

Written evidence submitted by the Children in Northern Ireland (CiNI), relating to the effectiveness of the institutions of the Belfast/Good Friday Agreement inquiry (GFA0025)

“We were the Good Friday Agreement generation, destined to never witness the horrors of war but to reap the spoils of peace.”

- Lyra McKee

The killing of Lyra McKee, a talented young journalist, during rioting in Derry/Londonderry in 2019, brought global attention and a sharp focus to the plight of what she called the “ceasefire babies”. A term that Lyra derided in one of her unfinished essays, when she writes “I hated the mocking tone in which it was usually said, as if growing up in the 90s in Belfast was a stroll.”¹ In Lyra’s view, politicians had promised this generation and their families peace and prosperity, but struggled to deliver either.

The focus of this evidence, submitted as part of the Northern Ireland Affairs Committee Inquiry into the effectiveness of the institutions of the Belfast/Good Friday Agreement, is to trace the progress (or lack thereof) that has been made by various Executives when it comes to protecting and caring for our children and young people. The evidence presented here is not an exhaustive analysis of the complex and interconnected factors that have contributed to the dysfunctional nature of political institutions in Northern Ireland. Instead, we aim to highlight some of the ways that this dysfunction has stymied delivery of legislative reform, improvements to key services for children, and efforts to tackle inequalities. We also present some examples of where Northern Ireland could be, and should be, regarding these issues if it were able to rely on more stable and effective institutions.

The question remains, that if improved outcomes for children and young people are not – and are unlikely ever to be – a cross-departmental objective that is subject to political contention, then there must be scope for institutional reform that allows policy development and progress in this area to move forward unabated, even when difficulties arise elsewhere (such as around constitutional matters and the protection of minority rights). We do not explore potential reforms in this written evidence, as this would be beyond our field of knowledge and expertise. However, **we would strongly encourage the NI Affairs Committee to consider conducting a further inquiry that examines the legacy of the Belfast/Good Friday Agreement and how effective devolved government has been in terms of improving outcomes for children and young people in Northern Ireland.** This would provide the space and time, in the absence of an Executive and Assembly, for those working towards reform, improving services, and young people themselves, to

¹ Lyra McKee, 28 March 2020, The Guardian: <https://www.theguardian.com/news/2020/mar/28/lyra-mckee-last-piece-ceasefire-babies-growing-up-northern-ireland-in-90s>

articulate the obstacles to progress and how these might be resolved in the face of such political instability and uncertainty.

Who We Are

Children in Northern Ireland (CiNI) is the regional umbrella organisation for the Children's Sector in Northern Ireland. With over 130 members, CiNI is accountable for representing and giving voice to the experiences, views and aspirations of its members across NI to inform and influence those who make policy or plan and deliver services for children and young people. Our vision is to make Northern Ireland a society where all children are valued, treated fairly and are able to flourish. To deliver on this vision, CiNI has three strategic priorities:

- **Influencing:** through campaigning and engagement to ensure that children are at the centre of policymaking.
- **Learning:** capacity building across the sector and innovating best practice.
- **Collaboration:** working with others to increase impact.

CiNI convene two policy forums across the sector: the Child Poverty Alliance (CPA); and the Children with Disabilities Strategic Alliance (CDSA). We are the secretariat to the All Party Group on Children and Young People at the Northern Ireland Assembly and we are represented on the Children and Young People's Strategic Partnership (CYPSP) - a multiagency partnership that includes the leadership of key statutory agencies and community and voluntary organisations, with a responsibility for improving the lives of children and young people in Northern Ireland. CiNI is also a member of Safeguarding Board NI, a statutory body constituted to safeguard and protect children.

CiNI offer a wide range of training to both individuals and organisations working within the community and voluntary sector to develop their skills and knowledge through our high quality and positively evaluated Children's Services Training Programme. We also offer bespoke training, tailored specially to the needs of organisations, both within the sector and beyond.

CiNI manage the regional parenting support helpline: Parentline NI. Funded by the Department of Health, this service offers free, confidential advice and guidance to Parents and Carers across Northern Ireland. It also provides one-to-one support, practical workshops, online resources (including podcasts), and referrals to counselling services.

As part of the National Lottery funded 'Gets Active Project', and alongside business partners, CiNI also manages a range of healthy food and physical activity programmes aimed at addressing child food insecurity. In 2022, CiNI established a Youth Advisory Group to help shape these programmes and give young people a platform to influence policy making.

More information is available on our website: <https://www.ci-ni.org.uk/>

About This Evidence

Children in Northern Ireland (CiNI) welcome the opportunity to submit evidence as part of the NI Affairs Committee Inquiry into the effectiveness of the institutions of the Belfast/Good Friday Agreement. The substance of our evidence relates to the primary element of the Committee's guidance (emphasis added):

“the extent to which the design of the strand one institutions has succeeded in enabling:

- cross-community;
- **effective**; and
- **stable government** in Northern Ireland.”

Our submission does not include any extensive analysis of the *design* of the strand one institutions, as this would be beyond our field of knowledge and expertise. However, we discuss in some detail the extent to which the *outworking* of this design has hampered the stability and effectiveness of government in Northern Ireland from the perspective of key stakeholders involved in improving outcomes for children and young people.

In the continued absence of devolved government in Northern Ireland, at the time of writing (December 2022), **we would welcome any interest that the NI Affairs Committee may have in exploring some of the evidence presented here in more detail, possibly through conducting a further inquiry that is focused on the legacy of the Belfast/Good Friday Agreement on improving outcomes for our children and young people.** We believe that organisations and individuals across the Children's Sector have much to contribute to the conversation that is gathering momentum around the 25th anniversary of the agreement, which we agree is an opportunity to take stock of progress and assess the current state of affairs regarding many aspects of society in Northern Ireland.

Child Poverty

Children in Northern Ireland are more likely to be living in poverty than any other group in society, and the gap is widening.² The most recent figures from 2019/20 estimate that 22%, or approximately 100,000 children, are facing severe hardship.³ Comparing each of the United Kingdom's four nations and the Republic of Ireland, Northern Ireland has continually suffered the highest rate of child poverty from 2010 to 2020.⁴

² Department for Communities, 28 June 2022, An examination of the rates and distribution of poverty in Northern Ireland: <https://www.communities-ni.gov.uk/publications/examination-rates-and-distribution-poverty-northern-ireland>

³ Department for Communities, 5 August 2021, Households below average income Northern Ireland 2019/20: <https://www.communities-ni.gov.uk/publications/households-below-average-income-northern-ireland-201920>

⁴ Department for Communities, 28 June 2022, An examination of the rates and distribution of poverty in Northern Ireland: <https://www.communities-ni.gov.uk/publications/examination-rates-and-distribution-poverty-northern-ireland>

When the Belfast/Good Friday Agreement was signed, it included a commitment whereby “pending the devolution of powers to a new Northern Ireland Assembly, the British Government will pursue broad policies for sustained economic growth and stability in Northern Ireland and for promoting social inclusion”.⁵ Following the St Andrew’s Agreement in 2007, this vague reference to tackling poverty was eventually replaced by a statutory duty on the Northern Ireland Executive, in Section 28E of the Northern Ireland Act 1998, to “adopt a strategy setting out how it proposes to tackle poverty, social exclusion and patterns of deprivation based on objective need”.⁶ This made clear that it was the NI Executive’s responsibility to review and revise, where necessary, government action to reduce levels of child poverty.

In November 2008, the NI Executive formally adopted the ‘Lifetime Opportunities’ anti-poverty and social inclusion strategy, which included ambitious targets to reduce child poverty by 2010/11.⁷ It took two years for the Executive to formally adopt *Lifetime Opportunities*, after it was published in 2006. The first meeting of the Executive Sub-Committee on poverty and social exclusion took place in March 2009, nearly three years after the document was drafted; and the first baseline report, as part of the strategy’s monitoring framework, was not published until 2010.⁸ This report noted that the rate for child (relative income) poverty in 2008/09 was 25% and that:

“On the basis of current trends it is unlikely that the target to halve child relative income poverty by 2010/11, that is, to achieve a child relative income poverty rate of around 15% (approximately 67,500 children), will be achieved... it would [also] appear unlikely that the 2010/11 target to achieve a two-thirds reduction in the number of children in absolute income poverty will be achieved.”⁹

Indeed, the final monitoring framework update for *Lifetime Opportunities* in 2015 confirmed that the target of 15% was not achieved and that the child (relative income) poverty rate for 2013/14 was 23%.¹⁰ The number of children living in absolute poverty in 2013/14 was more than twice the target figure (112,000 / 46,000).

⁵ The Belfast Agreement: An Agreement reached at the multi-party talks on Northern Ireland, April 1998, ‘Rights, Safeguards and Equality of Opportunity’, p.19: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034123/The_Belfast_Agreement_An_Agreement_Reached_at_the_Multi-Party_Talks_on_Northern_Ireland.pdf

⁶ Northern Ireland Act 1998, S. 28E: <https://www.legislation.gov.uk/ukpga/1998/47/section/28E>

⁷ OFMDFM, 8 October 2015, Lifetime Opportunities Monitoring Framework: 2015 Update Report: <https://www.executiveoffice-ni.gov.uk/news/lifetime-opportunities-monitoring-framework-2015-update-report>

⁸ OFMDFM, October 2010, Lifetime Opportunities Monitoring Framework – Baseline Report: https://wayback.archive-it.org/11112/20150609102345/http://www.ofmdfmi.gov.uk/annex_3_lifetime_opportunities_monitoring_framework_oct_2010_pdf.pdf

⁹ Ibid, p.3.

¹⁰ OFMDFM, 8 October 2015, Lifetime Opportunities Monitoring Framework: 2015 Update Report: <https://www.executiveoffice-ni.gov.uk/news/lifetime-opportunities-monitoring-framework-2015-update-report>

The failure of the strategy can, in some respects, be seen as directly linked to the failings of the Child Poverty Act 2010, a piece of legislation enacted on a UK-wide basis to provide binding targets for the eradication of Child Poverty by 2020 that was ultimately abandoned.¹¹ The Secretary of State for Work and Pensions, Iain Duncan Smith MP argued that the child poverty measure – as defined by the income threshold of 60% of median income – was deeply flawed. Nevertheless, as we have highlighted above, the statutory duty to develop an appropriate strategy to reduce child poverty and the political accountability concerning the effectiveness of any such strategy rested with the NI Executive. It is likely that delays in adopting *Lifetime Opportunities* were linked to Executive dysfunction in 2008 surrounding the devolution of policing and justice powers; and that the impetus for publishing a more specific document, ‘Improving Children’s Life Chances’ in March 2011, was driven by the legal requirements of the UK Child Poverty Act 2010 as opposed to the statutory duty under the Northern Ireland Act 1998.

A range of measures were taken as part of *Improving Children’s Life Chances*, between 2011 and 2014. However, as noted in the subsequent strategy ‘Delivering Social Change: The Executive’s Child Poverty Strategy’:

“Although a lot of good work has been undertaken, across departments, to tackle child poverty, the **most recent official figures show an increase in the number and proportion of children in poverty here, and no discernible change in child poverty levels here over the last decade** [emphasis added]. It is difficult therefore to ascertain the impact of individual policies and programmes on the official measurements of child poverty as set out in the Child Poverty Act.”¹²

As a result of the lack of progress, the Executive undertook a formal review of child poverty policy between October 2013 and January 2014. Again the focus of this work was disrupted by further political instability surrounding other issues and the high level negotiations that ultimately led to ‘A Fresh Start: The Stormont Agreement and Implementation Plan’.¹³ There was effectively another delay in Executive policy development, until the next Child Poverty Strategy was published in March 2016. The duty to develop a strategy was also one of the functions transferred from the Executive Office to the Department of Communities through the Departments (Transfer of Functions) Order (Northern Ireland) 2016.¹⁴

The Outcomes Based Approach and associated Action Plan that accompanied the 2016 strategy was largely welcomed and marked a significant change in approach. However, less than 12 months later, in January 2017, the Executive collapsed as a result of the Renewable Heat Incentive scandal. This

¹¹ Department for Work and Pensions, 1 July 2015, Government to strengthen child poverty measure:

<https://www.gov.uk/government/news/government-to-strengthen-child-poverty-measure>

¹² NI Executive, March 2016, Delivering Social Change – The Executive’s Child Poverty Strategy:

<https://www.communities-ni.gov.uk/sites/default/files/publications/ofmdfm/child-poverty-strategy.pdf>

¹³ A Fresh Start: The Stormont Agreement and Implementation Plan, 17 November 2015:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/479116/A_Fresh_Start_-_The_Stormont_Agreement_and_Implementation_Plan_-_Final_Version_20_Nov_2015_for_PDF.pdf

¹⁴ The Departments (Transfer of Functions) Order (Northern Ireland) 2016, Schedule 1, Part 2.

<https://www.legislation.gov.uk/nisr/2016/76/schedule/1/part/2/made>

limited scrutiny of the key indicators and overall progress in tackling child poverty. Without an Executive, Ministers, and Assembly Committees, there were few opportunities to critically assess the effectiveness of the strategy for three years. Then several months after the Executive and Assembly were restored in January 2020, all attention turned to the Covid-19 pandemic response. This was most likely the main factor why the strategy was extended for three years (until May 2022). The other key consideration, according to the Department for Communities, was to help facilitate the co-design process that took place as part of the development of a broader Executive Anti-Poverty Strategy¹⁵ – one that would fulfil the statutory duty under Section 28E of the Northern Ireland Act 1998.

The prospect of the Executive fulfilling their statutory duty and adopting an Anti-Poverty strategy, co-designed with experts and those with lived experience, was then stymied by the collapse in February 2022. Northern Ireland is now left with no strategic framework to tackle child poverty and no certainty as to when the next Executive will consider the issue. This is in the context of high levels of inflation, huge cost of living pressures, and an economic recession that will push even more children into poverty. In response to a request for a copy of the draft Anti-Poverty Strategy from the Child Poverty Alliance in Northern Ireland, the Department for Communities has said that drafting is ongoing and, as the content would be a matter for Executive approval, they would not be in a position to share the document.¹⁶

Practical measures that would help struggling families, such as widening eligibility for Free School Meals and boosting school uniform grants that were subject to departmental review cannot be progressed without Ministerial approval. The decision by the Minister of Education to extend the School Holiday Food Grant Scheme until March 2023 will provide some relief to families, but it also leaves them with another cliff edge, beyond which there is no certainty that an Executive will be formed. At the centre of all these developments are children – our young people – who have not seen or experienced any tangible improvements in their opportunities. Gaps in educational attainment are most pronounced between those entitled to Free School Meals (FSME) and those who are not. In 2020-21, only 59.8% of school leavers with FSME achieved at least five GCSEs, including English and Maths, compared to an 83.8% attainment rate for non-FSME school leavers.¹⁷ The attainment gap between non-FSME and FSME school leavers has not changed significantly in the last 15 years.¹⁸ The estimated £73m funding per year needed to help address this gap is now in doubt following the Secretary of State's intervention

¹⁵ Deirdre Hargey, Minister for Communities, AQO 1705/17-22:

<http://aims.niassembly.gov.uk/officialreport/reportssearchresultsreport.aspx?&eveDate=2021/03/08&Id=329452&hwid=3310568&m=0&c=0&p=0&s=3&mv=0&o=1&ov=1&cv=1&pv=0&sv=23&mi=All%20Members&pi=All%20Parties&si=2020-2021&k=B4tw0F1fUWq8FdoVJmiSzw==&fd=&td=&pg=1&pm=0&per=1#3310568>

¹⁶ Department for Communities correspondence to Child Poverty Alliance NI.

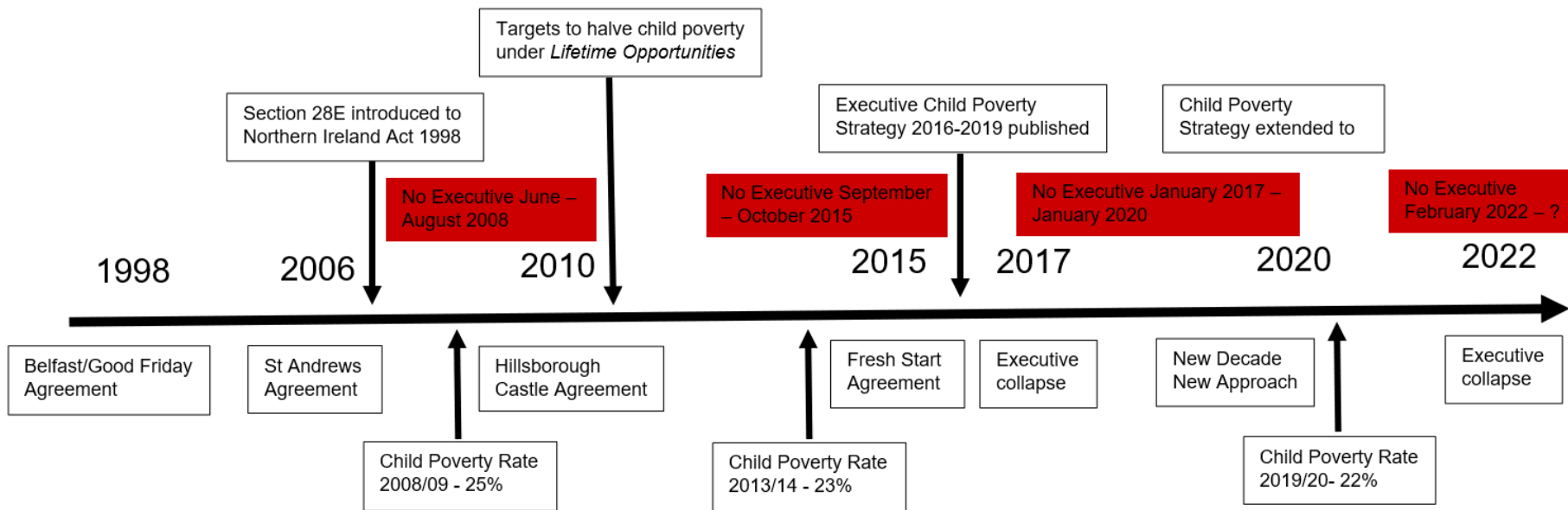
¹⁷ Department of Education, May 2022, Qualifications and destinations of Northern Ireland School Leavers: <https://www.education-ni.gov.uk/sites/default/files/publications/education/Qualifications%20and%20Destinations%20of%20Northern%20Ireland%20School%20Leavers%202020-21.pdf>

¹⁸ NICCY, November 2022, Statement on Children's Rights in Northern Ireland (SOCRNI) 3:

<https://www.niccy.org/what-we-do/statement-on-childrens-rights-in-northern-ireland-socrni/statement-on-childrens-rights-in-northern-ireland-socrni-3-2022/>

to set a budget for Northern Ireland in the absence of an Executive, and the significant pressures faced by the Department of Education.

In response to the levels of child poverty and social exclusion in Northern Ireland, government departments must prioritise the development and delivery of: an Anti-Poverty Strategy that includes a Commission and a new legislative framework with binding targets; social security reforms, including the introduction of a Child Payment based on the Scottish model; and a permanent scheme to replace School Holiday Food Grants that properly addresses child food insecurity. The social inclusion strategies being developed by the Department for Communities have been subject to extensive stakeholder engagement and co-design processes. They now need to be published for public consultation, and the final strategies agreed before being adopted by the next Executive. It is essential that each strategy includes clear outcomes and an action plan for delivering these outputs. Legally binding targets to reduce poverty rates will provide a key policy framework for agreeing future budgets and allocating resources.



Children with Additional Needs

Similar to the longstanding issues concerning levels of Child Poverty in Northern Ireland, the dysfunctional nature of our political system has contributed to budgetary outcomes that disadvantage children with additional needs when compared with their peers across the UK and the Republic of Ireland. Just as previous analysis shows how Northern Ireland spends less per pupil in our school system than any other part of the UK,¹⁹ similar themes emerge when considering child health waiting lists and Special Educational Needs (SEN) support.

For more than a decade, the number of pupils with SEN in Northern Ireland has been growing at a rate that is disproportionate to the wider school population.²⁰ In 2021/22, almost 65,000 pupils had some form of SEN (equivalent to 18.2 % of the school population), including 22,198 pupils with a statutory statement of SEN. Pupils with SEN are increasingly being educated in mainstream schools, including learning support centres attached to mainstream schools. In 2021/22, 71% of pupils with a statement of SEN attended mainstream schools.²¹ Despite the fact that Northern Ireland has a higher rate of SEN than other UK jurisdictions, the reasons for this and the scale of unmet needs remain unknown. Previous research by the Northern Ireland Commissioner for Children and Young People (NICCY) highlighted:²²

- “Insufficient, poor quality and inadequately resourced services and support provision;
- A lack of early identification and assessment of need and delays in the statutory assessment and statementing process;
- Poor communication, engagement with and involvement of children and young people, their parents or carers, and other key stakeholders, by relevant authorities;
- Poor coordination and communication between education and health concerning identification, diagnosis, assessment and implementation of support.”

As noted by NICCY, a review of SEN provision has been ongoing for almost 15 years. This commenced in 2006, when the Department of Education initiated a review of SEN and inclusion. This was followed by the Department issuing its proposals for consultation entitled ‘Every School a Good School -The Way Forward for Special Educational Needs and Inclusion’. After several years of discussion and

¹⁹ Institute for Fiscal Studies, October 2021, Comparisons of school spending per pupil across the UK: <https://ifs.org.uk/articles/comparisons-school-spending-pupil-across-uk#:~:text=In%202021%E2%80%9322%2C%20spending%20per,%C2%A36%2C400%20in%20Northern%20Ireland.>

²⁰ O'Connor et al. 2021, ‘A profile of special educational needs and disability in Northern Ireland using educational and social data’: https://pure.ulster.ac.uk/ws/portalfiles/portal/99974370/A_profile_of_special_educational_needs_and_disability_in_Northern_Ireland_using_educational_and_social_data.Final_Report.pdf

²¹ Department of Education, March 2022, Annual enrolments at schools and in funded pre-school education in Northern Ireland: <https://www.education-ni.gov.uk/sites/default/files/publications/education/Revised%2011th%20March%202022%20-%20Annual%20enrolments%20at%20schools%20and%20in%20funded%20pre-school%20education%20in%20Northern%20Ireland%2C%202021-22.pdf>

²² NICCY, SOCRNI 3, p.31

significant revisions to the original 2009 proposals, new legislation was finally passed by the Northern Ireland Assembly in 2016, in the form of the Special Educational Needs and Disability (Northern Ireland) Act 2016 (SEND Act).

The SEND Act was followed by a public consultation on new draft SEN regulations (February–May 2016) but thereafter progress was stalled by the collapse of the Executive in January 2017. This meant that over ten years after the original SEN Review consultation, the 1998 Code of Practice remained in use. In January 2020, when the Assembly and Executive were restored on the basis of the ‘New Decade, New Approach Agreement’, political parties committed to “deliver a new special educational needs framework to support young people with special needs to achieve their full potential.”²³ In response to NICCY’s recommendations, the Department of Education established the SEND Strategic Development Programme, but funding uncertainty has hindered further progress. The Department’s independent review of SEN is another positive development, but it is likely that any recommendations and reforms will be shelved until the Assembly and Executive are restored. In the meantime, member organisations of the Children with Disabilities Strategic Alliance (CDSA) continue to highlight the increasing number of children not attending school because their support needs are not being met; and we have no scrutiny or accountability mechanisms to raise these concerning trends, such as through Assembly Committee meetings and Ministerial questions.

The NI Affairs Committee has previously reported on Education Funding in Northern Ireland in 2019, highlighting the shortcomings in the way children with SEN and disabilities are supported. The report concluded that “it is clear that the system does not currently have the resources it needs to meet demand for SEND support” and recommended that future budget allocations to DE reflect the growing numbers of children with SEND in the school system.²⁴ Previous analysis by the NI Audit Office in 2017 had suggested that “neither the Department nor the EA can currently demonstrate value for money in terms of economy, efficiency or effectiveness in the provision of support to children with SEN in mainstream schools”.²⁵ In the absence of the Executive and Assembly, this work is effectively stalled.

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Northern Ireland has a 25% higher overall prevalence of mental illness than England – one in five adults here have a mental health condition at any one time.²⁶ One in ten children in Northern Ireland experience anxiety or depression, which is around 25% higher than in other UK jurisdictions.²⁷ One in eight children meet the criteria for

²³ New Decade New Approach Agreement, January 2020:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856998/2020-01-08_a_new_decade_a_new_approach.pdf

²⁴ NI Affairs Committee, July 2019, Report on Education Funding in Northern Ireland:

<https://publications.parliament.uk/pa/cm201719/cmselect/cmniaf/1497/149702.htm>

²⁵ NI Audit Office, 27 June 2017, Special Educational Needs Report By The Comptroller And Auditor General:

<https://www.niauditoffice.gov.uk/files/niauditoffice/media-files/Special%20Educational%20Needs.pdf>

²⁶ Department of Health, June 2014, Making Life Better: A whole system strategic framework for public health 2013-2023. https://www.health-ni.gov.uk/sites/default/files/publications/dhssps/making-life-better-strategic-framework-2013-2023_0.pdf

mood and anxiety disorders, and one in eight report having suicidal thoughts, or having attempted suicide.²⁸ Rates of suicide in children under 18 in Northern Ireland are disproportionately higher when compared to rates in the rest of the UK.²⁹ A significantly higher percentage of young people who died by suicide in Northern Ireland had a history of alcohol and/or drug misuse when compared to the rest of the UK.³⁰

Despite the extent of poor mental health in Northern Ireland, overall spending in Northern Ireland is 27% less than in England and 20% less than in Ireland.³¹ In 2018, NICCY undertook a review of children’s mental health services and identified significant failings around: the A&E response to suicidal young people; the access and quality of services for young people with a learning disability; and for young people with co-occurring alcohol and/ or drug and mental health problems requiring highly specialist support.³² Health authorities subsequently published an Action Plan to deal with the recommendations arising from the report, but progress has been hampered by the response to the Covid-19 pandemic and political instability.

NICCY’s monitoring report from February 2020 notes how the draft Action Plan is vague about timelines and next steps in respect of a number of the measures needed to improve services. According to report’s authors, “[the Action Plan] uses the phrase ‘ongoing’ or ‘ongoing consideration’ instead of providing concrete timelines indicating what needs to be done by, and when.”³³ This has made it difficult to assess the level of progress on a wide range of recommendations. The draft Action Plan also refers to the need to secure funding and/or Ministerial approval before some of the actions can be taken forward. This is a clear indication from departmental officials, that in some key areas, they feel that work has progressed as far as possible before a Ministerial decision or budgetary allocation is required. Notwithstanding some limited progress, NICCY have been highly critical of the government response to their recommendations. They say that “there is a lack of evidence that government actions are making a tangible difference in children’s access to mental health services” and this is evident in some of the key data collated recently:³⁴

²⁷ Bunting, L. et al, (2020) Youth Wellbeing Child and Adolescent Prevalence Study. <http://www.hscboard.hscni.net/download/PUBLICATIONS/MENTAL%20HEALTH%20AND%20LEARNING%20DISABILITY/youth-wellbeing/Youth-Wellbeing-Young-Persons-Version.pdf>

²⁸ Ibid.

²⁹ NISRA, as cited in NICCY’s Child and Adolescent Mental Health in NI scoping paper (2017) <https://www.niccy.org/media/2810/niccy-scoping-paper-mental-health-review-apr-2017.pdf> p17

³⁰ National Confidential Inquiry into Suicide and Safety in Mental Health (2018) <https://www.hqip.org.uk/wpcontent/uploads/2018/10/Ref-69-Mental-Health-CORP-annual-report-v0.4.pdf> p40.

³¹ Department of Health, Consultation on the Draft Mental Health Strategy 2021-2031, as cited in NICCY, November 2022, Statement on Children’s Rights in Northern Ireland 3: <https://www.niccy.org/wp-content/uploads/2022/11/NICCY-SOCRNI-3-Main-Report-2022-final-web.pdf> p. 46.

³² NICCY, February 2020, Still Waiting: Monitoring Report. <https://www.niccy.org/publications/still-waiting-monitoring-report/>

³³ Ibid, p. 11.

³⁴ NICCY, November 2022, Statement on Children’s Rights in Northern Ireland 3: <https://www.niccy.org/wp-content/uploads/2022/11/NICCY-SOCRNI-3-Main-Report-2022-final-web.pdf>

- 451 children had been waiting over nine weeks for a CAMHS (Step 3) appointment in November 2021. This is a substantial increase from March, when the total number waiting over nine weeks was 167.
- Referrals to CAMHS from Emergency Departments (ED) for young people presenting during a mental health crisis increased by 24% from 765 to 949 between 2019/20 and 2020/21.
- Prescribing data between 2018 and 2020 shows a levelling off or slight fall in the number of children (under-18s) receiving anti-depressant medication. However, the number of antidepressant prescriptions being administered every year in Northern Ireland has increased, which includes the administration of drugs not recommended by NICE. In 2020, 17,981 antidepressant prescriptions were dispensed to 2950 under-18s in Northern Ireland, including 822 prescriptions to 140 children under the age of 12.
- There is also no evidence of an increase in access to psychological therapies for children since 'Still Waiting' was published. There is a statutory 13-week wait target for access to psychological therapies for adults and children. However, no statistics are available for those under 18.

According to NICCY, government actions were reviewed in 2021-22, leading to clearer objectives and action owners. Plans were also made to increase CAMHS funding by £2.5 million in 2022-23, £4 million in 2023-24 and £7 million in 2024-25 to bring funding into line with the commitment made to increase CAMHS funding to 10% of adult funding. However, this funding and any future funding are subject to Executive Approval.

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In October 2021, NICCY also published 'More than a number: A rights based review of child health waiting lists in Northern Ireland.' In the context of growing public awareness and frustration at the length of time taken to get appointments and treatment across the NHS, the worst in the UK, and how this was exacerbated by the Covid-19 pandemic³⁵ - NICCY's report presented a troubling picture of the numbers and length of waits for child services:³⁶

- First consultant-led outpatient waiting times have increased year-on-year between 2017 and 2021, with 35,292 children waiting for a first appointment in April 2021.
- Of the 17,194 patients waiting over a year for a first consultant-led outpatient appointment at April 2021, 11,239 had been waiting between one and two years, 5,445 between two and four years and 510 over four years.
- Inpatient and day case waiting times have increased year-on-year between 2017 and 2021, with 9,481 children waiting for a first appointment in April 2021, with 62% (6092) waiting over one year and 197 over four years. A total of 26,818 under-18s were waiting for access to one of the community child health services that Health and Social Care Trusts monitor as part of the Primary Target List, which does not include key services such as ADHD.

³⁵ NI Audit Office, May 2022, Work in Progress – Elective Care Waiting Lists:

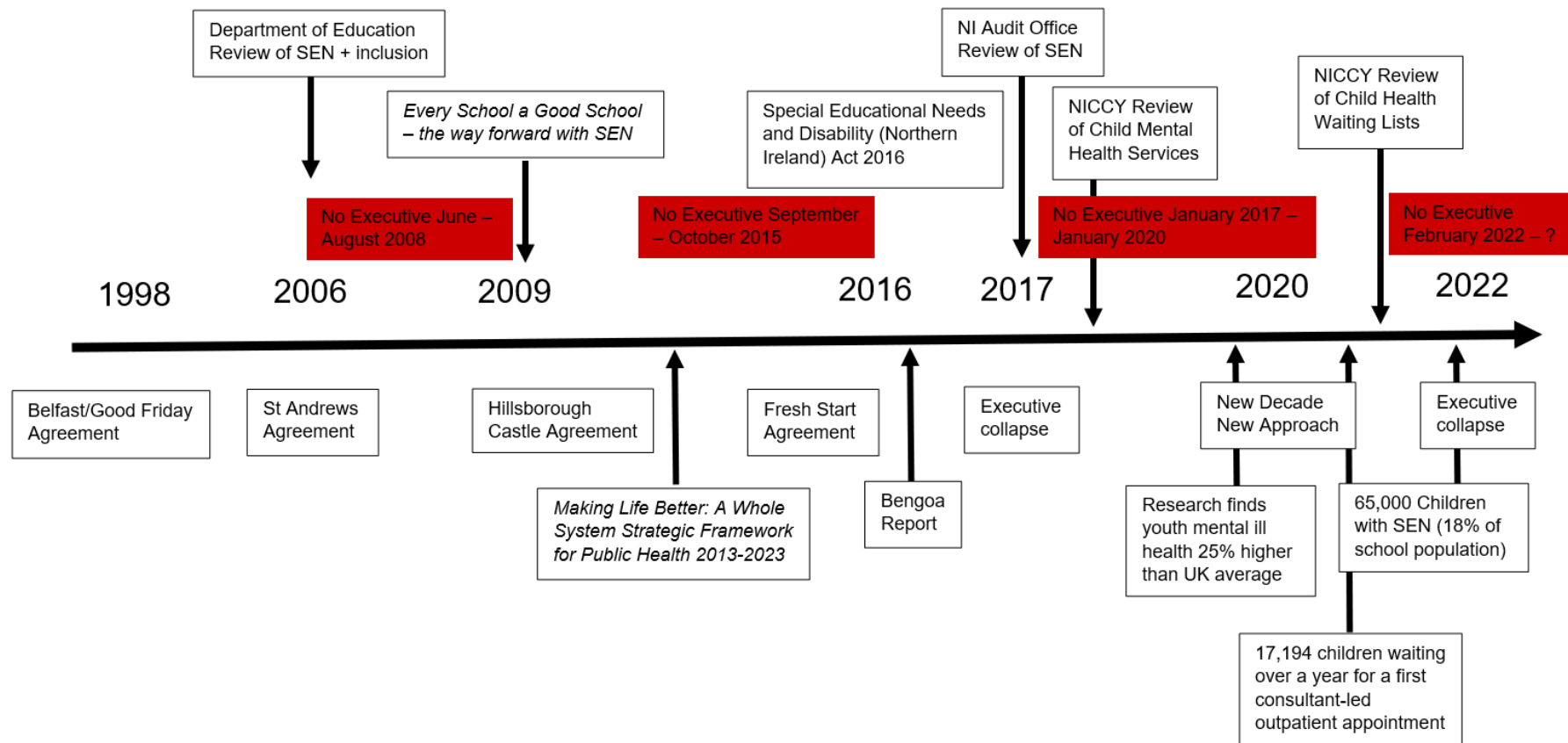
<https://www.niauditoffice.gov.uk/publications/work-progress-elective-care-waiting-lists>

³⁶ NICCY, October 2021, More than a number: A rights based review of child health waiting lists in Northern Ireland: <https://www.niccy.org/wp-content/uploads/media/3976/more-than-a-number-child-health-waiting-lists-in-ni-final-19-october-2021.pdf>

According to a monitoring report in October 2022, updated data from April shows that waiting times have continued to increase, with an increasing number of children waiting years for a first appointment with some services.³⁷ NICCY's analysis drew attention to the lack of investment and prioritisation given to the Strategy for Paediatric Hospital and Community Care since it was published six years ago. They note that the 'Paediatric Rebuild Plan', with regard to Covid-19 recovery, is still in draft form and criticise what they call the 'historical lack of focus given to children's health services.'³⁸ Once again, while the Department await the formation of an Executive and the agreement of a multi-year budget to deliver upon key recommendations, our children and young people suffer.

³⁷ NICCY, October 2022, More than a number: One year post publication monitoring report: <https://www.niccy.org/wp-content/uploads/2022/11/niccy-monitoring-report-more-than-a-number-one-yr-on-27-october-2022.pdf>

³⁸ Ibid, p. 7.



Youth Justice

When policing and justice powers were devolved to Northern Ireland in 2010, work was already ongoing to embed a welfare approach and the ‘best interests’ of the child principle into the Youth Justice system. The Hillsborough Castle Agreement, which provided the framework for devolving these powers, included reference to:³⁹

“A review of how children and young people are processed at all stages of the criminal justice system, including detention, to ensure compliance with international obligations and best practice.”

The subsequent review of Youth Justice (YJR), published in 2011, made 31 recommendations for reform and work commenced on implementation. Four years later, in 2015, the Criminal Justice Inspectorate NI reported that 59% of those actions were complete. However, a more recent analysis of progress, entitled ‘Tracing the Review’ and commissioned by four locally based NGOs, demonstrates the lack of implementation regarding some of the most significant policy and service areas. One of these issues remains the Minimum Age of Criminal Responsibility (MACR), which the Youth Justice Review in 2011 recommended should be raised in line with international best practice.

In Northern Ireland, the MACR is currently set at 10 years old, which is among the lowest in Europe, and also one of the lowest in the world. The UN Committee on the Rights of the Child considers anything below 14 to be unacceptable. Raising the MACR in Northern Ireland was subject to public consultation, as part of a range of recommendations from the Youth Justice Review in 2011, which showed considerable support. It was also considered as part of a cross-departmental Scoping Study in 2015. This study found in favour of raising MACR to at least 12 on the basis that it would not only deliver on the specific, as yet unmet, YJR recommendation but it would assist Northern Ireland in complying with the UN Committee on the Rights of the Child and other international standards.⁴⁰ According to the Department of Justice, raising the MACR would align with their “overarching aim to improve outcomes for children by keeping them out of the justice system for as long as possible and removing the burden of a criminal record with the associated stigma of being a ‘young offender’.”⁴¹

In the Department’s view, efforts of previous Justice Ministers to secure cross-Executive agreement to raise the MACR, has demonstrated a lack of sufficient cross-party agreement. This raises a number of questions, including whether the design of Executive decision-making processes has been used to block substantive progress on children’s rights issues (also discussed below in relation to Equal

³⁹ Agreement at Hillsborough Castle, February 2010, Section 1, Para. 7:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/136435/agreement_at_hillsborough_castle_5_february_2010.pdf

⁴⁰ Department of Justice, October 2022, Consultation on increasing the Minimum Age of Criminal Responsibility in Northern Ireland: <https://www.justice-ni.gov.uk/consultations/consultation-increasing-minimum-age-criminal-responsibility-ni>

⁴¹ Ibid.

Protection), and would suggest that opportunities arising in 2015 and 2021/22 were unable to be built upon due to Executive collapse in 2017 and 2022. It is a damning indictment of the political institutions that the continued cycle of instability, dysfunction, and absentia may have resulted in hundreds – if not thousands – of children and young people being unnecessarily criminalised based on outdated legislation from the 1960s.

The case for raising the MACR is supported by research into child development, including neuroscience, a more progressive youth justice system framed around desistance as opposed to punitive forms of punishment, and a vision for society that values fairness and equal opportunities for all of our children and young people. Research consistently highlights the links between young people coming into contact with the criminal justice system and those living in poverty, with mental ill health, having experience of being in care or experiencing neglect/ abuse, misusing drugs or alcohol, and having learning and behavioural difficulties.⁴² It is often those who face the greatest structural barriers and experience the most acute social need that are caught up in the youth justice system.⁴³ 34% of children in custody in Northern Ireland during 2021/2022 were children in the care system.⁴⁴ Reforms to adoption law that were introduced in England and Wales in 2002, and Scotland in 2007, were only approved by the Assembly in 2022 and are still being implemented.

Unfortunately, the use of custody for children and young people in Northern Ireland is still not a measure of last resort. In 2020-21, 3% of young people in the Juvenile Justice Centre were sentenced, with the remaining 98% either there on account of the Police and Criminal Evidence Order 1989 (PACE) or on remand.⁴⁵ The statistics also show that 49% of those who were on PACE were remanded or sentenced to custody. Despite this evidence, the Department of Justice has not been able to progress its intention to address the recommendations regarding bail and PACE of the YJR and the now non-operational NI Law Commission.⁴⁶ Legislative provisions to achieve these reforms were intended to form part of the Justice (Miscellaneous Provisions) Bill that was progressing through the Assembly in 2021. However, these elements of the Bill were ultimately removed. Analysis of discussions and correspondence of the Assembly's Justice Committee would suggest that this was a deliberate strategy by the Justice Minister to reduce the scope of the Bill that would, in turn, facilitate Executive approval of the other legislative proposals contained therein. Whether this could be termed democratic process, or excessive manipulation of Executive procedure, is a matter for political debate. Again, the outworking of such manoeuvring was that legal reforms to divert

⁴² Howard League for Penal Reform (2011), 'Response to Breaking the Cycle: Effective Punishment, rehabilitation and sentencing of offenders', London: The Howard League for Penal Reform; Prison Reform Trust, (2009), 'Seen and Heard, supporting vulnerable children in the youth justice system'.

⁴³ Barry Goldson, (2013), 'Unsafe, Unjust and Harmful to Wider Society': Grounds for Raising the Minimum Age of Criminal Responsibility in England and Wales, Youth Justice Series 2013 13: 111.

⁴⁴ Youth Justice Agency, Annual Workload Statistics, 2021/2022.

⁴⁵ DoJ 2021, see note above.

⁴⁶ Northern Ireland Law Commission, September 2012, Report on Bail Law in Criminal Proceedings: <http://www.nilawcommission.gov.uk/bail-law.htm>

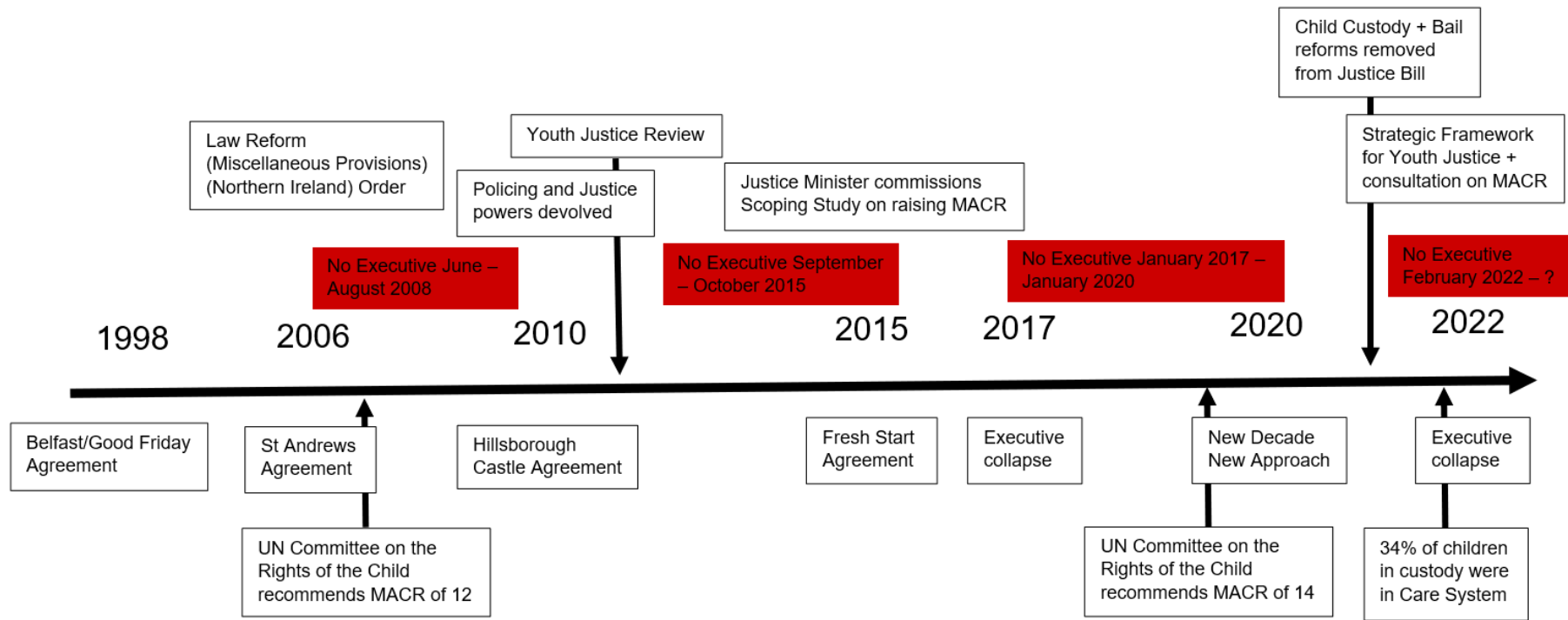
children from custody were not progressed and the reduced scope of the Bill thwarted attempts to table amendments to raise the MACR and provide children with Equal Protection from assault (by removing the criminal defence of ‘reasonable chastisement’). The Speaker of the Assembly ultimately ruled that these amendments were inadmissible and beyond the scope of the Bill.

The wider Children’s Sector in Northern Ireland has consistently called for legislative reform to ensure children have Equal Protection from all forms of assault, including physical punishment, and government-led actions to support families, including through dedicated and effective positive parenting support. While the law regarding physical punishment in Northern Ireland was reformed to restrict the defence of ‘reasonable chastisement’ or ‘reasonable punishment’ in the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006, the defence is still available to parents in certain circumstances concerning the offence of common assault.⁴⁷ Violence by caregivers is the most common form of violence experienced by children. On 31 March 2021, 23,095 children in Northern Ireland were known to social services as a child in need, and 2,298 children were listed on the Child Protection Register, with neglect and physical abuse accounting for 73% of those listed.⁴⁸

Despite research and evidence, including shifts evident in public attitudes, the stop-start nature of our political system means that Executive policy development is continually disrupted. Public discourse tends to focus on the latest catalyst for Executive collapse – as opposed to opening fora for constructive debates that research, news media and politicians can drive forward on a wide range of topics and areas of government work. In March 2021, Wales followed Scotland, Jersey and the Republic of Ireland in abolishing the defence of reasonable chastisement – which leaves England and Northern Ireland the only parts of the UK and Ireland that do not have legislation protecting children from assault in the home. As many others have highlighted, legal reform must be accompanied by greater government-led parenting support. A Family and Parenting Support Strategy has been in development for some years, stalled by the Covid-19 pandemic, and further delay caused by the lack of an Executive will only leave our children worse off, with less protections and less support.

⁴⁷ Article 2 Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006.

⁴⁸ [https://www.northernireland.gov.uk/news/publication-childrens-social-care-statistics-northern-ireland-202021#:~:text=At%2031%20March%202021%2C%2023%2C095,by%20the%20Police%20\(39%25](https://www.northernireland.gov.uk/news/publication-childrens-social-care-statistics-northern-ireland-202021#:~:text=At%2031%20March%202021%2C%2023%2C095,by%20the%20Police%20(39%25)



Summary

Delays, gaps in implementation, and lack of progress in policy development with regard to improving outcomes for children and young people in Northern Ireland cannot be explained or understood as regular symptoms of the process of prioritisation that all governments around the world must contend with.

Our analysis shows that the constant churn of political instability, and cyclical nature of Executive dysfunction and collapse, has played a large part in limiting the effectiveness of government departments. We discussed how policies to tackle Child Poverty were driven by developments in Westminster, in spite of a statutory duty (in place since 2007) on the Executive to adopt a strategy tailored to Northern Ireland. The current political impasse leaves government departments without any strategic framework, in breach of Section 28E of the Northern Ireland Act 1998, and highlights the overall lack of any tangible change in tackling disadvantage and deprivation.

Our evidence also examined how the recurring disruption to governing, and extended periods without an Executive, have stymied reforms to Special Educational Needs provision – including the necessary resources to deliver these reforms. Despite disproportionately higher rates of mental ill health, and higher levels of children with SEN and disabilities, Northern Ireland still spends less (as a proportion of health and education budgets) than other parts of the UK. While our government departments continually await the restoration, or establishment of the next Executive – to deliver budgets and provide Ministerial direction – our children languish on waiting lists, some of the worst in the UK, for treatment and care.

Recommendations from well over a decade ago, to improve our Youth Justice System and divert our children away from courts and custody, have not been implemented. Reforms to adoption law, that were made in England, Scotland and Wales between 2002 and 2007, are only coming into force in Northern Ireland now. The failure to raise the Minimum Age of Criminal Responsibility, and abolish the criminal defence of ‘reasonable chastisement’ in the home, has criminalised children who should never have come into contact with the courts and left many others with no legal protection from assault by those who are in charge of their care.

As others have highlighted, since devolution in 1999, the Executive has not been functioning for more than 40% of the time.⁴⁹ This does not just affect public confidence, it has severe consequences on the delivery of public services for citizens. Our children and young people are the future, and they deserve better. They do not have the right to vote, and they do not have a voice in the high level negotiations that surround the formation of the Executive. Yet, they remain on the frontline of the harsh reality of ineffective governance, continually battered by the never-ending storm of political failings and the instability of the institutions. For the sake of Northern Ireland’s future, this cannot continue.

December 2022

⁴⁹ Pivotal PPF, September 2022, Governing Northern Ireland without an Executive:

<https://www.pivotalppf.org/cmsfiles/Publications/20220901-Pivotal-briefing-Governing-Northern-Ireland-without-an-Executive.pdf>