial-support/>

The Department of Health and Social Care commissions a number of supportive services for families which offer advice and assistance. Family Centres are available with open access to parents to seek assistance and for referrals by agencies which identify a need within a family. The Centres provide programmes of support for those who have suffered Domestic

Violence and the Department provides grant support to Women's Aid which supports victims with emergency accommodation.

Public sector housing in the Isle of Man is provided by a number of Housing Authorities, which manage the properties within defined geographical areas of the Island. These areas consist of main settlement areas of Braddan, Castletown, Douglas, Onchan, Peel, Port Erin, Port St Mary and Ramsey. The Department of Health and Social Care is a Housing Authority, with the majority of the stock held in areas where there is no other functioning Housing Authority. The right to public sector housing is subject to a qualifying period of residence in the Island and is uniformly allocated across all Authorities in line with the Department's shared allocation criteria. Both property and management standards are set by the Department as the strategic lead for the sector.

The Isle of Man Strategic Plan which was approved by Tynwald in July 2007 is relevant in relation to the provision of affordable housing in private sector developments. Housing Policy 5 states:

*"In granting planning permission on land zoned for residential development or in predominately residential areas the Department will normally require that 25% of provision should be made up of affordable housing. This policy will apply to developments of 8 dwellings or more."*

The units identified in this manner can be utilised for Public Sector housing or for eligible first time buyers under a Government assistance scheme. The scheme is based on housing need and financial eligibility, targeting those who cannot access the housing market without assistance.

The term "affordable housing" in the above policy is defined by the Department of Infrastructure and Department of Health and Social Care as housing with is either:

- directly provided by the Department; or
- directly provided by Local Authorities; or
- meets the criteria for assisted First time Buyers

### **Pre-School Credits**

In the Academic Year 2012-2013, 899 certificates were issued. 670 certificates were at the standard rate of £350 while 229 were at the higher rate of £1,150. In the Academic Year 2013/2014 up to Easter 2014, 882 certificates were issued with 664 at the standard rate and 218 at the higher rate.

### **Child benefit**

During the reporting period Child Benefit was available to all families, irrespective of their means, bringing up at least one child or young person who was:

- Under the age of 16; or
- Aged 16 or over, but under the age of 20, and still in full-time non-advanced education or approved training of more than 12 hours a week.

Benefit is paid in respect of each child meeting one of the above criteria.

Weekly rates of Child Benefit are as follows:

	<b>April 2012</b>	<b>April 2013</b>
First or only child	£20.40	£20.40
Second or subsequent child	£13.50	£13.50

The enhanced rate of £30.00 per week payable in respect of a school child aged 16 to 19 was abolished in April 2012, subject to protection for existing recipients.

Although not within the timeframe for this report, the Committee may wish to note that from 7th April 2014 the amount of benefit payable is dependent upon the level of household income. Broadly speaking –

- If annual household income is £60,000 or less the full amount of benefit as set out above is payable;
- If annual household income is between £60,001 and £70,000 the amount of benefit payable for each child is reduced by 25%;
- If annual household income is between £70,001 and £80,000 the amount of benefit payable for each child is reduced by 50%;
- If annual household income is between £80,001 and £90,000 the amount of benefit payable for each child is reduced by 75%;
- If annual household income is greater than £90,000 the family is not entitled to child benefit.

Household income is the total of the claimant's and co-habiting partner's income. It does not matter whether or not the claimant's partner is the father of the child(ren) claimed for.

Caseload:

	<b>31/12/2012</b>	<b>31/12/2013</b>
Number of families	9,490	9,418
Number of children	16,518	15,814

Although not within the timeframe for this report, the Committee may wish to note that consequent to the introduction of income testing for child benefit from 7th April 2014, approximately 10% of families (whose annual incomes are greater than £90,000) ceased to be entitled and approximately 20% of families (whose annual incomes are between £60,001 and £90,000) had the amount of child benefit they receive reduced.

In addition to Child Benefit, some families are, in prescribed circumstances,

entitled to social assistance benefits in the form of Employed Person's Allowance (which replaced Family Income Supplement, from 31st January 2012) and Income Support.

Information has previously been provided in relation to both Family Income Supplement and Income Support and there have been no substantial changes to the information, save that the levels of support have been increased broadly in line with prices inflation during the period of the report.

Employed Person's Allowance (EPA) caseload:

	<b>At 31/12/2012</b>	<b>At 31/12/2013</b>
Number of cases	1,020	1,132

At 31/12/2013 34.0% of the caseload was couples, 64.5% was lone parents (including widows and widowers) and 1.5% was single disabled workers (Note: Employed Person's Allowance also replaced the former Disability Working Allowance from 31st January 2012). The parents of approximately 2,030 children (12.8% of the Island's total child population) currently receive EPA.

Income Support caseload

	<b>At 31/12/2012</b>	<b>At 31/12/2013</b>
Number of cases		
- of the qualifying age*	1,648	1,607
- below the qualifying age*	2,355	2,329

(\* the qualifying age means - for a woman her state pension age, and for a man the state pension age for a woman born on the same day as him)

The total number of children included in income support claims at 31/12/2013 was 641.

## **Domestic violence**

### **Simple figures for Domestic Assaults:**

<b>Year</b>	<b>09-10</b>	<b>10-11</b>	<b>11-12</b>	<b>12-13</b>	<b>13-14</b>
Recorded	103	87	82	77	97
Detected	83	77	73	68	76
*Detection Rate	81%	89%	89%	88%	78%

\*Detection Rate is based on crimes Detected in Year (i.e. potentially including crimes recorded in previous years).

Note this is not all Domestic Incidents, only those recorded crimes classed as assaults which have also been flagged as Domestic Incidents.

Simple figures for Domestic Incidents:

Crime	<b>09-10</b>	<b>10-11</b>	<b>11-12</b>	<b>12-13</b>	<b>13-14</b>
Recorded	144	161	156	135	155
Detected	126	139	136	116	116
*Detection Rate	87.5%	86.3%	87.2%	85.9%	74.8%

In addition to Domestic Assaults this will include relevant Public Order offences, Criminal Damage, Sexual offences, Burglary and Thefts which have been flagged as Domestic Incidents.

## Article 17

### ENGLAND and WALES

#### Parentage and Adoption

Please see paragraphs 47 to 52 on pages 30 to 31 of the UK's 2014 Report on UNCRC, which is attached as **Appendix 16A**.

***In Conclusions XIX-4, the Committee took note of the entry into force, in 2005, of the Adoption and Children Act of 2002 and asks whether this Act envisages any restrictions to the right of an adopted child to know his or her origins***

Guidance for adopted persons and other members of the public is available on the GOVUK website at: [www.gov.uk/adoption-records](http://www.gov.uk/adoption-records)

Arrangements for disclosing adoption information are now covered by following regulations made under the Act:

- The Adopted Children and Adopted Contact Registers Regulations, 2005<sup>1</sup>; and
- The Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005<sup>2</sup>

The Disclosure of Adoption Information (Post-Commencement Adoptions) Regulations 2005 No. 924 set out the new framework for managing adoption information in respect of any adoption when an adoption order is made on or after 30 December 2005. The adoption agency became the main gateway for access to information, including birth record information. The Registrar General will in future signpost adopted adults to the appropriate adoption agency, which is better placed to disclose sensitive identifying information, to seek the views of interested parties and to arrange for the provision of counselling. Where the Registrar General does not have information about the adoption agency adopted adults will be directed to the appropriate court for this information. Where an adopted adult applies to the adoption agency for the information needed to obtain a copy of his original birth record and the agency does not hold this information (for whatever reason) it may obtain it from the Registrar General on the adopted person's behalf. The Adopted Children and Adoption Contact Regulations do not affect those adoptions that had already taken place before the regulations came into force, as under Schedule 2 of the Act an adopted adult retains the right to apply directly to the Registrar General for the information needed to obtain a certified copy of the original birth record.

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<sup>1</sup> [www.legislation.gov.uk/uksi/2005/888/contents/made](http://www.legislation.gov.uk/uksi/2005/888/contents/made)

<sup>2</sup> [www.legislation.gov.uk/uksi/2005/888/contents/made](http://www.legislation.gov.uk/uksi/2005/888/contents/made)

Further information is set out in the Explanatory Memorandum to the Regulations, which can be viewed via the following link:

[www.legislation.gov.uk/ukxi/2005/924/pdfs/ukxiem\\_20050924\\_en.pdf](http://www.legislation.gov.uk/ukxi/2005/924/pdfs/ukxiem_20050924_en.pdf)

## **Children in public care**

### Statement of interpretation: Article 16 and 17

The Government thanks the Committee for its statement of interpretation in the General Introduction to Conclusions XIX-4. In the UK there is a general presumption that children should remain with their families unless they are at risk of significant harm or neglect. Local authorities are required to consider a hierarchy of placement options, starting with rehabilitation with parents. Where this is not possible, or is inappropriate, the next option would be to seek placement with a relative, friend, or connected person who is a local authority foster carer, on the grounds that a child will benefit from living with someone they already know and trust, rather than with a stranger. Only if these options are not possible does a local authority seek a placement with a foster carer who is not a relative, or in a children's home or other setting.

***In Conclusions XIX-4, the Committee noted from another source that 'children may be taken into alternative care as a result of parental low income', and asked for comments on this observation.***

Of the 28,830 children who started to be looked after in the year ending 31 March 2013, only 50 entered care due to low parental income.

## **Protection against ill treatment and abuse**

***The Committee holds that the situation is not in conformity as not all forms of corporal punishment are explicitly prohibited in the home.***

### Great Britain

The Government position is unchanged. The Government takes the view that it should not be a crime for parents to give their children a mild smack. Please see also the response in paragraphs 11 to 13 on page 21 of the UK 2014 Report on UNCRC, which is attached as Appendix A.

### Northern Ireland

The law in Northern Ireland on the physical punishment of children is based on the concept of "reasonable chastisement". In essence this means that if, for example, a parent or adult smacks a child and is prosecuted, they can only defend themselves in terms of "reasonable chastisement" if the harm is seen as minor.

The Law Reform (Miscellaneous Provisions) (Northern Ireland) Order retained the defence of "reasonable chastisement" but restricted it by specifically listing

six offences under the Offences Against the Person and Children and Young Person's Acts where punishment cannot be justified. Those were Grievous Bodily Harm, malicious wounding, aggravated assault, Assault Occasioning Actual Bodily Harm and cruelty to under 16s. This had the effect of making NI law consistent with law in England and Wales under Section 58 of the Children Act 2004.

In essence this means that if, for example, a parent or adult smacks a child and is prosecuted, they can defend themselves in terms of "reasonable chastisement" but only if the harm is minor. Anything which causes more than transitory or minor discomfort is unlawful and can result in prosecution.

Any change to the law in this area would not be a matter for a Justice Minister alone. It is a matter that embraces family policy on which other Executive Ministers and indeed the Assembly as a whole would also have an important voice.

### **Youth justice, Young offenders and Detention**

The position remains as previously described with the following update.

#### **Age of criminal responsibility**

***The Committee repeats its conclusion that it considers the age of criminal responsibility to be manifestly too low.***

#### England and Wales

The Government's position remains unchanged. The age of criminal responsibility in England and Wales is 10. The age was raised from 8 to 10 by the Children & Young Persons Act 1963.

Whilst it is recognised that many other European countries have a higher minimum age, each country must make a judgement based on its own circumstances. In the UK we believe that children are old enough to differentiate between bad behaviour and serious wrong doing at age 10.

However, the Government is keen to ensure that children and young people are not prosecuted whenever an alternative can be found. Local multi-agency Youth Offending Teams include social services and health professionals who can refer the child on to other statutory services for further investigation and support if appropriate. This can include Child and Adolescent Mental Health Services. Youth Cautions and Youth Conditional Cautions, introduced for offences committed from 8 April 2013, are now the most likely response to offending by this age group, both of which will include interventions to tackle offending behaviour and underlying problems, unless it is deemed unnecessary in the case of a first time offender. Criminal responsibility allows us to intervene early to prevent further offending whilst also helping young people develop a sense of personal responsibility for their misbehaviour.

Ways to divert young people away from the criminal justice system are being expanded where this is appropriate. These include liaison and diversion schemes in police custody suites, such as the “triage” scheme and community resolutions, which may be delivered with or without the use of restorative justice techniques. Initiatives such as these are possible because the criminal offence is recognised and acted upon, but they do not result in a criminal record for the young person and are shown to have a high rate of satisfaction for the victim. The Restorative Justice approach, which is embedded and being expanded in the youth justice system, can both give a voice to victims and educate the young person about the impact of their offending. This allows the victim, where they wish to be involved, and the young person to move on with their lives without further disturbance.

The success of initiatives such as this and other prevention schemes is supported by a decrease in the number of first time entrants (FTE) to the Youth Justice System receiving their first reprimand, warning or conviction (reprimands and final warnings have been replaced by youth cautions and youth conditional cautions for offences committed from 8 April 2013). The number of first time entrants fell by 67 per cent from 2002/03 to 2012/13 and also fell by 25 per cent in 2012/13.

### Scotland

In Scotland the age of criminal responsibility remains at eight. The Scottish Parliament legislated through the Criminal Justice and Licensing (Scotland) Act 2010 to raise the age at which a child can be prosecuted in an adult court from eight to twelve. This means that from 28 March 2011:

- Children under the age of 8 will continue to be conclusively presumed not to be guilty of an offence.
- Children under the age of 12 (but aged 8 and over) can only be dealt with for offending through the children’s hearing system.
- Children between the age of 12 and under 16 can be prosecuted, but only if the offence is sufficiently serious (e.g. murder, rape) to be dealt with on indictment (in terms of the Lord Advocate’s guidelines), otherwise they will be dealt with by children’s hearing system.
- Children aged 16 or 17 who remain on supervision through the children’s hearings system can continue to be managed in this system or can be prosecuted (decision made by Procurator Fiscal and Reporter). The court can also choose to remit a 16 or 17 year old back to children’s hearing system for disposal.

The Scottish Government is aware that many think the important decision to raise the minimum age of prosecution was a good first step, but did not go far enough. In this light the Scottish Government is committed to consider an increase to the minimum age of criminal responsibility in the lifetime of the current Parliament.

### Northern Ireland

An independent review of the youth justice system in Northern Ireland recommended that the minimum age of criminal responsibility should be raised. There are no plans to do so at present as cross-party support would be needed for such a change and this is not in place.

However implementation of other aspects of the same review have led to the development of a more proportionate response to offending by children, based on the best interests of the child, to divert them away from the formal criminal justice system and towards non-criminal justice interventions. The vast majority of children who commit offences are dealt with in the community, mostly through use of restorative practices. The roll out of police discretion also correlates with a sharp decrease (46%) in young people entering the formal justice system and corresponding reduction (29%) in prosecutions since 2010.

## **ENGLAND and WALES**

### **Youth Detention – 12 to 17 year olds**

The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012<sup>1</sup> introduced a new youth remand framework on 3 December 2012. Remands to Youth Detention Accommodation are a last resort. Young People under the age of 18 who are refused bail are remanded to local authority accommodation. However, 12 to 17 year olds may be remanded to Youth Detention Accommodation when a young person's case meets one of two conditions: the first concerning the seriousness of the offence charged; and the second the young person's history of absconding and offending together with whether there is a real prospect of a custodial sentence. If either of the conditions is satisfied then the young person may be remanded to Youth Detention Accommodation, when necessary to do so. At the end of July 2014, there were 275 young people and children aged 12 to 17 remanded to Youth Detention Accommodation. In 2012/13 there were 1,900 custodial remand episodes, down 48 per cent from 2011/12. The average time spent on remand in custody was 45 days in 2012/13; this figure has been stable over the last few years.

### **Maximum duration of remand in local authority secure accommodation**

The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 introduced a new youth remand framework. The period for which a defendant awaiting trial may be remanded in custody is restricted by *custody time limits*, which apply to every defendant regardless of age. These are set in Regulations made by the Secretary of State under section 22 of the Prosecution of Offences Act 1985. They limit the time spent in custody between first appearance and start of trial to 56 days (or in certain

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2012/10/section/8/enacted>

cases 70 days) for cases being tried summarily; and to a total of 182 days for cases tried on indictment. Custody time limits may be extended by the court on application, provided that there is a good and sufficient cause for so doing, and that the prosecution has shown all due diligence and expedition. It should be noted that when considering applications to extend custody time limits the court must have regard to section 44 of the Children and Young Persons Act 1933: "*Every court in dealing with a child or young person who is brought before it, either as an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training*". When the custody time limit expires, the defendant must be released on bail.

As explained in the previous report on this cycle, within these limits, any time spent by a defendant remanded in custody is also subject to regular reviews. The Magistrates' Courts Act 1980 sections 128 and 128A provide that the first review of a court decision to remand in custody must be made within 8 days. After this the decision to detain on remand must be reviewed no later than every 28 days. In addition to this the court is required to have regard to the remand status of the defendant at every court appearance and to hear any application for release on bail which includes new information that had not been presented to the court previously".

***The Committee asked to be kept informed about the Government's commitment to keeping 17 year olds in secure remand away from prisoners***

The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 introduced a new remand framework on 3 December 2012 which treats all 10 to 17 year olds as children for the purposes of remand by the criminal courts in England and Wales.

**Police Bail**

The position remains as previously described with the following update.

**Bail after charge and Section 38 PACE**

The requirement in the Police and Criminal Evidence Act (PACE) Code of Practice C1.5/1.7<sup>1</sup> for an appropriate adult to attend for under 17s was extended in 2013 to under 18s. However, this has no direct bearing on the "power" to refuse bail and the police and court "remand" powers.

**Reviewing the procedures/systems relating to detention of 17 year olds by police after charge**

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<sup>1</sup> <https://www.gov.uk/government/publications/pace-code-c-2013>

Following the ruling in the High Court in HUGHES CHANG vs. (1) Secretary of State for the Home Department and (2) Commissioner of Police for Metropolis, the Government made changes to PACE Code C and H so that upon arrest and detention 17 year olds are provided with an Appropriate Adult and the police must inform a parent of his or her detention.

#### Community Sanctions - Penalties available

For young people convicted of an offence the Youth Rehabilitation Order (YRO) is available. This is a community sentence for under-18s which is broadly equivalent to the adult community order. The legislation underpinning the YRO is contained in the Criminal Justice and Immigration Act 2008.

The Referral Order, Reparation Order, and Absolute or Conditional Discharge, and fine are the other alternative disposals.

#### Absolute or Conditional Discharge; Fine;

These sanctions are available for all offences. In certain circumstances, the court may order that a fine should be paid by the young person's parent or guardian.

The Youth Rehabilitation Order (YRO) came into effect on 30 November 2009. It replaced nine previous sentences, building on their best elements and making the framework clearer and more coherent. Courts are able to choose from a 'menu' of 18 different requirements with which the offender must comply.

Crucially, these requirements are tailored to the needs of the individual and the seriousness of the offence. This means that each young person will have a sentence that meets their own personal needs.

The order also provides for intensive supervision and surveillance (ISS) and intensive fostering that are specifically set as alternatives to custody for the most serious offences. The menu of interventions, if tailored effectively, can offer a real community alternative that has rehabilitation at its heart.

As explained in the previous report, the following comprise the 'menu' of 18 different requirements which are available to the courts when making a YRO, with an update on the final point on 'fostering'. Courts will focus on those relevant to the offending behaviour of the young person: Activity requirement

- Supervision requirement
- Attendance Centre requirement
- Programme requirement
- Curfew requirement
- Education requirement

- Residence requirement (16/17 year olds only)
- Local Authority Residence requirement
- Drug Treatment requirement
- Drug Testing requirement (14 years old or older)
- Mental health treatment requirement
- Intoxicating substance treatment requirement
- Exclusion requirement
- Prohibited activity requirement
- Electronic monitoring requirement
- Unpaid work requirement (16/17 year olds only)
- Intensive supervision and surveillance requirement
- **Youth Rehabilitation with fostering**

#### Youth Rehabilitation with Fostering

Fostering is a high intensity alternative to custody. There are four sites in Wessex, Staffordshire, London and Trafford. Fostering is targeted at children and young people whose home life is felt to have contributed significantly to their offending behaviour. Like other community penalties, fostering aims to hold a young person to account for their crimes while ensuring they get the support they need within their community to address factors which may have contributed to their offending behaviour.

The programme provides highly intensive care for up to 12 months for each individual, as well as a comprehensive programme of support for their family. The scheme is based on the Multi-dimensional Treatment Foster Care (MTFC) model which has been used successfully with offenders in Oregon since the 1980s. This model is based on a system of points and levels which reward appropriate behaviour. Foster carers are carefully selected and trained to work with young people in a nurturing environment, acting as an advocate and helping to establish and strengthen family relationships. The programme also includes support for the family of the young person, for example to increase effective parenting skills, family therapy and counselling. Each programme is tailored to meet the needs of the individual offender and their family.

#### Referral Order

The Referral Order (lasting from 3 to 12 months) is the primary community sentence for first time offenders aged 10 to 17 year olds, who come before the court (and who plead guilty and do not warrant an absolute discharge, conditional discharge, hospital order or a custodial sentence). Once sentenced, a youth offender panel which is headed by two volunteers from the

local community and a member of the youth offending team will agree a programme with the young person to tackle the underlying causes of their offending behaviour, including an element of reparation if appropriate. New legislation in the Legal Aid Sentencing and Punishment of Offenders Act 2012 introduced on 3 December 2012 removed the restrictions on the repeated use of the referral order with the aim of promoting its use for the delivery of restorative justice conferencing.

The court now has the discretion to give a referral order where the young person pleads guilty regardless of whether the child has been subject to a referral order previously.

### Reparation Order

A court can order an offender to make reparation to the victim of the offence or to the community: for example, by writing a letter of apology, repairing damage or by meeting the victim. The term of the order is up to 24 hours reparation activity over the course of three months.

### Penalties involving restrictions on liberty

There is a statutory requirement that young people under 18 may not be sentenced to custody except as a last resort and then only for the shortest appropriate period (s.152(2) and 153(2) Criminal Justice Act 2003). In addition, the Sentencing Guidelines Council guideline *Overarching Principles – Sentencing Youths* published on 20 November 2009 sets guidelines for the judiciary to follow when sentencing under-18s and states that “under both domestic law and international convention, a custodial sentence must be imposed only as a ‘measure of last resort’”. The Committee questioned whether that was being given full effect. Sentencing in individual cases is a matter for the courts.

The following sanctions are the custodial measures available in respect of young offenders under 18:

### Detention in a place approved by the Secretary of State ages 10-17 years

For the most serious offences, the Crown Court has the power to sentence children and young people aged 10 to 17 to detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, if convicted on indictment of the following serious offences:

- an offence punishable in the case of an adult with imprisonment for 14 years or more;
- various sexual offences; and
- certain firearms offences.

The youth custodial estate currently comprises of three types of provisions:

### Young Offender Institutions

Young Offender Institutions (YOIs) provide for 15-17 year old boys sentenced or remanded to custody. There are six YOIs in England and Wales. At the end of July there were 769 young people held in YOIs<sup>1</sup>.

### Secure Training Centres

Secure Training Centres (STCs) are purpose-built centres for young people between 12 and 17. There are four STCs. At the end of July 2014, there were 256 young people held in STCs.

### Secure Children's Homes

Secure Children's Homes (SCHs) provide for the most vulnerable young people aged 10-17. SCHs are run by local authority social services departments and overseen by the Department for Education. Secure places are currently commissioned from nine SCHs. At the end of July 2014, there were 97 young people held in SCHs.

### Detention during Her Majesty's Pleasure – ages 10-17 years

As explained in the previous report, persons charged with murder who were under 18 at the time the offence was alleged to have taken place must be committed to the Crown Court for trial and, if convicted, are sentenced to detention during Her Majesty's Pleasure (section 90 of the Powers of Criminal Courts (Sentencing) Act 2000). The court must specify a minimum term to be spent in custody before release on licence can be considered. Once this period is completed, the sentence is kept under review and the date of release is decided by the Parole Board.

### Detention for public protection and the extended sentence – New Extended Determinate Sentence

Detention for public protection and the extended sentence for under 18s were replaced by the new Extended Determinate Sentence (EDS) under Section 124 of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012. This is available for any offender who was convicted after the commencement of the new provisions on 3<sup>rd</sup> December 2012, regardless of the date of the offence. EDS consists of a custodial term, which reflects the seriousness of the offending; followed by an extended licence period which is determined by the court on the basis of what is needed to protect the public from serious harm that may be caused by the offender committing further specified offences (the extended licence period may be for up to 5 years for a violent offence, 8 years for a sexual offence)

For under 18s an EDS can only be imposed where all the following conditions are met:

- The offender has been convicted of a sexual or violent offence (listed in

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<sup>1</sup> These figures are provisional, the 2013/14 and 2014/15 figures will be finalised in the respective annual Youth Justice statistics publications.

- Schedule 15 to the Criminal Justice Act 2003<sup>1</sup>);
- The court considers the offender is dangerous; and
  - The current offence merits a determinate sentence of at least 4 years (after guilty plea discount is applied).

***The Committee asked to be kept to be kept informed about the Detention and Training Order and the number of juveniles sentenced to it.***

The Detention and Training Order (DTO) was introduced in April 2000. It replaced two earlier sentences for young people: Detention in a Young Offender Institution and the Secure Training Order (Detention in a Young Offender Institution is still available for 18-20 year-olds).

The DTO is the standard sentence for 12-17 year olds whom the courts decide should be sent to custody. It is only available where the offence is punishable with imprisonment in the case of a person aged 21 or over; and the court is satisfied that the offence is so serious that neither a fine alone nor a community sentence could be justified (s152(2) Criminal Justice Act 2003). In the case of 12 to 14 year olds, there is an additional requirement: that the offender is a persistent offender.

The DTO is a two-part sentence, half of which is served in custody and half under supervision in the community. The minimum DTO order is four months and the maximum two years (of which half is served in custody).

Decisions on placement of a child or young person in a secure establishment are made by the Youth Justice Board in conjunction with the Youth Offending Team. Placement will depend on depend on their age, and individual needs and risks.

Release one or two months early from the custodial part of the sentence, with electronic monitoring, is available. This provides a useful and properly managed transition back to the community, helping reintegration of young offenders into law-abiding society.

In the 12 months to March 2014, 1,947 young people were given a Detention and Training Order.

At the end of July 2014, 600 young people serving DTOs were held in the under-18 youth secure estate as a whole (YOIs; STCs; and SCHs).

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2003/44/schedule/15>

### Conditions under which penalties carried out

The great majority of penalties imposed on young offenders do not involve the deprivation of liberty. In a small minority of cases (about six per cent of those who admit or are found guilty of an offence), courts decide that only a custodial penalty is sufficient to meet the circumstances of the case. These young people are detained in one of three types of custodial facility.

### Offenders detained in Young Offender Institutions

Young Offender institutions (YOIs) provide for 15-17 year old boys sentenced or remanded in custody. There are six YOIs in England and Wales. At the end of July 2014 there were 769 (under -18) young people held in YOIs<sup>1</sup>. Five of the YOIs are run by the National Offender Management Service (NOMS)<sup>2</sup> and the other, Parc in South Wales, is privately run by G4S. These are distinct from YOIs for young adults which cater for 18-20 year olds. The Youth Justice Board has commissioned a small number of specialist units within the YOI estate to meet the needs of long-termers and those with high risk factors to ensure that those who are vulnerable within this sector are catered for.

Regimes for young people in YOIs are built upon the evidence-based research into 'what works' with young people and the effective practices established for young people. These may include the provision of education and training, health care and dedicated substance misuse services, arrangements for family contact and access to advocacy services, peer support groups and Samaritans. Every care is taken to ensure that regime activities promote young people's well being and healthy growth, and they are tailored to be age appropriate and child focused. Sentence plans are also be targeted to meet the specific needs of young people.

Since 2014 all girls in custody (under 17) are placed in Secure Children's Homes or Secure Training Centres. This follows the decommissioning of Young Offender Institution girls units.

### ***The Committee asked how many juveniles are detained in Secure Training Centres***

At the end of July 2014 there were 256 young people under 18 in Secure Training Centres.

### **Measures of education, protection and treatment**

The Detention and Training Order (DTO) is structured to enable the young offender to receive education and training during the custodial period and for this to be built on this during the community part of the sentence.

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<sup>1</sup> These figures are provisional, the 2013/14 and 2014/15 figures will be finalised in the respective annual Youth Justice statistics publications.

<sup>2</sup> [www.justice.gov.uk/about/noms/](http://www.justice.gov.uk/about/noms/)

The Government recognises that young people leaving custody are some of the most vulnerable young people in our society. Many have complex and wide ranging problems which require intensive support and access to services which can directly address their offending behaviour and help break the cycle of offending. The provision of effective resettlement services requires the co-operation of a range of local agencies who can provide on-going access to services. On release young offenders are supervised by the local multi-agency Youth Offending Team (YOT) and have an individual intervention plan to address their offending behaviour and enable them to reintegrate back into their home communities and lead law-abiding productive lives.

To support this, the Ministry of Justice (MoJ) together with the Youth Justice Board (YJB) are taking significant steps to improve resettlement and ensure that progress achieved in custody is built upon on release. Four new strategic resettlement consortia are being launched. These will bring together partners from the custodial estate, YOTs, local authorities and the community to ensure that young people receive the support they are entitled to on release and to tackle barriers to effective resettlement. They will build on the initial pilots of resettlement consortia which were launched in 2009.

Two regional employer forums will bring together large and local employers to help secure training, corporate mentoring and job opportunities for young people on their return into the community.

The Government is working to improve resettlement planning processes in custody and ensure all operating specifications clearly set out the necessary resettlement pathways and minimum requirements to deliver effective practice. In tandem with this we are also reviewing and updating the YOT Case Management Guidance to ensure alignment in setting out clear roles and responsibilities for delivering effective resettlement across the youth justice sector and wider relevant partners.

### **Putting Education at the Heart of Detention**

***The Committee asked for information on the application of the Apprenticeship, Skills, Children and Learning Act, 2009, which amended the Education Act 1996 to bring children and young people detained in youth custody under education legislation.***

In February 2013 the Government published a consultation paper on transforming youth custody and putting education at the heart of detention<sup>1</sup> and proposed its vision for Secure Colleges and key information on Youth Custody and the young people held there.

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<sup>1</sup> <https://consult.justice.gov.uk/digital-communications/transforming-youth-custody>

The document highlights how the Government is setting out plans to introduce a pathfinder Secure College, a new secure educational establishment which will put education at the heart of youth custody. The pathfinder Secure College will open in the East Midlands in 2017 and, if proven successful, will provide a blueprint for a network of Secure Colleges across England and Wales to replace most existing youth custodial provision.

Legislation on Secure Colleges is included in the Criminal Justice and Courts Bill which is currently progressing through Parliament.

While plans to introduce Secure Colleges are taken forward, the Government is also taking important steps to improve provision for those currently in youth custody.

At present 15-17 year olds in YOIs receive an average of only 12 hours contracted education a week. A competition has commenced for new contracts which will more than double the number of hours young people in YOIs spend in education each week, and this is due to commence in spring 2015.

To change the culture of YOIs and support a stronger focus on education, the head teacher or principal overseeing delivery of education will be brought into the senior management team of the establishment. We are also taking steps to ensure custodial staff members have the right skills and qualifications for working with young people.

As far as Secure Children's Homes are concerned, a report published by the Secure Accommodation Network<sup>1</sup> in February 2013 clarifies that 'The educational ethos of Secure Children's Homes (SCHs) is to provide an individualised education for young people that does not allow the child to repeat the failures of their previous educational placements. Depending on their size and resources, the SCHs offer a range of educational interventions which have at their heart a commitment to ensuring that all the young people are furnished with numeracy and literacy skills. By providing 30 hours of education per week, the education provision is able to wrap around the child's needs and reengage them in a positive experience of education.'

### **Care provided as a means of prevention or as an alternative to detention**

Local authorities have a statutory responsibility to protect the safety and welfare and promote the wellbeing of children in their areas. In circumstances where a local authority's assessment indicates that an individual child is at risk of significant harm that requires the child to be under their care, the authority would need to apply to a Court for a Care Order to seek, or share, parental responsibility.

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<sup>1</sup> <http://www.securechildrenshomes.org.uk/2013/12/>

Application for a Care Order is a welfare intervention and is therefore legally distinct from a sentence resulting from a child being found guilty of an offence. There may be some circumstances where a child found guilty of an offence may, with the agreement of the local authority and a child's parents, be accommodated in a foster or children's home as part of a Youth Rehabilitation Order imposed by the youth court. This would be in response to a child's offending behaviour to minimise the likelihood of their reoffending and to provide them with wider welfare support.

### **Measures to minimise the risk for vulnerable young people**

The Youth Justice Board has in place a specialised assessment tool, known as ASSET, to enable all relevant information about a young person being dealt with by the criminal justice system to be made available to those making decisions and having duties of care.

ASSET is to be replaced by the new assessment and planning interventions framework AssetPlus, with deployment expected to start in 2015. As an assessment tool, it will build on the successes of ASSET but reflects new insights from research and the academic literature and the changing context for practice. The AssetPlus framework will deliver continued improved outcomes for young people at risk of offending or reoffending, their families, victims and communities through more effective and timely identification of risks and needs and the planning of appropriate intervention.

There have been a range of measures to improve safeguarding of young people in the under-18 secure estate. This has included significant investment into the physical environment of the youth secure estate which has included the introduction of safer cells, cubicular showers and CCTV as part of a capital works programme. The introduction of safeguarding managers and dedicated social workers in YOIs, the provision of advocacy services specifically for children and young people, the introduction of a specific operating policy for the care and management of young people and mandatory training 'Working with Young People in Custody' for all officers who work in the youth estate.

One area of safeguarding that has caused particular concern is the use of physical restraint. An independent review of restraint in youth secure settings the *Independent Review of Restraint in Juvenile Secure Settings* was published in 2008. The Review called for a more young person-focused approach in YOIs and a greater emphasis on dealing effectively with potential conflict so as to minimise the need for physical restraint. One of the outcomes of the review included developing and introducing a new system of restraint for STCs and under-18 YOIs. This system has been independently assessed by a panel of medical and child welfare experts. The system is currently being implemented.

### **Troubled Families**

In 2012 the Government launched the £448m Troubled Families Programme, which sees a number of central government departments working together to support local authorities to turn the lives of 120,000 families in England suffering from multiple problems, including: truancy; involvement in youth crime and antisocial behavior; and parental unemployment. An expansion to the scheme – intended to see it run until 2020 and provide support to a further 400.000 families affected by a wider range of problems including domestic violence, the risk of intergenerational offending and multiple problems - was announced in August 2014 and is due to begin rolling out later this year. More detailed information on the Troubled Families initiative is set out in the response to Article 16 above.

### **Youth Engagement Fund**

The Youth Engagement Fund is a new cross-government fund supporting innovative initiatives to help disadvantaged young people aged 14 to 17 to participate and succeed in education or training. The £16 million fund uses a social investment model, with payment to providers for outcomes linked to improved educational attainment, leading to improved employability, and a reduction in young people's likelihood of offending. The contracts for providers are being awarded under a competitive bidding process and will commence in Spring 2015.

### **Anti Social Behaviour (ASB)**

Both the direct Home Office and Department for Education funding and monitoring of specific prevention projects run by the Youth Justice Board has ceased as part of the reducing the burdens and localism initiatives. Local areas now employ a diverse range of approaches to prevent offending and Anti Social Behaviour (ASB). Some have retained Youth Inclusion and Support Panels (YISPs) as part of these approaches. Others have diversified in to other models such as the Bureau approach (particularly in Wales) or Triage. The YJB no longer holds information on the numbers of YISPs in existence or their performance.

### **General Introduction to Conclusions XIX-4, general question to all states**

***The Committee asks whether unlawfully present children have access to shelter and medical care for as long as they are in the jurisdiction of the state party, and if so what is the legal basis.***

Leaving aside the question as to whether such children fall within the personal scope of the Charter, the Government can confirm that unlawfully present children do have access to humanitarian assistance, including shelter and medical care whilst in the UK. Please see the response in respect of Special Protection Measures on page 49 of the UK's 5<sup>th</sup> Report on the Convention on the Rights of the Child (**Appendix 16A**).

## **SCOTLAND**

### **Status of the Child**

#### **Children and Young People (Scotland) Act 2014<sup>1</sup>**

The Act will make real the Scottish Government's aspirations for Scotland to be the best place to grow up in. It will do this by putting children and young people at the heart of planning and delivery of services and ensuring their rights are respected across the public sector.

The Bill was passed by Parliament on 19 February 2014 and received Royal Assent on 27 March 2014. Work is underway on implementation the Act. The first orders were laid on 19 May 2014, and relate mainly to the Early Learning and Childcare provisions.

#### Relevant aims and provisions of the Act

The Act will increase the universal provision of Early Learning and Childcare to improve outcomes for children. From August 2014, the Act will increase the amount and flexibility of free Early Learning and Childcare from 475 to a minimum of 600 hours per year for 3 and 4 year olds, and 15% of Scotland's most vulnerable 2s. From August 2015 this will extend to 27% of the most vulnerable 2s.

The Act will ensure better permanence planning for looked after children by giving all 16 year olds in care the right to stay in care until the age of 21 from 2015. This was developed in collaboration with, and widely welcomed by, many young people and stakeholders including WhoCares? Scotland. It will also extend the support available to young people leaving care for longer (up to the age of 26), and support the parenting role of kinship carers.

The Act introduces a duty on Local Authorities to ensure that families in the early stages of distress (where the child is eligible) who seek help are provided with appropriate relevant services. This duty will: provide families who are in early stages of distress with relevant services; promote early stability and permanence in the lives of children and families; and reduce the number of children who become looked after over the medium term. Local Authorities will provide this assistance and will be afforded some discretion to determine the exact form of assistance that would be appropriate, depending on the circumstances of the family.

Scotland's Adoption Register is a service designed to increase the opportunities for finding prospective adoptive families and to speed up the adoption process for children for whom adoption is seen as the best form of achieving permanence and stability. The Act will place the national Adoption Register on a statutory footing, introducing a requirement for Local Authorities

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<sup>1</sup> [www.legislation.gov.uk/asp/2014/8/introduction/enacted](http://www.legislation.gov.uk/asp/2014/8/introduction/enacted)

and registered adoption services to provide specified information to the Register. This will ensure more Local Authorities use the Register than at present (as it will become compulsory) and it should provide further opportunities for finding permanent homes for children more quickly.

### **Overview of work on Children's Rights**

The Scottish Government is committed to supporting and promoting children's rights. This is a key strand underpinning our activity to improve outcomes for all Scotland's children and young people. Our framework for this work is the UN Convention on the Rights of the Child.

We published our response to the 2008 Concluding Observations from the UN Committee on the Rights of the Child, *Do the Right Thing*, on 1 September 2009. This document will inform future activity on children's rights and will be used to monitor progress over the next reporting period (to 2014). There are 21 priority areas for action which cover a wide range of issues of importance for children and young people themselves and for everyone who works with them or on their behalf:

- Ongoing monitoring of UNCRC in Scotland
- Promoting children's rights in Scottish Government
- Promotion and awareness raising of UNCRC, including training on UNCRC for professionals who work with children
- Tackling negative perceptions of children and young people
- Gypsy/traveller children and young people
- Advocacy services for children and young people
- Participation of children and young people in school
- Mosquito devices
- Promoting positive forms of parenting
- Young carers
- Improve outcomes for looked after children
- Children of prisoners
- Private fostering
- Children with disabilities
- Improve outcomes for teen parents
- Support delivery of the Curriculum for Excellence health and wellbeing experiences and outcomes

- Child Poverty
- Play
- Better support for unaccompanied asylum seeker children
- Child trafficking and sexual exploitation
- 16 and 17 years olds in the youth justice system

The Scottish Government has already taken decisive action in a number of areas that will further improve the rights of children and improve outcomes for children and young people in Scotland: we have announced our intention to raise the minimum age of prosecution from 8 to 12; children and young people seeking asylum now have equal access to higher and further education in Scotland; and we have introduced legislation to end the remanding of under 16s in prison in Scotland.

## **Youth justice in Scotland – The Children’s Hearings System**

### **Development of the System**

The Children’s Hearings System represents one of the radical changes initiated by the Social Work (Scotland) Act 1968, later incorporated into the Children (Scotland) Act 1995. On 24 June 2013, the 1995 Act was replaced by a new Act, the Children’s Hearings (Scotland) Act 2011. The new Act strengthens and modernises the system and included the creation of a new post of National Convener to head up the new national children’s panel, providing support to and oversight of the panel element of the children’s hearings system. At the same time, a new Body, Children’s Hearings Scotland, was created to assist the National Convener.

The grounds on which a child or young person may be brought before a hearing are set down in the Children (Scotland) Act 2011 and are as diverse as:

- is likely to suffer serious impairment to health or development through lack of parental care;
- being the victim, or at risk of an offence including physical injury or sexual abuse;
- is beyond the control of parents or other relevant person;
- is exposed to moral danger;
- is indulging in solvent abuse;
- is misusing alcohol or drugs;
- has committed an offence;
- failure to attend school without reasonable excuse; and
- is being, or is likely to be, pressured into entering a marriage or civil partnership.

Children under 16 are only considered for prosecution in court where serious offences such as murder or assault to the danger of life are in question or where they are involved in offences where disqualification from driving is possible. In cases of this kind the Procurator Fiscal has to decide if prosecution is in the public interest. If not, it is by no means automatic that prosecution will occur and where the public interest allows, children in these categories can be referred by the Procurator Fiscal to the Reporter for decision on whether referral to a hearing is appropriate. Where the child or young person is prosecuted in court, the court may refer their case to a hearing for advice on the best method of dealing with the child. The court on receipt of that advice, or in certain cases without seeking advice first, may remit the case for disposal by a Hearing.

The Reporter is an official employed by the Scottish Children's Reporter Administration. All referrals must be made to the Reporter on children and young people who may need compulsory measures of supervision. The main source of referrals is the police, but other agencies such as social work or education and indeed any member of the public may make a referral to the Reporter.

The Reporter must make an initial investigation before deciding what action, if any, is necessary in the child's interests. The Reporter must consider whether the evidence is sufficient to support the grounds for referral and then decide whether compulsory measures of supervision may be required.

- The Reporter has a statutory discretion in deciding the next step and the reporter may:
- Decide that no further action is required. The child or young person and parent or other relevant person is then informed of the decision. The Reporter may convey this decision in person when the child may be warned about his future behaviour, especially if offending is involved;
- Refer the child or young person to the local authority to arrange for such advice, guidance and assistance as maybe appropriate for the child on an informal voluntary basis. This usually involves the social work department; or
- Arrange to refer the child to a hearing because the child is in need of compulsory measures of supervision.

### **Children's Panel**

This is a group of unpaid trained volunteers who come from a wide range of backgrounds. There is one national panel, but panel members usually sit on hearings within their own local area. All panel members are trained to communicate with children and their families. Members of the public aged over 18 can apply to become a panel member during the annual recruitment campaign.

Across Scotland there are over 2,500 panel members. They are carefully prepared for their task through an extensive training programme and also have continuous opportunities during their period of service to develop their knowledge and skills through attendance at various training events.

### **Selection and Appointment**

The National Convener makes both the appointment and re-appointment of panel members on the recommendations of the Area Support Team (AST) for the area concerned. For new appointments this involves application forms, interviews and group discussions. The initial period of appointment for a panel member is normally 3 years and is renewable where a further recommendation is received from the AST.

### **A Hearing**

A Hearing is a lay tribunal of three members. It must not be wholly male or female and should have a balance of age and experience. The Hearing consider and make decisions on the needs of the child or young person before them. The “needs” include addressing any “deeds”. The hearing decides whether compulsory measures of supervision are needed for the child and, if so, what they should be. The Hearing can consider cases only where the child or young person, parents or other relevant person accept the grounds for referral stated by the Reporter or where they accept them in part and the Hearing considers it proper to proceed. Where the grounds for referral are not accepted or the child does not understand them (unless the hearing decides to discharge the referral), the case is referred to the Sheriff to decide whether the grounds are established. If the Sheriff is satisfied that any of these grounds is established he will remit the case to the Reporter to arrange a Hearing. In certain specified circumstances a child or young person may be detained in a place of safety as defined in the Children (Scotland) Act 2011 by means of an interim order, pending a decision of a Hearing, for a period not exceeding 22 days in the first instance. It can be extended on review by another children’s hearing for a further 22 day period each time, but only on three occasions. After that, the Reporter must apply to the Sheriff for any further periods of 22 days, if necessary.

The Hearing, or the Sheriff in certain court proceedings, may appoint an independent person known as a safeguarder. The role of the safeguarder is to prepare a report to assist the Hearing in reaching a decision in the child’s best interests. Safeguarders are appointed from a national Safeguarders Panel. All safeguarders must be able to satisfy key competences and undertake all necessary training before being appointed to the Panel.

### **Attendance at a Hearing**

A Hearing is usually held in the child or young person’s home area. The layout of the room is informal with the participants generally sitting round a table. Normally, the child or young person must attend. They have the right to attend all stages of their own Hearing. The Hearing may suggest that they

need not attend certain parts of the Hearing or even the whole proceedings – for example, if matters might arise that cause significant distress. It is important that both the child's parents or other relevant persons should be present when the Hearing considers the case so that they can take part in the discussion and help the Hearing to reach a decision. Their attendance is compulsory by law, and failure to appear may result in prosecution and a fine. The parents or other relevant person may take a representative to help them at the Hearing or each may choose a separate representative. The child or young person also has the right to choose a representative, but this does not exempt them or their parent or relevant person from attending the Hearing. In certain cases, a hearing may appoint a publicly funded legal representative to the child and/or the parents or relevant person.

The parents or other relevant person and their representatives can be excluded from any part of the hearing for the views of the child or young person to be obtained or if the child may be distressed by their presence. However, the Chairperson must explain the substance of what has taken place in their absence.

Although proceedings at Hearings are private, the press is entitled to attend the Hearing, but may be asked to leave the room if the Hearing consider it necessary for them to do so to obtain the views of the child or where the child may be distressed by their presence. In any subsequent account of the proceedings, the press is not allowed to disclose the identity of the child. Other persons who may be present are members of the AST who monitor the role of panel members. No one is admitted unless they have a legitimate concern in the case or with the panel system or have the agreement of the Chairperson of the hearing and the child's family. The Hearing is, therefore, a small gathering able to proceed in an informal way and to give the child and parents the confidence and privacy to take a full part in the discussion about what needs to be done for the child.

The Hearing has to decide on the measures of supervision which are in the best interests of the child or young person. It receives a report on the child including social background from the local authority and where appropriate a report from the child's school. Medical, psychological or psychiatric reports may also be requested. Parents and, where appropriate, children are provided with copies of these reports at the same time as panel members.

The Hearing discusses the circumstances of the child fully with the parents, child or young person and any representatives, the social worker and the teacher, if present. As the Hearing is concerned with the wider picture and the long-term well being of the child, the measures which it decides on will be based on the best interests and welfare of the child. They may not appear to relate directly to the reasons that were the immediate cause of his appearance. For example, the Hearing may decide that a child or young person who has committed a relatively serious offence should not be removed from home, because his difficulties may be adequately met within the treatment resources available in his home area. Whereas a child or young person who has come to the Hearing's attention because of a relatively minor

offence may be placed away from home for a time if it appears that his home background is a major cause of his difficulties and the Hearing considers that removal from home would be in his or her best interest.

### **Compulsory Supervision Orders**

If the Hearing thinks compulsory measures of supervision are appropriate it will impose a compulsory supervision order (cso), which may be renewed annually until the child becomes 18. The Hearing has a wide scope to insert any condition in a cso, and the local authority is responsible for ensuring that it is implemented. In most cases the child will continue to live at home, but will be under the supervision of a social worker. In some cases the Hearing will decide that the child should live away from home with relatives or foster parents, or in one of several establishments managed by local authority or voluntary organisations, such as children's homes, residential schools or secure accommodation. A Hearing does not have power to fine the child or young person or his parents. All decisions made by hearings are legally binding on that child or young person.

### **Appeals**

The child or young person or his parents may appeal to the Sheriff against the decision of a Hearing, but must do so within 21 days. Once an appeal is lodged it must be heard and disposed of before the expiry of the period of 3 days beginning the day after the day on which the appeal is made. Thereafter on a point of law only, Sheriffs' decisions may be appealed to the Sheriff Principal or the Court of Session.

### **Legal Advice and Legal Aid**

Prior to the Hearing, legal advice is free or available at reduced cost under the legal advice and assistance scheme to inform a child or his parents about their rights at the Hearing and to advise about acceptance of the ground for referral. The new 2011 Act also allows for legal aid to be available to the child and parent/relevant person for representation at the hearing in a number of circumstances, as well as for appearance in the Sheriff Court either when the case has been referred for establishment of the facts or in appeal cases.

The Scottish Government recognised that it was vital to ensure that legal representatives who operate within the children's hearings system should be familiar with its procedures, sympathetic to its unique ethos and able to adapt their professional style to the special nature of the proceedings.

For this reason, provision was made under the 2011 Act for a register and code of practice to ensure that state-funded solicitors appearing before a children's hearing would demonstrate the appropriate skills and characteristics. This involves the Scottish Legal Aid Board (SLAB) making sure there are sufficient numbers of legal representatives available across the country, that those legal representatives are appropriately experienced and that the quality of their work is appropriately monitored. SLAB monitors

compliance with the code and is able to remove any solicitor or firm from the register for failing to comply with it.

### **Review Hearing**

The Hearing has to review a cso within a year otherwise it lapses. The hearing may specify an earlier review date. At a Review Hearing, which is attended by the parents or other relevant person and normally the child, the cso may be discharged, continued or altered. A child, parent or other relevant person may request the review after three months. The social work department may recommend a review at any time. The Reporter has a duty to arrange Review Hearings.

### **Resources**

The Scottish Government provides funding of over £20m to the Scottish Children's Reporter Administration and almost £4m to Children's Hearings Scotland. The latter includes funding to provide training for all panel and AST members. Funding of £1m is also provided to a contractor for the administration and training of the national Safeguarders Panel. Local authorities are responsible for providing appropriate facilities for the assessment and supervision of children and for carrying out the compulsory supervision orders made by hearings.

### **Youth Justice – Preventing Offending by Young People: A Framework for Action**

The Scottish Government published the partnership framework Preventing Offending by Young People: A Framework for Action<sup>1</sup> in June 2008. The purpose of the Framework is to outline a shared ambition of what the Government wants national and local agencies to do in order to prevent, divert, manage and change offending behaviour by children and young people.

The Framework was jointly developed and is formally owned by the Scottish Government, the Convention of Scottish Local Authorities (COSLA), the Association of Chief Police Officers Scotland (ACPOS), Scottish Children's Reporter Administration (SCRA) and the Crown Office and Procurator Fiscal Service (COPFS), as key national delivery agencies. It is also endorsed by the relevant inspectorates and professional organisations: HMIE, Care Commission, SWIA, HMIC and Audit Scotland; the Association of Directors of Social Work (ADSW). All of these partners will have a part to play in taking the Framework forward through their strategic, operational and regulatory responsibilities.

The over-arching shared commitment is to work together as national and local partners to deliver real improvements on the ground. The framework

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<sup>1</sup> [www.scotland.gov.uk/Publications/2008/06/17093513/0](http://www.scotland.gov.uk/Publications/2008/06/17093513/0)

promotes a child centred approach – in line with the principles of “Getting it right for every child”<sup>1</sup> - with reference to the family and the wider community. In taking forward the Framework, the focus is on prevention; early and effective intervention; managing high risk; victims and community confidence; and planning and performance management.

The Committee will wish to note that the Children’s Hearings System was strengthened and modernised by the Children’s Hearings (Scotland) Act 2011<sup>2</sup> which came into force on 24 June 2013. The Act also brings into one place most of the children’s hearings related legislation.

The main structural elements of the Act include:-

- the creation of the role of the National Convener, who will, for the first time, act as a figurehead for panel members and ensure they are consistently supported to a high standard;
- a dedicated national body, Children’s Hearings Scotland (CHS). CHS will support the National Convener in the delivery of his/her functions associated with: the recruitment, selection, training, retention and support of panel members. CHS will employ around 15 members of staff;
- the dissolution of local authority panels and the creation of a national children’s panel with area support teams to support panel members at a local level. The role and location of area support teams is being determined by the National Convener in agreement with local authorities; and
- the creation of a national Safeguarder panel to improve consistency and standards and improve understanding within the system of the role.

The Act strengthens and promotes children’s rights putting the child at the centre of the hearings system by:-

- providing for the development of an advocacy service, specifically for children in the hearings system, for the first time;
- amending the Rehabilitation of Offenders Act to ensure that offence grounds accepted or established in children’s hearings (other than for certain serious offences) are no longer classed as a conviction;
- providing the hearing with the power to withhold information from a person when it considers that its release to that person would place the child’s welfare at risk;
- taking steps to ensure that the views of children are taken into account at children’s hearings;
- introducing a legal representation scheme to be run by the Scottish Legal Aid Board, replacing local authority administered arrangements,

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<sup>1</sup> [www.scotland.gov.uk/Topics/People/Young-People/gettingitright](http://www.scotland.gov.uk/Topics/People/Young-People/gettingitright)

<sup>2</sup> <http://www.legislation.gov.uk/asp/2011/1/contents>

to ensure that those who need help but cannot afford it can participate effectively in a Hearing;

- introducing transparency to the decision making process around placement into secure accommodation; and
- introducing a 'feedback loop' to permit information sharing about the implementation or non-implementation of compulsory supervision orders.

## **NORTHERN IRELAND**

### **Children in Public Care**

Under Article 25 of the Children (NI) Order 1995, a child becomes “looked after” where it is in the care of an Authority i.e. a Health and Social Care Trust (HSCT), or is provided with accommodation by the Trust.

The number of looked after children continues to rise. At 31 March 2013, there were 2,807 looked after children in Northern Ireland representing 0.65% of the general population under 18. Approximately 87% have been placed with foster carers (including those placed with family) 8% were placed in residential care and the remaining 5% in other accommodation, such as supported living accommodation, independent living etc.

A professional review of children’s residential care was carried out in 2013. The review considered the legislative and policy context; the impact on the service of a range of key issues such as finance, increasingly complex need and therapeutic interventions; the co-dependence and inter-relatedness of residential care with other services on the ‘childcare continuum’ and those provided by partner organisations. A clear direction in relation to the revised model of children’s residential care has been agreed which includes a reduction in the size of children’s homes from the current 6 and 8 place model to 4 to 6 place homes depending upon role and purpose. The review also references development of plans in relation to specialist fostering, edge of care and 16+ provision to prevent emergency admissions to residential care and ensure admissions of young people are on the basis of a longer term placement as the most appropriate option. Health and Social Care Trusts are in the process of developing detailed implementation plans for their area.

### **The role of a guardian or other care taker in a child care institution**

In Northern Ireland the Children (NI) Order 1995 sets out the duties, powers and responsibilities of an Authority in relation to looked after children, young people and care leavers.

### **New regulatory bodies**

In Northern Ireland, the Children (NI) Order 1995 requires Health and Social Care Trusts to establish a procedure for considering representations and complaints concerning any aspect of care or service provided to a child and/or his family. Complaints by or on behalf of children in foster care or other forms

of care are investigated under this procedure. If a Foster carer wishes to complain about the actions or decisions of a Trust in respect of his/her own role, the carer may access the Health and Social Care Complaints Procedure.

In addition the Regulation Quality and Improvement Authority (RQIA), has been established as an independent body responsible for monitoring and inspecting the availability and quality of health and social care services in Northern Ireland. The RQIA's remit includes children's residential care homes and statutory fostering services.

The recruitment and assessment of foster carers and the supervision of children in foster placements are subject to legislative and regulatory requirements. Fostering agencies are also required to adhere to regional good practice guidance in the monitoring and support of foster carers.

***The Committee asks for information on the conditions under which children in care receive education and any measures to reduce the number of children leaving care without qualifications.***

The Children (Leaving Care) Act (Northern Ireland) 2002 came into operation on 1 September 2005 and provides a legal framework for leaving and after care services in Northern Ireland. Its purpose is to improve the life chances of young people who are looked after by Health and Social Care Trusts as they make the transition to independent living. To do this, the Act amends The Children (Northern Ireland) Order 1995 to place new and enhanced duties on HSC Trusts to support young people leaving care.

The main aims are to prevent premature discharges from care, improve preparation, planning and consistency of support for young people, and to strengthen arrangements for financial assistance. At its heart, are new duties to assess and meet young people's individual needs, provide personal advisers and develop pathway planning for young people up to the age of 21 (or beyond if continuing in education).

### **Going the Extra Mile (GEM) Scheme**

The GEM scheme was launched in Northern Ireland in 2006. This seeks to promote continuity of living arrangements in post care life for young people aged 18 to 21. For young people who currently reside with foster carers/kinship carers, the scheme ensures that appropriate and agreed levels of financial support are available to assist carers to continue to meet the care, accommodation and support needs of these young people. Through the provision of continuity and support at a vulnerable age, it aims to promote better outcomes for young people leaving care in relation to training, employment and education and avoid conflict with the law. At the end of May 2014 there were 249 young people availing of the scheme.

### **The Fostering Achievement Scheme**

The Fostering Achievement scheme was established in 2006 and is delivered

by the Fostering Network Northern Ireland. The primary focus of the scheme is to give foster carers opportunities to secure educational and development support for children fostered with them, based on needs which the carer identifies. Eligibility for the scheme has been gradually expanded so that all fostered children and young people who have been in care for at least three months may avail of the initiative.

Some elements are also available to young people in residential care as there are a number of separate strands to the scheme.

Statistics on the educational attainment and economic activity of young people aged 16-18 who left the care of Health and Social Care Trusts in Northern Ireland during 2012/13 can be accessed at [http://www.dhsspsni.gov.uk/index/stats\\_research/stats-cib/statistics\\_and\\_research-cib-pub/children\\_statistics/stats\\_research\\_cib\\_care\\_leavers\\_aged18.htm](http://www.dhsspsni.gov.uk/index/stats_research/stats-cib/statistics_and_research-cib-pub/children_statistics/stats_research_cib_care_leavers_aged18.htm)

## **ISLE of MAN**

The position remains as previously described with the following update.

The legal framework for the protection of children and establishment of public care for children who require it continues to be principally contained in the Children and Young Person's Act 2001 and associated Regulations.

However, in 2013 a Regulation of Care Act was enacted to put on a legal footing improved arrangements for the registration and inspection of care services, including those in respect of children and families. New Minimum Standards were introduced and the inspection regime increased to ensure standards of care in such services are good and that the promotion of all aspects of a child's wellbeing is of paramount importance.

Each child and young person in public care has an allocated qualified Social Worker who manages the care services provided to them and ensures they are appropriately included in plans made. Care Plans are regularly reviewed, with the participation of the child, by a more senior officer from the Department of Health and Social Care who is independent of the line management arrangements of the case.

The Children and Young Persons Act 2001 sets out the age of criminal responsibility – where it is states: '*it shall be conclusively presumed that no child under the age of 10 years can be guilty of an offence*'. The Act also sets out the arrangements for the detention of persons 16 and under which is reserved only for where the most serious offences have been committed or where the protection of significant harm for the young person or public is required.

The Island has a Secure Care Home which accommodates young people who are remanded or sentenced to custody. Pre-trial detention is rare. In January 2011 arrangements were made to allow 17 year olds who were remanded or sentenced to custody to be held in the Secure Care Home instead of the adult prison where they had been held previously. There are currently two 17 year olds detained in the Home following sentence but long periods can pass where the facility is not used. Arrangements are made to ensure that young people are independently visited to check that they are being looked after properly and their health and educational needs met whilst detained.

The Department of Health and Social Care has arranged for a Children's Rights Champion and Participation Officer to be employed to ensure that children and young people in public care have support and adequate processes in place to be involved in service planning and in raising issues of complaint.

The Island has a Protecting Children Board which takes responsibility for provision of strategic direction in child protection services and training, including provision and regular review and revision of Child Protection Procedures which agencies must follow where there are concerns for a child.

Government is currently updating its Policy for Children and is about to debate and agree its Strategy for Children and Young People 2014 – 2019 which has the vision “Every child will have the best opportunities in life”. It sets the Vision, Values and Priorities for all services for children to achieve that outcome.

Currently (June 2014) there are 47 children placed in foster care and 29 in Children’s Homes on the Island – a significant rebalancing of the overall proportion of Looked After Children in foster care as a percentage of the total population.

The largest Children’s Home on the Island is a 6 bedded home with the standard being 3 beds – all 3 bedded Children’s Homes are ordinary houses in ordinary residential communities.

## **ARTICLE 19**

### **Article 19, Paragraph 1**

#### **Assistance and information on migration**

#### **UNITED KINGDOM**

The position remains as previously described with the following update.

The UK has ratified ILO Convention No. 97 - Migration for Employment (Revised). A copy of the last submitted report on the application of the convention, covering the period from 1 June 2012 to 31 May 2014, is attached **[Appendix 19A]**.

Detailed guidance for emigrants leaving the UK to live or work abroad can be viewed via the following links:

[www.gov.uk/browse/abroad/living-abroad](http://www.gov.uk/browse/abroad/living-abroad)

[www.nidirect.gov.uk/working-abroad](http://www.nidirect.gov.uk/working-abroad)

#### **ENGLAND**

An example of good practice on advice and guidance for immigrants is the Lincolnshire County Council 'Migrant Workers and New Arrivals Welcome Pack':

[www.lincolnshire.gov.uk/residents/community-and-living/equality-and-diversity/migrant-workers-and-new-arrivals-welcome-pack/](http://www.lincolnshire.gov.uk/residents/community-and-living/equality-and-diversity/migrant-workers-and-new-arrivals-welcome-pack/)

The pack focuses on giving basic information and signposting to further information to enable people to live, learn, work and play safely in Lincolnshire.

A steering group with representatives from across the service areas were involved in the development of the pack including; the Ethnic Minority Achievement Service, Fire & Rescue, Culture & Adult Education, Chief Executives and Adults Social Care teams.

Initially the packs are in English, Polish, Portuguese, Latvian and Lithuanian and are made available in Libraries, receptions, schools and other public facing outlets. In addition to this reply paid postcards are being made available in shops and outlets around the county.

#### **WALES**

'**Understanding Wales**'<sup>1</sup>, published by the Welsh Government, contains information relevant to migrants, asylum seekers, refugees and their families entering Wales.

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<sup>1</sup> <http://wales.gov.uk/topics/people-and-communities/communitycohesion/migrants/publications/undwales/?lang=en>

The Guide's aims are to ensure that people who come to Wales to live and work are made aware of their rights and responsibilities. It also provides information on where to obtain help and advice if they encounter problems, helping them to settle into their new communities.

## **SCOTLAND**

The regulation of immigration is reserved to the UK Government; however, the Scottish Government seeks to assist migrants to live and work in Scotland where it has the authority to do so. The Scottish Government supports the following services which assist migrants to live in Scotland and to integrate into Scottish communities.

Until April 2013, the Scottish Government offered help and advice to those who wished to relocate to Scotland via the Relocation Advisory Service (RAS). From April 2013 the Scottish Government has funded Scottish Enterprise to provide a service through 'TalentScotland', supporting Scottish businesses and offering free advice to help them to access, attract, recruit and retain the best international talent. The service has an informative website [www.talentscotland.com](http://www.talentscotland.com) and aims to promote Scotland as an outstanding place to live and work. The website provides potential migrants with lots of information on the UK immigration system, job vacancies, cost of living, housing, relocation (including shipping and storage), education, healthcare, transport and culture. The website also includes success stories from people who have made the move as well as helpful hints on opening a bank account and registering with a doctor/dentist.

The Scottish Government also supports the Convention of Scottish Local Authorities (COSLA) Strategic Migration Partnership (CSMP) to support local authorities in providing effective services for migrants in their area. In the past year (2013/14), the CSMP has undertaken a programme of work to inform elected officials of the value migrants bring to their areas and to inform organisations of the rights that migrants have to services and assistance from the state. In addition, the CSMP has supported local authorities to develop a strategic response to human trafficking.

Furthermore, the adult English for Speakers of Other Languages (ESOL) strategy for Scotland, launched in 2007, aims to increase the quantity and improve the quality of ESOL provision across the country to the benefit of all those in Scotland for whom English is not a first language. Provision of high quality, accessible and affordable English language teaching supports the Scottish Government's overall purpose of sustainable economic growth and its aim to encourage active citizenship in a diverse Scotland.

High quality ESOL provision in Scotland has enabled migrant workers and their families to settle in Scotland and to contribute economically and socially to their local communities and wider Scottish society. Recent case studies in annual returns to the Scottish Funding Council show how migrant workers from EU states have made successful transitions to living and working in Scotland and with the relevant language support, have been able to work in the

professional role they held in their own countries. Case studies will be highlighted in the refresh of the adult ESOL Strategy for Scotland which is due to be completed this year.

## **NORTHERN IRELAND**

In 2011 the Office of the First Minister and deputy First Minister provided funding towards the publication of the Northern Ireland Human Rights Commission and Law Centre (NI)'s 'Your Rights in Northern Ireland: a guide for migrant workers'. This important guide has made a significant contribution to the integration of minority ethnic communities and is a valuable resource in ensuring that newcomers are aware of their rights and responsibilities.

The publication details substantial changes in the rights, responsibilities and entitlements of migrant workers, mainly as a result of new immigration rules and the new status of A8 and A2 nationals in the European Union. The document is freely available in several different languages on the Northern Ireland Executive's 'nidirect' website (<http://www.nidirect.gov.uk/your-rights-in-northern-ireland-english.pdf>), which is the official government website to provide information to the public.

Belfast City Council has produced a welcome guide to Belfast for new migrants, which shows them how to get around and provides useful contacts: <http://www.belfastcity.gov.uk/community/advice/migrants.aspx>

Newry & Mourne District Council operates an Ethnic Minority Support Centre to provide free multilingual support to migrants: [http://www.newryandmourne.gov.uk/community/Ethnic\\_Support.aspx](http://www.newryandmourne.gov.uk/community/Ethnic_Support.aspx)

The Office of the First Minister and deputy First Minister administers the Minority Ethnic Development Fund (MEDF) which provides funding to over 30 voluntary and community projects in 2014-15 right across Northern Ireland, including projects which provide advice to migrants.

## **UNITED KINGDOM**

### **Measures against misleading propaganda relating to emigration and immigration**

#### Broadcasting media

The independent regulator and competition authority for the UK's communications industries is 'Ofcom'. The Ofcom Broadcasting Code deals with the issue of on-screen discrimination which is likely to cause harm or offence and states:

*"In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context... Such material may include, but is not limited to... discriminatory treatment or language (for example on the grounds of age, disability, gender, race, religion, beliefs and sexual orientation)."*

Guidance supporting the Code explains to broadcasters:

*“Racist terms and material should be avoided unless their inclusion can be justified by the editorial of the programme. Broadcasters should take particular care in their portrayal of culturally diverse matters and should avoid stereotyping unless editorially justified. When considering such matters, broadcasters should take into account the possible effects programmes may have on particular sections of the community.”*

It also explains: *“There is a relationship between representation – the presence and inclusion of a diverse range of people on screen - and portrayal - the roles involved and the way that minority groups are presented in programmes. In standards regulation, the latter is assessed by context (as defined in the Code). Research suggests that viewers and listeners appreciate programmes that are representative of the diverse society in which they live. If there is an under-representation, the use of stereotypes and caricatures or the discussion of difficult or controversial issues involving that community may be seen as offensive in that it is viewed as creating a false impression of that minority.”*

In 2010, Ofcom carried out research into audience views on offensive language, including discriminatory language and terms. Ofcom recognises the importance of understanding the nature and context of offensive and discriminatory language and uses the findings of its research to inform its investigations and decision making. A content analysis was carried out in 2011 tracking the representation of diverse groups including BAME on TV.

Ofcom has sanctioned a number of broadcasters for the use of discriminatory language. For example, Ofcom sanctioned Channel 4 for the inclusion of racially discriminatory language in ‘Big Brother’ and has previously fined MTV France £255,000 for a series of racist text messages broadcast live on air. Ofcom also investigated the complaint by the Traveller Movement about the television programme series ‘Big Fat Gypsy Wedding’ and its spin-offs. The complaint was rejected as Ofcom considered that it had not received sufficient evidence of the harm caused to the Gypsy and Traveller community. This is currently the subject of a judicial review.

### Hate crime

The Government’s ‘GovUK’ website includes guidance on discrimination and encourages the reporting of incidences of hate crime to the police. Further information can be viewed via the following links:

[www.gov.uk/discrimination-your-rights](http://www.gov.uk/discrimination-your-rights)

[www.gov.uk/report-hate-crime](http://www.gov.uk/report-hate-crime)

## SCOTLAND

The Scottish Government is committed to tackling all forms of discrimination and to promoting a multi-faith and multi-cultural society and is providing £60 million from 2012 to 2015 to a range of projects promoting equality and tackling prejudice and discrimination. This funding includes more than £8 million to support local and national organisations in their work to tackle racism and break down barriers to race equality.

The One Scotland anti-racism campaign stopped as a media campaign in 2009 and was re-packaged into an educational toolkit in 2010 which provides a USB stick with teaching resources which includes campaign material. Also included in the packs are posters and postcards promoting One Scotland, these materials are available by request by email, [One Scotland Mailbox@scotland.gsi.gov.uk](mailto:One_Scotland_Mailbox@scotland.gsi.gov.uk).

Following the success of previous equality-focussed campaigns, including *One Scotland*, *Many Cultures* and *Domestic Abuse, There's No Excuse*, an overarching equality policy campaign, with initial focus on Race and LGBTI, is being launched to coincide with the XX Commonwealth Games. The campaign will centre around Scotland's inclusive society where human rights are respected and no individual or minority group is singled out for negative, unfair, discriminatory or abusive treatment.

In February and March 2014, the Scottish Government ran a campaign to raise awareness as to what constitutes a hate crime and the way in which incidents can be reported. The **Speak Up Against Hate Crime** campaign encouraged the reporting of hate crime incidents to help tackle abuse, send out a clear message to perpetrators of the unacceptability of their actions and work towards preventing acts of hate happening to others.

The Scottish Government worked in partnership with key organisations, agencies and communities across Scotland – including Police Scotland, Crown Office and Procurator Fiscal Service and disability, race, sexual orientation, gender identity and religious organisations – to raise awareness among those affected by hate crime.

## NORTHERN IRELAND

The Northern Ireland Executive Building Safer, Shared and Confident Communities, A Community Safety Strategy for Northern Ireland 2012-2017<sup>1</sup>, is the overarching policy for tackling hate crime and the harm it causes, including encouraging greater reporting and increasing effective support for victims of hate crime.

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<sup>1</sup> <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/community-safety/reviews-strategies-action-plans/cs-strategy-20122017.pdf>

## Article 19, paragraph 2

### UNITED KINGDOM

#### Departure, journey and reception of migrant workers

***The Committee asks that the next report provide full, updated information on the measures adopted to facilitate the departure, journey and reception of migrant workers and their families. In this respect, it considers that the above-mentioned measures should specifically refer to the journey of migrant workers, including departure and reception. In particular, it recalls that 'reception' must include concrete assistance in problems such as short-term accommodation, illness, shortage of money and adequate health measures.***

The long-standing position under successive Governments, is that under the system of for work permits and latterly work visas for those who require them, reliance has been placed on employers and sponsors of migrants, and their families, to ensure the social aspects of their reception arrangements. Special official reception arrangements have not been considered necessary. Where such private arrangements break down or where emergencies or particular problems arise, appropriate assistance is available to such migrant workers through the general availability of free healthcare and local authority social services. Advice and guidance is available through a wide range of public and private funded advice centres. The largest such organisation is the Citizens Advice, which operates through over 3,400 advice bureaux located throughout the UK, some in co-operation with local authorities, and which includes on-line and personal guidance specifically for migrants.

Further information can be viewed via the following links:

[www.adviceguide.org.uk/england/about\\_this\\_site/get\\_advice.htm](http://www.adviceguide.org.uk/england/about_this_site/get_advice.htm)

[http://www.adviceguide.org.uk/england/law\\_e/law\\_immigration\\_e/help\\_with\\_immigration\\_problems.htm](http://www.adviceguide.org.uk/england/law_e/law_immigration_e/help_with_immigration_problems.htm)

[www.adviceguide.org.uk/england/e\\_migrant\\_workers\\_-\\_rights\\_at\\_work.pdf](http://www.adviceguide.org.uk/england/e_migrant_workers_-_rights_at_work.pdf)

There is also a link with a list of national associations offering help:

[www.adviceguide.org.uk/england/law\\_e/law\\_immigration\\_e/help\\_with\\_immigration\\_problems.htm#h\\_national\\_organisations\\_which\\_can\\_help](http://www.adviceguide.org.uk/england/law_e/law_immigration_e/help_with_immigration_problems.htm#h_national_organisations_which_can_help)

As far as the accompanying children of migrants are concerned, Local Education Authorities have a duty and responsibility to find a free school place for all children who are 'of compulsory school age'. This applies also to pupils who are temporarily living in the area for long enough to attend school, for example: the children of Gypsy/Travellers; those who have come from abroad; and those with special education needs.

The UK's immigration arrangements make no specific provision aimed at providing assistance in problems such as accommodation, illness, shortage of money and adequate health measures. Migrants admitted to the UK specifically for the purpose of employment are subject to restrictions on

access to public funds, although they will have access to public health services. It is the policy of the UK Government that migrants should have a form of access to the National Health Service that is commensurate with their immigration status. The Government therefore intends to require that a person subject to immigration control who applies for limited entry clearance or limited leave to remain in the UK for more than six months pay an immigration health surcharge as a precondition of entry or stay. The surcharge would represent a contribution to the availability of publicly funded health services in the UK. The intention is that payment of this surcharge will allow migrants to access UK national health services in much the same manner as a permanent resident.

***Services for health medical attention and hygienic conditions during the journey***

***The Committee asks that the next report provide full, updated information on the measures adopted to facilitate the departure, journey and reception of migrant workers and their families. In this respect, it considers that the above-mentioned measures should specifically refer to the journey of migrant workers, including departure and reception. In particular, it recalls that 'reception' must include concrete assistance in problems such as short-term accommodation, illness, shortage of money and adequate health measures. The Committee asks also that the next report provide up-to-date information on services for health, medical attention and hygienic conditions during the journey.***

In the context of applying immigration controls, the Government does not make any provision in respect of services for health, medical attention or hygienic conditions during a migrant worker's journey to the UK. Non-EEA migrants from countries which are considered by the World Health Organisation to be high risk for active pulmonary tuberculosis are, however, required to undergo pre-migration screening before they can apply for a visa.

**Healthcare**

**Healthcare**

Any person can register with a General Practitioner (GP) to receive free primary care. Under the terms of GP contracts, GPs can accept any patient to join their patient lists. A GP must have reasonable non-discriminatory grounds to refuse to register a patient, but immigration status would not be reasonable grounds for refusal.

Entitlement to free National Health Service (NHS) hospital treatment in England is based either on whether someone is ordinarily resident in the UK (meaning, broadly, living here lawfully and on a properly settled basis for the time being) or exemption from charge under Regulations. Anyone who is not ordinarily resident here is deemed an overseas visitor and is subject to the National Health Service (Charges to Overseas Visitors) Regulations 2011, as amended. These regulations place a legal duty on NHS hospitals to establish

whether an overseas visitor is exempt from charges under one of a number of exemption categories, or liable for charges. If it is established that a person is liable for charges the NHS hospital must make and recover the charge from them.

EEA migrants, who are properly settled here, such as EEA workers and their families, are entitled to healthcare on the same basis as other UK residents, i.e. free of charge other than some charges for prescriptions and dental or optical service. Most visitors and students from the EEA, are covered under the European Health Insurance Card (EHIC) scheme or other arrangements that allows the UK to be reimbursed by their home member state for the cost of care they receive.

Refugees, asylum seekers, failed asylum seekers receiving Home Office support, victims and suspected victims of human trafficking and children in Local Authority care are all exempt from charge for NHS hospital treatment in England so can access all treatment for free in the same way that an ordinary resident can.

For those who are chargeable for hospital treatment, including visitors from outside the EEA and undocumented migrants, non-urgent treatment should not be given unless the full cost has been received in advance. However, immediately necessary or other urgent treatment will not be withheld if the patient has not paid in advance.

The Government believes that everyone should make a fair contribution to the costs of their healthcare. It has therefore announced that it intends to introduce a new immigration health surcharge for non-European Economic Area temporary migrants. Temporary migrants coming to the UK, for 6 months or more, from outside the EEA (including students and workers) will, in the future, be expected to make a contribution to the costs of their healthcare through payment of an immigration health surcharge, which is expected to be set at between £150-200 per year. The surcharge will not however apply to EEA citizens who reside in the UK under Treaty rights.

### **Article 19, Paragraph 3**

***The Committee asks that the next report provide a full, updated description of the co-operation between social services, public and private, in emigration and immigration countries***

Other than through possible contact with diplomatic missions, labour attachés and consular posts, the Government is not aware of any formal or informal central government or local authority arrangements for such co-operation, although there is nothing that would prevent such co-operation at a local level, if such need were to arise. It would be open for the public and private advice and guidance agencies, such as the Citizens Advice, described above in respect of Article 19§2, to consider pursuing and resolving any outstanding matters following a migrant's departure.

## Article 19, Paragraph 4

### GREAT BRITAIN

**Remuneration and other employment and working conditions; membership of trade unions; and enjoyment of the benefits of collective bargaining**

***The Committee considers that it has not been established that migrant workers enjoy treatment which is not less favourable than that of nationals with respect to remuneration, employment and other working conditions. The Committee also considers that it has not established that migrant workers enjoy treatment which is not less favourable than that of nationals with respect to membership of trade unions, and enjoyment of the benefits of collective bargaining.***

For many years, the position in the UK was that the Race Relations Act of 1976 ensured that migrant workers who were lawfully present in the UK were treated no less favourably than UK nationals in relation to:

- remuneration and other employment and working conditions; and
- membership of trade unions and enjoyment of benefits of collective bargaining.

This position was described in the UK's 17<sup>th</sup> Report of 1997 and successive subsequent reports have indicated that the position remained as previously described.

However, following the compilation and submission of UK's 30<sup>th</sup> Report to the Council of Europe, a new Equality Act came into force, on 1 October 2010, and through this new measure the UK continues to meet its obligations arising under Article 19, paragraph 4.

The Equality Act 2010<sup>1</sup> brings together over 116 separate pieces of legislation into one single Act. The new Act provides a legal framework to protect the rights of individuals and to advance equality of opportunity for all.

The Act simplifies, strengthens and harmonises the current legislation to provide Britain with a new discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.

The nine main pieces of legislation that have merged are:

- the Equal Pay Act 1970
- the Sex Discrimination Act 1975
- the Race Relations Act 1976
- the Disability Discrimination Act 1995
- the Employment Equality (Religion or Belief) Regulations 2003

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

- the Employment Equality (Sexual Orientation) Regulations 2003
- the Employment Equality (Age) Regulations 2006
- the Equality Act 2006, Part 2
- the Equality Act (Sexual Orientation) Regulations 2007.

Part 5 of the Equality Act covers equal treatment in pay and employment related issues and Section 57 covers membership of trade unions and collective bargaining rights.

## **NORTHERN IRELAND**

Northern Ireland does not have an equivalent to the Equality Act 2010. This leaves Northern Ireland with more than twelve key pieces of legislation, including UK legislation replaced elsewhere by the Equality Act (such as the Disability Discrimination Act 1995) and their equivalent, newer legislation that performs similar individual tasks (such as The Employment Equality (Age) Regulations (Northern Ireland) 2006) and unique legislation (such as Section 75 of the Northern Ireland Act 1998).

Of note is Section 75 of the Northern Ireland Act 1998, which requires all government departments, agencies and councils to balance their actions against how they affect people of differing:

- sex
- marital status
- sexual orientation
- religion
- political opinion
- race
- age
- disability.

It also covers the need to promote equality of opportunity between persons with dependants and persons without.

New government policies in Northern Ireland are required to be assessed against their impact on the above section 75 groups. Migrant workers are generally considered under the Race category and viewed under section 75 as an analogous group and as members of their own ethnic minority community.

In addition the Office of the First Minister and deputy First Minister funds the Equality Commission for Northern Ireland, which promotes effective and principled use of Section 75, helps employers understand their obligations, and occasionally represents employees and customers where they may have been discriminated against by an authority or business where there is a wider point at stake.

### **Accommodation – the ‘habitual residence’ test**

***The Committee refers to its conclusions under Article 13§1 in 2009 where it asked to be informed of any significant case-law or administrative guidance which may provide further clarification of how the concepts of "settled intention" and "appreciable period of time" are applied in practice. It also wishes to receive information on what assistance and advice individuals may receive in preparing their claim that they satisfy the habitual residence test. Pending receipt of this information, the Committee reserved its position on whether the application of the habitual residence test conforms to the requirements of the Charter. The Committee adopts a similar approach under this provision***

The Government refers to the subsequent Conclusions XX-2, of 2014, in respect of the UK's **2013** Report, where the Committee, in considering the position with regard to the ‘habitual residence’ test in the context of Article 13§1, concluded as follows:

*“In the light of the explanations and case-law examples provided, the Committee holds that the "habitual residence" test, as applied in the United Kingdom is in conformity with the Charter.”*

### **Article 19, Paragraph 5**

#### **Equality regarding employment taxes and contributions**

The position remains broadly unchanged and this has been the case since the UK's 17<sup>th</sup> Report and as reiterated in the 21<sup>st</sup> Report of 2001. UK tax liability depends on where a person is 'resident' and 'domiciled' in a particular tax year.

From 2013, the concept, or test, of “ordinary residence” was replaced by a “Statutory Residence Test” – more information on this can be viewed via the following link: [www.hmrc.gov.uk/international/residence.htm](http://www.hmrc.gov.uk/international/residence.htm)

Under the Social Security (Contributions and Benefits) Act 1992, and Regulations made under it, liability for payment of National Insurance (i.e. social security) Contributions is dependent on conditions as to a person's residence and presence in the UK, either as an employed or self-employed earner. Corresponding legislation applies in Northern Ireland.  
[www.legislation.gov.uk/ukpga/1992/4/contents/enacted](http://www.legislation.gov.uk/ukpga/1992/4/contents/enacted)

See also the Social Security (Contributions) Regulations, 2001 SI No. 1004 - Case F (Regulations 145 to 148), which apply throughout the UK.  
<http://lawvolumes.dwp.gov.uk/docs/a3-1001.pdf>

The question as to a person's nationality has no bearing on the above issues. Migrant workers are treated equally, irrespective of their nationality.

## Article 19, Paragraph 6

### Family reunion

The Home Office is unable to provide statistics on the number of those who have been refused entry clearance as the dependant of a migrant worker specifically because they were over 18.

***The UK's previous report had explained that "...if a child over the age of 18 were to apply to join a parent in the UK and were to demonstrate that they are dependent on their parent, the application would be considered favourably". The Committee therefore considered that the situation is in conformity with Article 19§6 of the 1961 Charter. It asks however that the next report provide detailed information, including figures, on the applications refused on the ground that the applicant is over the age of 18.***

The Position with regard to the favourable consideration in cases where it is demonstrated that a child over the age of 18 is a dependant remains unchanged. However, the Home Office is unable to provide statistics on the number of those who have been refused entry clearance as the dependant of a migrant worker specifically because they were considered likely to have recourse to public funds.

### Conditions governing family reunion

***The Committee asks that the next report provide detailed information, including figures, on the applications refused on the ground that family reunion could entail an increase on social benefits financed from public funds paid to the migrant worker. Pending receipt of the requested information, the Committee reserves its position on this point.***

Non-EEA migrants admitted to the UK under any of its employment migration routes (other than the Tier 5 Youth Mobility Scheme) may be accompanied or joined by their dependant partners and children (under 18). There is no minimum residency requirement before family members can accompany or join them. Migrants admitted under these routes must have enough maintenance funds to show that they can support themselves and any family members without relying on public funds.

***The Committee notes that certain categories of applicants must pass a language test as an additional requirement for family reunion before admission in the UK and asks that the next report provide updated information on this requirement and its implementation.***

No pre-entry English language requirement is applied to dependent family members accompanying or joining a migrant worker. Such a pre-entry requirement applies to non-EEA national partners of British citizens and persons settled in the UK and to certain other categories of family reunion not involving a migrant worker.

## Article 19, Paragraph 7

### Equality regarding legal proceedings

***The Committee asks that the next report provide a full and up-to-date description of the situation. In particular whether domestic legislation makes provision for migrant workers who are involved in legal or administrative proceedings and who do not have counsel of their own choosing to be advised to appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if they do not have sufficient means to pay the latter, and whether migrant workers may have the free assistance of an interpreter if they cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated. Such legal assistance should be extended to obligatory pre-trial hearings.***

Subject to satisfying financial means and merits criteria, civil legal services are available where the subject matter is within the scope of the civil legal aid scheme, as set out in Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>1</sup> (LASPO).

### Deaf and Hearing impaired Litigants

Her Majesty's Courts & Tribunals Service will meet the reasonable costs of interpreters for deaf and hearing-impaired litigants for hearings in civil and family proceedings. If an interpreter is needed, the court will make arrangements for an interpreter to attend.

Many people have a friend or relative who usually interpret for them. The judge's permission is required for a friend or relative to interpret. The judge must be satisfied that the friend or relative can exactly interpret what is being said to the court and what the court is saying.

Unless the relative or friend has a recognised qualification in relaying information between deaf and hearing people, use a qualified interpreter may be preferable. The friend or relative may still be able to attend and provide support, but permission should be sought from the judge first.

### Foreign language interpreters

Court staff will also arrange for language interpreters needed for civil and family hearings in certain circumstances where cases involve:

- Committal cases

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<sup>1</sup> [www.legislation.gov.uk/ukpga/2012/10/schedule/1/enacted](http://www.legislation.gov.uk/ukpga/2012/10/schedule/1/enacted)

Her Majesty's Courts & Tribunals Service (HMCTS) has a legal obligation under the Human Rights Act to provide language interpreters. They will ensure that anyone attending a committal case has the free assistance of an interpreter if he/she cannot understand or speak the language used in court.

- Domestic Violence and cases involving Children  
Because of the sensitivity of these cases, HMCTS will provide an interpreter if required. This is irrespective of whether solicitors are involved or public funding is available.
- Non-committal cases  
HMCTS will provide an interpreter if that is the only way that a litigant can take part in a hearing. The relevant circumstances are:  
Where the person:
  1. Cannot speak or understand the language of the court well enough to take part in the hearing
  2. Cannot get public funding
  3. Cannot afford to privately fund an interpreter, **and** has no family member, or friend, who can attend to interpret for them, and who is acceptable to the court.

In privately funded cases litigants must supply their own interpreters.

### **Article 19, Paragraph 8**

***The Committee concludes that the situation in the United Kingdom is not in conformity with Article 19§8 of the 1961 Charter on the ground that family members of a migrant worker who are nationals of Contracting Parties that are not members of the EEA or EU, as well as children of a migrant worker who are nationals of EU member states or parties to the EEA but are aged under 17 years of age, are liable to be expelled following a migrant worker's deportation.***

The position remains generally as previously described. The UK's previous report explained that a family member can make an application for leave to remain in the UK in their own right if a migrant worker partner or parent is required to leave the UK.

For example, the partner or child of a migrant worker deported from the UK could apply under the private life Immigration Rules subject to meeting length of residence and other criteria. We always take into account as a primary consideration in any immigration decision the best interests of a child in the UK, including in deciding whether it is reasonable to expect them to leave the UK.

Non-EEA family members of EEA nationals will acquire a right of permanent residence in the UK in a personal capacity where they have resided in the UK in accordance with the Immigration (European Economic Area) Regulations 2006 (which transpose Directive 2004/38/EC into UK legislation) for a

continuous period of 5 years. This means that they will have a permanent right of residence in the UK which is not dependent on a continued relationship with or the presence of the EEA national. This right can only be lost as a result of an absence from the UK for a continuous period exceeding two years.

Where a non-EEA national has resided in the UK as the family member of an EEA national, and who ceases to have such a right before they have acquired a right of permanent residence, they may qualify to retain a right of residence under European law in certain circumstances. Provisions for non-EEA nationals to retain a right of residence in the UK in line with European law are set out in regulation 10 of the 2006 Regulations.

Further provisions for persons who do not qualify to retain a right of residence under EU law, but who qualify for a 'derivative' right of residence in the UK (for example, in line with the judgments of the Court of Justice in the cases of *Ibrahim* and *Teixeira*) are set out in Regulation 15A.

### **Article 19, Paragraph 9**

There are no restrictions on the transfer abroad of earnings and savings of migrant workers and their families.

### **Article 19, Paragraph 10**

The position remains that migrant workers who are self-employed have access to the same protection and assistance as other self-employed workers in the UK. Similarly, employed migrant workers have access to the same protection and assistance as other employed workers.

## **ISLE of MAN**

### **Article 19 - General Comments**

The legal framework concerning immigration in the Isle of Man continues to be UK immigration legislation extended to the Island by Order in Council. However, in 2008 the existing Orders in Council from 1991 and 1997 were replaced with a new Order in Council which updated the Island's legal framework for immigration, extending relevant provisions of the following Acts of the UK Parliament to the Isle of Man:

- Immigration Act 1971;
- British Nationality Act 1981;
- Immigration Act 1988(c);
- Asylum and Immigration Act 1996;
- Immigration and Asylum Act 1999;
- Nationality, Immigration and Asylum Act 2002;
- Asylum and Immigration (Treatment of Claimants, etc.) Act 2004;
- Immigration, Asylum and Nationality Act 2006.

A copy of the Immigration (Isle of Man) Order 2008, together with the subordinate legislation (including the Immigration Rules, which are also derived from those in effect in the UK) can be viewed on the Isle of Man Government website at: <http://www.gov.im/cso/immigration/rules.xml>

As previously explained, nationals of European Economic Area countries and Switzerland are not subject to immigration control but any person who is not an "Isle of Man worker" as defined in the Control of Employment Act 1975 requires a work permit before he or she can take up employment in the Island (including being self-employed). The only recent change to the Island's control of employment legislation is the Control of Employment (Exemptions) Order 2009 (made under the 1975 Act). This Order exempts certain employments from the provisions of the 1975 Act and thus from the requirement for a work permit.

As previously described, workers from outside the European Economic Area are governed by the Overseas Labour Scheme. However, in line with position in the UK it is planned that this will be replaced with Tier 2 of the Points Based System, under the UK immigration legislation extended to the Isle of Man during 2010.

#### **Article 19, Paragraphs (1), (2) & (3)**

The position remains as previously described.

#### **Article 19, Paragraph 4**

There is no substantial change to the information previously provided. However, since the previous report the Employment Act 2006 has been enacted. This Act consolidated the Employment Act 1991 and the Employment (Amendment) Act 1996. The 2006 Act strengthened individual employment rights in a number of respects. In addition, the coverage of the previous legislation was broadened so that a number of core employment rights apply not only to employees, that is, persons who work under a contract of employment, but to wider groups of working people such as casual, intermittent and some freelance workers. Provisions providing protection against dismissal on racial and religious grounds, previously contained in the Employment Act 1991 were consolidated in the 2006 Act and the previous one year qualifying period that applied has been abolished.

Discrimination in employment on racial and other grounds will be covered much more comprehensively by the Employment (Equality) Bill. This Bill was referred to as the Employment (Discrimination) Bill in the previous report and its progress has unfortunately been somewhat slower than had been expected. The Department of Trade and Industry has now completed a consultation process on the Bill and it is in the process of being drafted.

**Article 19, Paragraph 5**

There is no change to the information previously provided. Migrant workers are treated in the same way as Isle of Man workers in respect of employment taxes, dues and contributions.

**Article 19, Paragraph 6**

Although the legal framework of UK immigration legislation applying the Isle of Man has been updated as described above, there is no substantial change to the change to the situation as previously described, which is in line with that in the UK.

**Article 19, Paragraph 7**

There is no change to information previously provided.

**Article 19, Paragraph 8**

Although the legal framework of UK immigration legislation applying the Isle of Man has been updated as described above, there is no substantial change to the change to the situation as previously described.

**Article 19, Paragraph 9**

There is no change to the information previously provided. Migrant workers are free to transfer to their country of origin such parts of their earnings and savings as they may desire.

**Article 19, Paragraph 10**

There is no substantial change to the information previously provided. However, as indicated above, The Employment Act 2006 broadened the coverage of the legislation so that a number of core employment rights apply not only to employees, that is, persons who work under a contract of employment, but also to wider groups of working people such as casual, intermittent and some freelance workers.