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Background briefing jointly prepared by the Research and Information Service (RaISe) of the Northern Ireland Assembly and by the Library & Research Service (L&RS) of the Houses of the Oireachtas (Tithe an Oireachtais)

North/South Inter-Parliamentary Association



Inaugural meeting

Child Protection

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Key points

- This briefing paper provides an overview of child protection policy in Ireland and Northern Ireland. It looks at the legislation underpinning child protection as well as the roles attached to various Departments and agencies. The paper does not deal specifically with reports into particular incidences of child abuse or neglect.
- Responsibility for children's services and child protection in Ireland rests with the Health Service Executive (HSE) and An Garda Síochána. The Department of Children and Youth Affairs (DCYA) is the lead department in terms of policy development and implementation.
- The Office of the First Minister and deputy First Minister (OFMdfM) has overall strategic responsibility for children and young people in Northern Ireland. The Department of Health, Social Services and Public Safety (DHSSPS) is the lead department on child protection and is responsible for policy.
- The Child Protection Register in Northern Ireland is administered by the Health and Social Care Trusts and co-ordinated by the DHSSPS.
- The Child Protection Notification System (CPNS) in Ireland is administered locally by HSE Care Managers or equivalent designated persons.
- The *Childcare Act 1991* sets out the obligations and responsibilities of the HSE towards children in Ireland.
- The *Children (Northern Ireland) Order 1995* governs the responsibilities of public authorities in Northern Ireland towards children.
- The *Safeguarding Vulnerable Groups (Northern Ireland) Order 2007* provides for the vetting and barring of persons applying to work with children in Northern Ireland.
- The National Vetting Bureau (Children and Vulnerable Persons) Bill 2012 will provide a statutory framework for the vetting but not the barring of persons applying to work with children in Ireland.
- An arrangement in 2008 allows for the exchange of information on sex offenders between An Garda Síochána and the Police Service of Northern Ireland (PSNI).
- A new internet resource, the North South Child Protection Hub, was launched under the auspices of the North South Ministerial Council (NSMC) in 2010.
- An inter-jurisdictional protocol setting out procedures for the transfer of social care cases between North and South was also launched by the NSMC in 2012.

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1. The position in Ireland

1.1 Overview of Child Protection Provision in Ireland

In the first instance the Irish State derives its powers in relation to child protection from Article 42.5 of the Irish Constitution (Bunreacht na hÉireann), which states:

‘In exceptional circumstances cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural imprescriptible rights of the child.’

The statutory responsibility for children’s services and child protection is shared between the Health Service Executive (HSE) and An Garda Síochána. The development and implementation of child protection policy and legislation rests primarily with the following Government Departments:

- Children and Youth Affairs;
- Health; and
- Justice and Equality.

1.2 Departmental Responsibility

The Department of Children and Youth Affairs (DCYA) acts as a hub through which other Departments and agencies can deal with child protection issues. The Child Welfare and Protection Policy Unit in the DCYA is responsible for developing the policy and legislative framework in relation to child welfare and protection. It also drives and monitors the implementation of the *National Children’s Strategy* and the *Children First Guidelines* (see section 1.4 of this paper - The strategic direction of child protection policy in Ireland).

1.3 Child Protection Services

Under the *Child Care Act 1991*, the HSE has a statutory duty to promote the welfare of children who are not receiving adequate care and protection. In doing so the HSE must have regard to the following:

- That it is generally in the best interests of the child to be brought up in his/her own family;
- The rights and duties of the parents; and
- That the first and paramount consideration is the welfare of the child and as far as is practicable, the wishes of the child should be considered in any decision relating to them.

The HSE is further required to:

- Identify children who are not receiving adequate care and protection and to coordinate information on children from all relevant sources;
- Provide child care and family support services with the aim of helping parents to care for their children and to avoid the need for such children to be taken into care; and
- Prepare an annual report on the adequacy of the child care and family support services.

The HSE implements services through its 32 local health areas. The model of service delivery is based on child and family support at four different levels¹:

- universal services for all families (*level 1*);
- support services for children and families in need (*level 2*);
- specialist services for children and families with serious difficulties, including risk of harm (*level 3*); and
- intensive or long-term support services involving out-of-home care. And/or services for children at-risk-of or in detention (*level 4*).

Since 2006, the HSE's policy has been to establish multi-disciplinary groups of health and social care professionals, Primary Care Teams, in all of these local areas to promote and deliver integrated and inter-agency services guided by the Children First principles. Child welfare services are delivered (as far as is possible given that they are not fully established yet) in the first instance by the Primary Care Teams, with cases of serious concern being allocated to the specialist services delivered by social work teams.

The HSE, as the body with statutory responsibility for the welfare of children, has a key role in terms of providing training, advice and information on the operation of *Children First* (see section 1.4 below).

1.4 Strategic direction of child protection policy in Ireland

The *National Children's Strategy*, a ten-year plan published by the Government in 2000, was the blueprint for improving the lives of children in Ireland. It had three main goals:

- Children would have a voice in matters which affect them and their views would be given due weight in accordance with their age and maturity;
- Children's lives would be better understood; their lives would benefit from evaluation, research and information on their needs, rights and the effectiveness of services; and

¹ The Agenda for Children's Services, A Policy Handbook, Department of Health and Children, 2007
[http://www.dcy.gov.ie/documents/publications/CS_handbook\[ENGLISH\]lowres.pdf](http://www.dcy.gov.ie/documents/publications/CS_handbook[ENGLISH]lowres.pdf)

² Available online at: http://www.dcy.gov.ie/documents/child_welfare_protection/ChildrenFirst.pdf

- Children would receive quality supports and services to promote all aspects of their development.

As part of the 10-year social partnership agreement, *Towards 2016*, the Government gave a commitment to establishing a high-level group, composed of Government Departments and State agencies to develop policies and deliver services affecting the lives of children and young people.

The National Children's Strategy Implementation Group (NCSIG) was established in 2006. Its membership was drawn from relevant Government Departments, the HSE, representatives of local authorities, the education sector and other key agencies. The key priority of the NCSIG is to ensure implementation of all the strategic plans and policy documents which have already been drawn up and published in relation to children's services in Ireland.

Children First, the National Guidelines for the Protection and Welfare of Children were published in 1999. These Guidelines helped to inform the development of various child protection practices operating across sectors relating to children, including health, education, sports, youth work, leisure, community and voluntary organisations and the faith based sector. The Minister for Children and Youth Affairs launched the Revised Children First National Guidelines in July 2011². The revised Guidelines stress that the safety and welfare of children is everyone's responsibility. They also set out protocols for frontline staff (e.g. Gardaí, and HSE workers) when dealing with suspected abuse of children.

Publication of the Ryan report

Child protection policy in Ireland has been shaped by a number of reports. In particular, the *Report of the Commission to Inquire into Child Abuse* (also known as The Ryan Report) published in May, 2009 shaped successive Government's policy responses to child protection. The Ryan Report included 20 recommendations and focussed on the Government Departments and institutions responsible for child services during the period it had reviewed. The Government accepted all the recommendations of the Commission and fully committed itself to their implementation.

Accordingly an implementation plan was developed from the Report. That Plan was published in July 2009 and contains 99 recommendations. The Implementation Plan set out a programme of actions for the various State bodies involved in the provision and oversight of services to children. Considerable progress has been made to date in implementing the various actions. Key actions and improvements effected under the Plan include:

- Addressing the effects of past abuse;
- Developing and strengthening national child care policy and evaluating its implementation;
- Strengthening regulation and inspection of children's services;

² Available online at: http://www.dcy.gov.ie/documents/child_welfare_protection/ChildrenFirst.pdf

- Improving the organisation and delivery of children’s services;
- Giving greater effect to the voice of the child; and
- Revising Children First, the national guidelines for the protection and welfare of children, and underpinning these guidelines by way of legislation.

Over the past number of years, Ireland’s Child Welfare and Protection Services have moved towards developing family and community support initiatives. This has coincided with a shift in policy focus to a more preventative approach to child welfare, involving support to families and children, in the hope of avoiding more serious interventions later on. Services for children are designed to complement, reinforce and extend the capacity of families and communities rather than to replace them³.

1.5 Key Legislation

International

In 1992, Ireland ratified the UN Convention on the Rights of the Child. In doing so it undertook to promote, protect and fulfill the rights of children as outlined in the Convention⁴.

A number of concerns were expressed by the UN Committee on the Rights of the Child following Ireland’s last progress report in 2005/2006. These included⁵:

- the lack of systematic and comprehensive data on children which would enable an analysis of the situation of particularly vulnerable children in Ireland; and
- that the principle of non-discrimination might not be enjoyed equally by all children, particularly children of different ethnicities and children belonging to minorities who could potentially face higher levels of racism, prejudice, stereotyping and xenophobia.

Ireland’s combined third and fourth progress reports, outlining the most significant developments from 2006 to 2011, will be submitted to the UN Committee in late 2012.

In 2010, Ireland ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, one of a series of international measures designed to align the approaches taken to human trafficking worldwide.

Domestic

Although much of the law enacted in Ireland over the past decade will have had some impact on children’s lives, the key pieces of legislation relating to child protection are:

³ *An Agenda for Children’s Services*, Office of the Minister for Children and Youth Affairs (2007).

⁴ <http://www2.ohchr.org/english/law/crc.htm>

⁵ UN Committee on the Rights of the Child Concluding Observations of Ireland’s Second Report under the UN Convention on the Rights of the Child <http://www.childrensrights.ie/knowledgebase/un-convention-and-childrens-rights/un-committee-rights-child-ireland-concluding-observ>

The Child Care Act 1991⁶ as amended⁷, sets out the responsibilities and duties of the HSE towards children. It places a legal obligation on the HSE to promote the welfare of children who are not receiving adequate childcare or protection, and requires that the ‘best interests

of the child’ be considered in all matters affecting their welfare. The Act places the emphasis on prevention, early intervention, and family and community support with removal of a child being the ‘last resort’.

The Protection for Persons Reporting Child Abuse Act 1998⁸ provides immunity from civil liability to persons who report child abuse ‘reasonably and in good faith’ to designated officers of the HSE or any member of An Garda Síochána.

The Child Trafficking and Pornography Act 1998⁹ makes it an offence to organise or knowingly facilitate the entry into, transit through, accommodation in or exit from the State of a child for the purpose of sexual exploitation.

The Children Act 2001¹⁰ is the main piece of legislation governing children within the criminal justice system. It focuses on preventing criminal behaviour, diversion from the criminal justice system and rehabilitation. The Act requires that the use of detention be a last resort.

The Sex Offenders Act 2001¹¹ sets out the reporting obligations imposed upon persons convicted of certain sexual offences. Although the term ‘Sex Offenders Register’ is commonly used in relation to this information no such register exists in Ireland.

The Ombudsman for Children Act 2002¹² provides for the establishment of the Office of the Ombudsman for Children. It provides that the Ombudsman must promote the welfare and rights of children, including:

- advising the Minister on the development and co-ordination of policy relating to children;
- highlighting issues relating to the rights and welfare of children that are of concern to children, and

Children in care as of April 2012	
Foster care	3,880
Foster care with relatives	1,781
Residential care : Special care	19
Residential care : High Support	18
Residential care : General	378
Other care placements	143
Total	6,219

⁶ <http://www.irishstatutebook.ie/1991/en/act/pub/0017/index.html>

⁷ The Child Care (Amendment) Act 2007 <http://www.irishstatutebook.ie/2007/en/act/pub/0026/index.html>

The Child Care (Amendment) Act 2011 <http://www.irishstatutebook.ie/2011/en/act/pub/0019/index.html>

⁸ <http://www.irishstatutebook.ie/1998/en/act/pub/0049/index.html>

⁹ <http://www.irishstatutebook.ie/1998/en/act/pub/0022/index.html>

¹⁰ <http://www.irishstatutebook.ie/2001/en/act/pub/0024/index.html>

¹¹ <http://www.irishstatutebook.ie/2001/en/act/pub/0018/index.html>

¹² <http://www.irishstatutebook.ie/2002/en/act/pub/0022/index.html>

- monitoring and reviewing the operation of legislation concerning matters that relate to the rights and welfare of children.

The Health Act 2007¹³ provides for the establishment of the Health Inspectorate Quality Agency (HIQA). It also provides for a scheme of registration and inspection of residential services for children.

Criminal Law (Human Trafficking) Act, 2008¹⁴ prohibits the trafficking of children for labour exploitation and/or the removal of organs.

The Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012¹⁵ is the first in a series of measures, (including the *Children First Bill 2012* and the *National Vetting Bureau (Children and Vulnerable Persons) Bill 2012*), designed to strengthen Ireland's child protection legislative framework. The Act provides for the mandatory reporting of certain offences committed against children (e.g. sexual assault, trafficking, assault causing harm, child endangerment and child abduction).

Pending/Upcoming legislation

The Children First Bill 2012¹⁶ will provide a statutory basis for the Children First Guidelines ensuring consistency of approach across all 32 local authority areas and all agencies working with children. It will require certain groups of people who work with children on a regular basis (e.g. social workers and teachers) to mandatorily report any concerns they may have regarding child abuse and/or neglect. It is envisaged that the Bill will provide for a duty to share information between various state agencies.

The National Vetting Bureau (Children and Vulnerable Persons) Bill 2012¹⁷ will provide a legislative framework for the vetting of prospective employees who as part of their job would have regular access or contact with children. It will also provide for the establishment of a database system which will enable the collection and exchange of both 'hard' and 'soft' information for vetting purposes.

The Child and Family Support Agency Bill will remove child welfare and protection services from the HSE and create a dedicated agency for the delivery of such services in line with the Government's commitment in the Programme for Government 2011¹⁸.

¹³ <http://www.irishstatutebook.ie/2007/en/act/pub/0023/index.html>

¹⁴ <http://www.irishstatutebook.ie/2008/en/act/pub/0008/index.html>

¹⁵ <http://www.irishstatutebook.ie/2012/en/act/pub/0024/index.html>

¹⁶ Heads and General Scheme of the Children First Bill 2012

http://www.dcy.gov.ie/documents/publications/CF_Heads_and_General_Scheme.pdf

¹⁷ <http://www.oireachtas.ie/viewdoc.asp?DocID=21599&&CatID=59>

¹⁸ <http://per.gov.ie/wp-content/uploads/ProgrammeforGovernmentFinal.pdf>

The Children's Rights Referendum

The Government recently announced that it will hold a children's rights referendum to amend Section 42 of the Irish Constitution (Bunreacht na hÉireann) on Saturday 10th of November 2012. The amendment aims to strengthen children's rights within the Constitution and the wording is as follows:

1. The State recognises and affirms the natural and imprescriptible rights of all children and shall, as far as practicable, by its laws protect and vindicate those rights.
2. 1° In exceptional cases, where the parents, regardless of their marital status, fail in their duty towards their children to such extent that the safety or welfare of any of their children is likely to be prejudicially affected, the State as guardian of the common good shall, by proportionate means as provided by law, endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.

2° Provision shall be made by law for the adoption of any child where the parents have failed for such a period of time as may be prescribed by law in their duty towards the child and where the best interests of the child so require.

3. Provision shall be made by law for the voluntary placement for adoption and the adoption of any child.
4. 1° Provision shall be made by law that in the resolution of all proceedings -
 - i brought by the State, as guardian of the common good, for the purpose of preventing the safety and welfare of any child from being prejudicially affected, or
 - ii concerning the adoption, guardianship or custody of, or access to, any child,the best interests of the child shall be the paramount consideration.

2° Provision shall be made by law for securing, as far as practicable, that in all proceedings referred to in subsection 1° of this section in respect of any child who is capable of forming his or her own views, the views of the child shall be ascertained and given due weight having regard to the age and maturity of the child.¹⁹

¹⁹ Twenty-First Amendment of the Constitution (Children) Bill 2012
<http://www.oireachtas.ie/documents/bills28/bills/2012/7812/b7812d.pdf>

2. The position in Northern Ireland

2.1 Introduction

At 31 March 2012, 2,127 children were listed on the Child Protection Register in Northern Ireland²⁰. This section summarises the legislative and policy provisions for child protection in Northern Ireland²¹.

2.2 Overview of Child Protection Provision in Northern Ireland

Child protection is a devolved matter in Northern Ireland. The general structure for child protection is as follows:

- The Office of the First Minister and deputy First Minister (OFMdfM) is responsible for the overall strategy on children and young people in Northern Ireland.
- The Department of Health, Social Services and Public Safety (DHSSPS) is the lead department on child protection and is responsible for policy.
- The Health and Social Care Board commissions services to provide health and social care, including child protection services.
- The Regional Child Protection Board develops child protection policy across the region through inter-agency working. This is to be replaced by the Safeguarding Board for Northern Ireland.
- Health and Social Care Trusts are responsible for the delivery of services in their own areas, including child protection services.
- Gateway Services are the first point of contact for referrals to child protection provision in each Trust area.

2.3 Strategic Direction of Child Protection Policy in Northern Ireland

The Office of the First Minister and deputy First Minister (OFMdfM) has overall responsibility for children and young people. The current Ten Year Strategy (2006-2016) has 'Living in Safety and with Stability' as part of its outcomes framework and includes the following commitments to child protection²²:

²⁰ DHSSPS (2012), *Children Order Child Protection and Referral Statistics for Northern Ireland (quarter ending 31 March 2012)*, Belfast: DHSSPS: http://www.dhsspsni.gov.uk/index/stats_research/stats-cib-3/statistics_and_research-cib-pub/children_statistics/children_order_quarterly.htm.

²¹ This paper should be read in conjunction with Research and Library Service Briefing Paper 87/12 (NIAR 156-12) 'Child Protection Register and Referral' Statistics, 3 March 2012: <http://www.niassembly.gov.uk/Documents/RaSe/Publications/2012/health/8712.pdf>, which contains a brief overview of child protection and guidance and a synopsis of child protection-related data, and Briefing Paper 106/12 (NIAR 277-12) *Child Protection and Crimes Against Children*, 23 May 2012: <http://www.niassembly.gov.uk/Documents/RaSe/Publications/2012/health/10612.pdf>, which adds further information on child protection in Northern Ireland.

²² OFMdfM (2006), *Our Children and Young People – Our Pledge: A Ten Year Strategy for Children and Young People in Northern Ireland*, Belfast: OFMdfM: <http://www.ofmdfmi.gov.uk/index/equality/children-young-people/children-and-young-people-strategy.htm>, pp.70-74.

- The creation of a new Safeguarding Board to replace the current child protection committees;
- Improved access to helpline support for children experiencing abuse;
- A full-time child protection support service for schools;
- Changes to sex offenders legislation and policy;
- Introduction of an accreditation system to promote child protection practice;
- Strengthening of protection in cases of domestic violence;
- Changes to legislation regarding child chastisement;
- Creation of a new vetting and barring system;
- Re-organisation of child protection services; and
- Development of child protection policies across all areas of government.

The strategy runs in conjunction with action plans²³ on all of the outcome areas and there is a Ministerial Sub-Committee for Children and Young People²⁴ chaired by the two junior OFMdFM Ministers for cross-departmental working across all eleven departments.

2.4 Departmental Responsibility

Child protection arrangements come under the remit of the Department of Health, Social Services and Public Safety (DHSSPS)²⁵, which in the rest of the UK is the responsibility of local authorities²⁶. The Department provides guidance on legislation and policy relating to child protection for agencies working with children and circulars for health and social care staff compliance²⁷. The current child protection guidance dates from 2003²⁸, but is under review.

The Department does not carry out individual child abuse investigations, these being carried out by social workers at Trust level, and has relinquished its role in pre-employment checking, this being the responsibility of Access Northern Ireland since 2008, which is a

²³ OFMdFM (2008), *Our Children and Young People – Our Pledge: Action Plan 2008-2011*, Belfast: OFMdFM, pp.76-89.

²⁴ Ministerial Sub-Committee for Children and Young People: <http://www.ofmdfmi.gov.uk/index/equality/children-young-people/children-and-young-people-ministerial-sub-committee.htm>.

²⁵ DHSSPS child protection web pages: http://www.dhsspsni.gov.uk/child_protection.

²⁶ Anne Stafford, Nigel Parton, Sharon Vincent and Connie Smith (2012), *Child Protection Systems in the United Kingdom: A Comparative Analysis*, London: Jessica Kingsley, p.97.

²⁷ DHSSPS child protection guidance: http://www.dhsspsni.gov.uk/index/hss/child_care/child_protection/child_protection_guidance.htm.

²⁸ DHSSPS (2003), *Co-operating to Safeguard Children*, Belfast: DHSSPS: http://www.dhsspsni.gov.uk/show_publications?txtid=14022.

service of the Department of Justice²⁹. The DHSSPS also provides advice on child protection for parents and organisations through publications³⁰.

Child protection is also a major concern for the Department of Education, which provides guidance support through schools and schools are required to have a Designated Teacher and Deputy for Child Protection. As well as policies and procedures and vetting of staff, a Child Protection Support Service for Schools was established in 2006³¹. The Classroom 2000 network is monitored for child protection issues³² and the Departmental Circular 2007/1 sets out guidance for internet use³³.

Each Department was also to have child protection officers and a Children's Champion, who was to become a focus for all matters relating to children³⁴.

2.5 Child Protection Services

The Health and Social Care Board was established in 2009 as part of the re-organisation of government services under the Review of Public Administration³⁵. The Board is accountable to the DHSSPS and responsible for the commissioning of health and social care services across Northern Ireland through Local Commissioning Groups operating in conjunction with the five Health and Social Care Trusts.

The Regional Child Protection Committee, accountable to the Health and Social Care Board, is responsible for the development of child protection strategies, policies, procedures and inter-agency working across Northern Ireland³⁶. The Committee replaces the four Area Child Protection Committees and has a wide inter-agency membership, as follows:

- Health and Social Care Trust
- Health and Social Care Board
- Public Health Agency (PHA)³⁷
- Children in Northern Ireland (CiNI)³⁸
- Education and Library Boards³⁹

²⁹ Access NI web pages: <http://www.dojni.gov.uk/accessni>.

³⁰ DHSSPS child protection publications: http://www.dhsspsni.gov.uk/index/hss/child_care/child_protection/child_protection_publications.htm.

³¹ Department of Education child protection web pages: <http://www.deni.gov.uk/index/support-and-development-2/child-protection-safeguarding.htm>.

³² OFMdfM (2009), *Safeguarding Children: A Cross-Departmental Statement on the Protection of Children and Young People*, Belfast: OFMdfM, p.23.

³³ DE Circular 2007/1, *Acceptable Use of the Internet and Digital technologies in Schools*, 18 June 2007: http://www.deni.gov.uk/22-acceptable_use_of_the_internet_de_circular.pdf.

³⁴ OFMdfM (2009), *Safeguarding Children: A Cross-Departmental Statement on the Protection of Children and Young People*, Belfast: OFMdfM, p.17.

³⁵ Health and Social Care Board website: <http://www.hscboard.hscni.net/>.

³⁶ Regional Child Protection Committee website: <http://www.rcpc.hscni.net/>.

³⁷ The PHA promotes good health and wellbeing, website: <http://www.publichealth.hscni.net/>.

³⁸ CiNI is a membership-based umbrella organisation that provides policy advice and guidance, training and advocacy for the children's sector in Northern Ireland, website: <http://www.ci-ni.org/>.

- National Society for the Prevention of Cruelty to Children (NSPCC)⁴⁰
- Police Service of Northern Ireland (PSNI)⁴¹
- Juvenile Justice⁴²
- Probation Board for Northern Ireland (PBNI)⁴³
- General Practitioners
- Soldiers, Sailors, Airmen and Families Association (SSAFA)⁴⁴

The Regional Child Protection Committee is to be replaced by the Safeguarding Board⁴⁵, the legislation for which was passed in 2011⁴⁶ (the Safeguarding Board Act). The Board will have the power to conduct Case Management Reviews and to review information on child deaths.

Reporting of concerns about a child's safety is through the Gateway services at each of the Health and Social Care Trusts⁴⁷. The Child Protection Register is administered by the Trusts and co-ordinated by the DHSSPS. The current regional assessment framework, 'Understanding the Needs of Children in Northern Ireland'⁴⁸, has 12 'domains' by which situations are assessed for risk to children. There are then five assessment pathways (initial assessment, family support, child protection, looked after children and leaving care), where the family support pathway indicates a commitment to addressing the needs of a family before the situation becomes a child protection issue⁴⁹.

³⁹ The five Education and Library Boards are responsible for local education and youth provision in Northern Ireland, websites via the NI Direct site: <http://www.nidirect.gov.uk/education-and-library-boards>. These are to be replaced by a single Education and Skills Authority.

⁴⁰ The NSPCC campaigns against cruelty to children, through services and projects to support children at risk, operation of Childline, the national helpline for children in distress, advice and development of good practice; Northern Ireland web pages: http://www.nspcc.org.uk/what-we-do/NSPCC-in-your-area/northern-ireland/northern-ireland-hub_wdh84492.html.

⁴¹ PSNI website: <http://www.psni.police.uk/>.

⁴² The Juvenile Justice Centre, under the Youth Justice Agency, cares for young people in the criminal justice system; Juvenile Justice Centre web page: http://www.youthjusticeagency.ni.gov.uk/custodial_services/the_new_juvenile_justice_centre_for_ni/.

⁴³ Probation Board website: <http://www.pbni.org.uk/site/Home.aspx?x=eTyoYPm5488=>.

⁴⁴ SSAFA is a national charity for the care of armed forces personnel and their families, SSAFA website: <http://www.ssafa.org.uk/>.

⁴⁵ Safeguarding Board web pages: http://www.dhsspsni.gov.uk/index/hss/child_care/child_protection/safeguarding_board_for_northern_ireland.htm

⁴⁶ For background to the legislation, see Research and Library Service Bill Paper 80/12 (NIAR 204-10) *Safeguarding Board Bill*, 24 June 2010: <http://www.niassembly.gov.uk/Documents/RaSe/Publications/2010/Health-Social-Services-Public-Safety/8010.pdf>.

⁴⁷ For example, the Belfast Trust Gateway Service, web pages: <http://www.belfasttrust.hscni.net/services/GatewayServices-ChildProtection.htm>.

⁴⁸ DHSSPS (2011), *Understanding the Needs of Children in Northern Ireland (UNOCINI) Guidance*, Belfast: DHSSPS: http://www.dhsspsni.gov.uk/microsoft_word_-_unocini_guidance_revised_june_2011_inc_mh_domain_elements.pdf.

⁴⁹ Anne Stafford, Nigel Parton, Sharon Vincent and Connie Smith (2012), *Child Protection Systems in the United Kingdom: A Comparative Analysis*, London: Jessica Kingsley, p.154.

2.6 Key Legislation

In international terms, the UK is committed to the standards of protection for children in the UN Convention on the Rights of the Child and is examined on the extent to which these concerns are met⁵⁰. The UK was last examined by the Committee on the Rights of the Child in 2008 in which specific mention of Northern Ireland in the Concluding Observations included concerns around physical chastisement, riot control methods where minors are involved and child poverty⁵¹.

The key legislation relating to child protection in Northern Ireland is as follows:

- Children (Northern Ireland) Order 1995⁵², the overarching legislation which sets out the responsibilities of public authorities towards children.
- Children's Evidence (Northern Ireland) Order 1995⁵³, which makes provisions for children giving evidence in criminal proceedings.
- Commissioner for Children and Young People (Northern Ireland) Order 2003⁵⁴, establishing the Northern Ireland Commissioner for Children and Young People (NICCY) to safeguard and promote the rights and best interests of children and young people⁵⁵.
- Safeguarding Vulnerable Groups (Northern Ireland) Order 2007⁵⁶, which provides for a vetting and barring procedure for those applying to work with children. When fully in force, it will replace the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003⁵⁷ and the Education (Prohibition from Teaching or Working with Children) Regulations 2003⁵⁸.
- Criminal Justice (Northern Ireland) Order 2008⁵⁹, which includes provisions in relation to curfews, electronic monitoring, youth custody, dangerous offenders and release on licence.

⁵⁰ Convention on the Rights of the Child: <http://www2.ohchr.org/english/law/crc.htm>.

⁵¹ Committee on the Rights of the Child 49th Session, Concluding Observations: United Kingdom of Great Britain and Northern Ireland, CRC/C/OPAC/GBR/CO/1 17 October 2008: <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.OPAC.GBR.CO.1.pdf>.

⁵² Children (NI) Order 1995: <http://www.legislation.gov.uk/nisi/1995/755/contents>.

⁵³ Children's Evidence (NI) Order 1995: <http://www.legislation.gov.uk/nisi/1995/757/contents>.

⁵⁴ Commissioner for Children and Young People (Northern Ireland) Order 2003: <http://www.legislation.gov.uk/nisi/2003/439/contents/made>.

⁵⁵ Website of the Northern Ireland Commissioner for Children and Young People: <http://www.niccy.org/>.

⁵⁶ Safeguarding Vulnerable Groups (NI) Order 2007: <http://www.legislation.gov.uk/nisi/2007/1351/contents/made>.

⁵⁷ Protection of Children and Vulnerable Adults (NI) Order 2003: <http://www.legislation.gov.uk/nisi/2003/417/contents/made>.

⁵⁸ Education (Prohibition from Teaching or Working with Children) Regulations 2003: <http://www.legislation.gov.uk/uksi/2003/1184/contents/made>.

⁵⁹ Criminal Justice (NI) Order 2008: <http://www.legislation.gov.uk/nisi/2008/1216/contents>.

- Sexual Offences (Northern Ireland) Order 2008⁶⁰, which includes provisions relating to sexual offences against children.
- Safeguarding Board (Northern Ireland) Act 2011⁶¹, establishing the Safeguarding Board.
- Protection of Freedoms Act 2012⁶² amends the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 in respect of specified work from which a person may be barred.

Draft legislation is currently before the Northern Ireland Assembly for the establishment of the Inquiry into Historical Institutional Abuse (currently at Committee Stage)⁶³.

⁶⁰ Sexual Offences (NI) Order 2008: <http://www.legislation.gov.uk/nisi/2008/1769/contents>.

⁶¹ Safeguarding Board (NI) Act 2011: <http://www.legislation.gov.uk/nia/2011/7/contents/enacted>.

⁶² Protection of Freedoms Act 2012: <http://www.legislation.gov.uk/ukpga/2012/9/contents/enacted>.

⁶³ See Research and Information Services Bill Paper 107/12 (NIAR 457-12) *The Inquiry into Historical Abuse Bill*, 25 June 2012: <http://www.niassembly.gov.uk/Documents/RaSe/Publications/2012/ofmdfm/10712.pdf>.

3. Potential areas of N/S co-operation

The protection of children, where families or individuals can move with relative ease between North and South, is a key issue of cross-jurisdictional importance⁶⁴. Continued North / South co-operation will help ensure that children and families in need have greater accessibility to timely and quality child protection services.

3.1 The role of the North South Ministerial Council (NSMC)

Joint co-operation and information sharing in the area of child protection has been high on the agenda of the NSMC in recent years. The NSMC has set up sub-groups in the following areas⁶⁵:

- Information Sharing on the Movement of Children (Ireland lead);
- Internet Safety⁶⁶ (Ireland lead);
- Media Awareness (Ireland lead);
- Child Protection Research and Knowledge Transfer (Northern Ireland lead);
- Vetting and Barring (on hold pending legislative developments) (Northern Ireland lead).

A joint NSMC communiqué published in 2010 affirmed the following⁶⁷:

- a) that we will maximise co-operation to better protect children and safeguard their welfare within existing legislative arrangements;
- b) that we will do all to ensure enhanced information exchange on those who pose a risk to children or families and establish appropriate systems and processes to facilitate this;
- c) that we will examine ways of ensuring common public messages on safeguarding and child protection are promoted;

⁶⁴ A summary of co-operation between Northern Ireland, Great Britain and Ireland can be found in Research and Library Services Briefing Note 73/10 *Safeguarding Children between the Jurisdictions of Northern Ireland, Great Britain and the Republic of Ireland*, April 2010: <http://www.niassembly.gov.uk/Documents/RaSe/Publications/2010/Health-Social-Services-Public-Safety/7310.pdf>.

⁶⁵ A summary of these sub-groups is on the DHSSPS website: <http://www.dhsspsni.gov.uk/index/ssi/ssi-ns-ministerial-council.htm>; see also OFMdFM (2009), *Safeguarding Children: A Cross-Departmental Statement on the Protection of Children and Young People*, Belfast: OFMdFM, p.21.

⁶⁶ For policy background on internet safety, see Research and Library Service Briefing Note 132/10 (NIAR402-10) *Internet safety for Children and Young People: Concerns and Policies*, 1 September 2010: <http://www.niassembly.gov.uk/Documents/RaSe/Publications/2010/General/13210.pdf>.

⁶⁷ North South Ministerial Council *Joint Communiqué on Safeguarding and Child Protection*, 10 November 2010: http://www.dhsspsni.gov.uk/joint_communique_under_the_auspices_of_the_north_south_ministerial_council_on_safeguarding_child_protection.pdf.

- d) that we will share and examine further ways of using common products and publications, suitably adapted for each jurisdiction for parents, children and professionals;
- e) that we will examine further ways of promoting structured co-operation and sharing ideas on protecting children;
- f) that we will develop protocols between relevant Departments, Health and Social Care Trusts in Northern Ireland and the Health Service Executive [in Ireland] to ensure that services are provided to children at risk who move between the jurisdictions; and
- g) that we will share good practice and evidence based outcomes on an on-going basis.

The most recent communiqué from the NSMC welcomes⁶⁸:

...work to develop a new cross-border work programme in Child Protection.

3.2 North South Protection Hub

A new internet resource, the North South Child Protection Hub, was developed under the auspices of the NSMC in 2010⁶⁹. The Hub brings together research, policy and practice guidance, inspection reports, serious case reviews, court judgments, news articles and other material relevant to child protection published in Northern Ireland and Ireland together with material from other parts of the United Kingdom and other countries. It is available for use by child protection professionals (e.g. policy makers, practitioners, researchers, and educators) in both jurisdictions.

3.3 The *Inter-jurisdictional Protocol for Transfer of Children's Social Care Cases between Northern Ireland and the Republic of Ireland*

An inter-jurisdictional protocol was launched in February 2012 setting out procedures for the transfer of social care cases between both North and South⁷⁰. This includes liaison with and formal transfer of cases between social workers across jurisdictions that are subject to family support, child protection notification/registration, child protection investigation or cross-jurisdictional placements.

⁶⁸ Paper NSMC 1 (12) North South Ministerial Council Fourteenth Plenary Meeting, Farmleigh House, Dublin, 15 June 2012: Joint Communiqué: http://www.northsouthministerialcouncil.org/index/publications/joint-communications/plenary-jc/plenary_joint_communique_15_june_2012.htm.

⁶⁹ 'Ministers Launch North-South Child Protection Hub', Northern Ireland Executive press release 10 November 2010: <http://www.northernireland.gov.uk/news/news-dhssps/news-dhssps-101110-ministers-launch-north.htm>.

⁷⁰ *Inter-Jurisdictional Protocol for Transfer of Children's Social Care Cases between Northern Ireland and the Republic of Ireland*, November 2011: <http://www.dhsspsni.gov.uk/inter-jurisdictional-transfer-of-children-protocol-2011-11.pdf>.

3.4 A Registered Sex Offender Advisory Group

A Registered Sex Offender Advisory Group has been established between An Garda Síochána and the PSNI and an arrangement in 2008 allows for the exchange of information on sex offenders⁷¹.

In an announcement to the Northern Ireland Assembly on 19 June 2012, Justice Minister David Ford highlighted recent examples of joint working, including a joint public protection seminar in which the assessment of risk regarding sex offenders was discussed. As part of the forward work programme, the potential for extending information on child abuse was to be explored⁷².

⁷¹ Department of Justice, Equality and Law Reform (2009), *The Management of Sex Offenders: A Discussion Document*, January 2009, p.13:

<http://www.justice.ie/en/JELR/FINAL%20REPORT.pdf/Files/FINAL%20REPORT.pdf>.

⁷² Statement to the Assembly on the Inter-Governmental Agreement on Co-operation on Criminal Justice Matters, 19 June 2012, Deposited Papers: <http://www.niassembly.gov.uk/Documents/RaSe/Deposited-Papers/2012/dp1017.pdf>.