



# **Comments from the Equality Commission for Northern Ireland on the draft UK report to the United Nations under the International Convention for the Elimination of All Forms of Racial Discrimination (CERD)**

**March 2015**

## **Abstract**

The Equality Commission for Northern Ireland (ECNI) sets out its views on the key issues concerning racial equality policy in Northern Ireland as they align to the narrative presented in the draft UK State Party Report to the UN under CERD and highlights significant information gaps. ECNI's comments are focused on:

- the deficit in legislative protection in Northern Ireland vis-à-vis Great Britain (GB), race equality and integration policy (Article 2);
- discriminatory, sensational or unbalancing reporting of Black and Minority Ethnic (BME) communities in the press (Article 4);
- tackling hate crime; and representation of BME people in Police Forces and the Criminal Justice System; the Immigration Exception in equality legislation (Article 5 (a) – (d));
- economic, social and cultural rights (Article 5 (e)), including employment, housing, health, social security and education.
- the right to effective protection and remedies against racial discrimination (Article 6);

- Effective measures to combat prejudices leading to racial discrimination (Article 7).

## Introduction

1. The Equality Commission for Northern Ireland (ECNI) welcomes the opportunity to comment on the information contained in the draft United Kingdom (UK) report (February 2015) to the United Nations with respect to rights set out in the International Covenant on the Elimination of All Forms of Racial Discrimination (CERD).
2. The views set out below are based on the our policy position paper *Racial Equality – Policy Priorities and Recommendations*, our associated position paper on the need for legal reform *Strengthening protection against racial discrimination* and our ‘*Response to the consultation by OFMDFM on ‘A Sense of Belonging - Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014-2024’*<sup>1</sup>.
3. We have taken this opportunity to identify what we believe are the key issues concerning racial equality policy in Northern Ireland as they align to the narrative presented in the draft State Party Report and to highlight significant gaps in the information provided.
4. Our policy position on racial equality issues (which sets out key recommendations in areas such as education and health) was finalised last year, following extensive engagement with key stakeholders, including Black and Minority Ethnic (BME) individuals and organisations, as well as representatives of public authorities. The final policy position was shared with officials from the Office of the First Minister and the Deputy First Minister in advance of the issuing of the draft Racial Equality Strategy (RES) for consultation. In developing our response to the draft RES we drew on our policy priorities for racial equality, key statistics and reports, guidance issued by the United Nations Office of the High

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<sup>1</sup> All three documents are available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>

Commissioner for Human Rights<sup>2</sup> and further engagement with stakeholders.

## Article 2

### Legislative protection

5. Paragraph 11 (page 6) of the draft State Party Report sets out that Northern Ireland has legislation on racial discrimination which, as in the rest of the UK, protects all individuals from unlawful racial discrimination. However the text does not address the substantive deficit in protection between Northern Ireland and Great Britain.
6. The need for reform of the equality legislation in Northern Ireland has been heightened by developments in Great Britain. Although it is important to note that prior to the Equality Act 2010, significant gaps between Great Britain and Northern Ireland equality law had already existed and these remain unaddressed in Northern Ireland, the introduction of the Equality Act 2010 in Great Britain in October 2010 has led to a widening of the gap.
7. The Equality Act 2010 has, for example, harmonised the race equality legislation so that individuals have the same level of protection on the grounds of colour and nationality<sup>34</sup>, as on the grounds of race ethnic origin and nationality. In its consultation on a NI Single Equality Bill in 2004, OFMDFM recognised the need to increase protection from discrimination and harassment on these grounds and indicated its intention to rectify this gap in the legislation<sup>5</sup>. The issue was mentioned in OFMDFM's Racial Equality Strategy for Northern Ireland 2005-2010

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<sup>2</sup> Office of the High Commissioner for Human Rights (2014): *Developing National Action Plans Against Racism*. Available at: [www.ohchr.org/Documents/Publications/HR-PUB-13-03.pdf](http://www.ohchr.org/Documents/Publications/HR-PUB-13-03.pdf)

<sup>3</sup> Following from the case of *Abbey National PLC v Chagger* EAT/0606/07/RN.

<sup>4</sup> In 2003 the UN Committee on the Elimination of Racial Discrimination recommended that the UK government extend the amending regulations that implemented the EU Race Directive to cover discrimination on the grounds of colour and nationality. It was concerned that a failure to do so would result in inconsistencies in discrimination laws and differential levels of protection and create difficulties for the general public as well as for law enforcement agencies.

<sup>5</sup> A Single Equality Bill for Northern Ireland Discussion Paper (OFMDFM: 2004). Available at: <http://www.ofmdfmi.gov.uk/single-bill-consultation.pdf>.

which acknowledged that the regulations introduced to give effect to the EU Race Directive did not extend to all racial categories; specifically they did not cover colour and nationality. Despite a commitment to 'explore legislative options to rectify this anomaly as soon as possible, this reform has not yet been enacted, leading to situation in Northern Ireland allowing two tiers of protection i.e. less protection against discrimination and harassment on the grounds of colour and nationality than on other racial grounds than on the other racial grounds protected under the legislation; namely race, ethnic or national origins. The **main impact** of this 'two tier' level of protection is summarised in Appendix 1.

8. In addition, the 2010 Act has extended and harmonised and positive action measures so as to allow, but not require, employers, service providers and public bodies carrying out public functions in Great Britain to take a wider range of measures aimed at alleviating disadvantage experienced by under-represented groups. There is currently more limited scope for employers, service providers and public authorities in Northern Ireland, than those in Great Britain, to take positive action in the area of race equality.
9. The 2010 Act also strengthened the powers of employment tribunals as regards race discrimination complaints (and on other equality grounds). This enables an employment tribunal to make a recommendation which benefits the whole workforce and need not be limited to benefiting the complainant. This extended power only exists in Northern Ireland under the fair employment legislation (which covers religious belief and political opinion).
10. Furthermore, the 2010 Act extended protection for Councillors against discrimination on the grounds of race (as well as other equality grounds). Such protection for Councillors in local councils does not exist in Northern Ireland on the grounds of race.
11. Another feature of the 2010 Act, which is absent in the Northern Ireland legislation, is strengthened protection from victimisation for BME

pupils in schools. In particular, there is protection for BME children in schools from being victimized as a result of a protected act (such as making or supporting a complaint of discrimination) done by their parent or sibling.

12. The 2010 Act prohibited bodies from discriminating when carrying out public functions across all racial grounds and as regards all functions except in some clearly defined limited areas<sup>6</sup>. However in Northern Ireland, protection against such discrimination is limited to four areas, namely social security, health care, social protection or social advantage. A range of important public functions, such as policing, planning control and licensing are outside the scope of the racial equality legislation in Northern Ireland.
13. Finally, the 2010 Act placed new duties on specified public authorities to publish annually<sup>7</sup>, from 2011 onwards, a wide range of equality information including, for example, information on the effect their policies and practices have had on employees<sup>8</sup>, service users and others from protected groups (including racial groups). This duty does not exist in Northern Ireland.
14. The gaps in equality law between the two jurisdictions have the effect that vulnerable and marginalised individuals in Northern Ireland who experience discrimination have significantly less protection against unlawful discrimination, harassment and victimisation than their counterparts in GB across a number of equality grounds.

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<sup>6</sup> There are some limited exceptions relating to judicial acts, decisions to institute criminal proceedings and the making, confirming or approving of legislation. There are also some public authorities which are excluded such as the Security Service and Houses of Parliament.

<sup>7</sup> Public authorities with fewer than 150 employees are not required to publish information on the effect of their policies and practices on their workforce.

<sup>8</sup> In relation to employment, the Guide to the PSED has made clear that information published should include the race, disability, gender and age breakdown and distribution of its workforce. See: Equality and Human Rights Commission (2011): *Equality information and the equality duty – A guide for public authorities*. Available at:

[http://www.equalityhumanrights.com/sites/default/files/documents/EqualityAct/PSED/ehrc\\_psed\\_equality\\_information\\_web.pdf](http://www.equalityhumanrights.com/sites/default/files/documents/EqualityAct/PSED/ehrc_psed_equality_information_web.pdf).

15. Further, employers and service providers who operate both in Northern Ireland and GB have to grapple with the increased inconsistencies and differences in equality law between the two jurisdictions. They also have to keep track of their responsibilities under differing legislative frameworks, as well as case-law emerging from separate legislative provisions.
16. ECNI has consistently called for the urgent reform of the equality legislation in Northern Ireland. Pursuant to our duty under the equality legislation to keep this legislation under review we have made a number of recommendations for change. These include recommendations for change to the race equality legislation<sup>9</sup> issued in 2000 and engagement with the Office of the First Minister and the Deputy First Minister (OFMDFM) in 2004 with regard to the development of single equality legislation<sup>10</sup>.
17. In the absence of progress on single equality legislation, ECNI recommended in 2009 that, inter alia, the Northern Ireland Executive take forward harmonisation and strengthening of the race equality legislation so that individuals have the same level of protection against discrimination and harassment on the grounds of colour and nationality, as on the grounds of race, ethnic origin, and national origin<sup>11</sup>.
18. In 2014, ECNI published a renewed call for reform of the racial equality legislation in Northern Ireland, *Strengthening protection against racial discrimination – recommendations for law reform*<sup>12</sup>.

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<sup>9</sup> ECNI (2000): *Recommendations for Changes to the Race Relations Order 1997* (ECNI: Belfast).

<sup>10</sup> Despite a commitment in the St Andrews Agreement in 2008 to 'work rapidly' towards the development of single equality legislation (see:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/136651/st\\_andrews\\_agreement-2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/136651/st_andrews_agreement-2.pdf)), no further progress has since been evident.

<sup>11</sup> Equality Commission for Northern Ireland (2009): *Proposals for legislative reform*. Available at: [http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Proposals\\_for\\_legislative\\_reform060209.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Proposals_for_legislative_reform060209.pdf)

<sup>12</sup> Available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>

19. In addition to calling for the extension of the provisions in the Equality Act 2010, referred to above, to Northern Ireland, ECNI also recommended a number of legal provisions additional to those in the Act.
20. For example, ECNI recommends that registered employers in Northern Ireland are required, under the fair employment legislation, to collect monitoring information as regards nationality and ethnic origin. Whilst the primary reason for this change is to ensure the continuing usefulness of the fair employment Monitoring Regulation, the collection of this data will, for example, assist employers in assessing the impact of their employment policies and procedures on particular ethnic groups in the workplace.
21. ECNI has also recommended increased protection for certain categories of agency workers against racial discrimination and harassment, as highlighted by the Northern Ireland Court of Appeal's decision in *Bohill v Police Service of Northern Ireland*<sup>13</sup> and in the case of Great Britain of *Muschet v HM Prison Service*<sup>14</sup>.
22. In addition, ECNI has recommended that race equality legislation is strengthened so there is greater protection for employees against racial harassment by a third party, such as, by a customer or client of an employer.
23. Furthermore, ECNI has recommended the introduction of protection against inter-sectoral multiple discrimination so that there is legal protection for individuals who experience discrimination or harassment because of a combination of equality grounds, including racial grounds.
24. ECNI has also recommended the removal of the immigration exception in the race equality legislation which permits discrimination on the grounds of ethnic or national origins in the carrying out of immigration

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<sup>13</sup> [2011] NICA 2. Available at: <http://www.bailii.org/nie/cases/NICA/2011/2.html>

<sup>14</sup> [2010] EWCA Civ 25. Available at: <http://www.bailii.org/ew/cases/EWCA/Civ/2010/25.html>

functions<sup>15</sup> and that the restriction on persons of a particular birth, nationality, descent or residence being employed in the service of the Crown or certain bodies should be modified or removed.

25. With respect to our powers to issue Race Codes of Practice, we have recommended that these are extended to cover all areas, including goods, facilities and services, the exercise of public functions and education (at all levels).
26. ECNI has also recommended that, in line with provisions under the fair employment legislation, that our power to conduct a formal 'named person' investigation under the race legislation does not require a "belief" that an act of discrimination has occurred.
27. Finally, ECNI has recommended that the racial equality legislation is strengthened by providing increased powers for tribunals to make recommendations that benefit the whole workforce and not simply the person bringing the complaint.
28. Both the Advisory Committee on the Framework Convention for the Protection of National Minorities<sup>16</sup> and the UN Committee on the Convention for the Elimination of All Forms of Racial Discrimination have highlighted the need to address legislative shortcomings within the racial equality legislation<sup>17</sup>.

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<sup>15</sup> See: Article 20C of Race Relations (Northern Ireland) Order 1997, as amended.

<sup>16</sup> See: *Third opinion on the UK, of the Advisory Committee on the Framework Convention for the Protection of National Minorities*, June 2011. The Advisory Committee expressed concern that, despite the commitment in the St Andrews Agreement, there has been no progress made towards adopting single equality legislation in Northern Ireland. In addition it highlighted that Northern Ireland legislation remains 'complex and piecemeal' and was concerned about significant discrepancies and inconsistencies that exist between Great Britain and Northern Ireland. The Advisory Committee 'urged the authorities to adopt harmonised, comprehensive anti-discrimination legislation in Northern Ireland in order to put an end to the disparity in protection against discrimination that exists between Northern Ireland and Great Britain'. See: [http://www.coe.int/t/dghl/monitoring/minorities/3\\_fcnmdocs/PDF\\_3rd\\_OP\\_UK\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_3rd_OP_UK_en.pdf)

<sup>17</sup> *Concluding Observations of the Committee on the Elimination of Racial Discrimination on UK* (2011). Available at: <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.GBR.CO.18-20.pdf>. and *Concluding Observations of the Committee on the Elimination of Racial Discrimination on UK* (2003). Available at: <http://www.refworld.org/docid/403e12c94.html>

29. The CERD Committee in its most recent comments regretted ‘that the Equality Act 2010 did not apply to Northern Ireland’ and reminded the State Party that ‘the obligation to implement the provisions of the Convention in all parts of its territory is borne by the State Party emphasising that this ‘ makes the State Party the duty bearer at the international level to ensure that the Convention is implemented in all parts of its territory notwithstanding the specific governance arrangements that have been adopted’ recommending that the State Party should take immediate steps to ensure that a single equality law is adopted in Northern Ireland or the Equality Act 2010 is extended to Northern Ireland<sup>18</sup>.

30. The draft UK State Party Report refers, at paragraph 12 (page 6), to the inclusion of a question in *Sense of Belonging: Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014 – 2024* about the need for legislative reform in Northern Ireland. However, although one of the overarching aims of the Strategy is to eliminate racism, racial inequality and unlawful racial discrimination and promote equality of opportunity in all aspects of life, the document does not commit to the legislative reform necessary to advance this aim.

31. ECNI would, therefore, welcome the inclusion in the State Party Report of further information on the steps to be taken to amend legislation in Northern Ireland to prohibit and bring to an end all forms of racial discrimination, specifically those prohibited in GB but currently permitted in Northern Ireland.

### **Race equality and integration policy**

32. ECNI notes the reference, at paragraph 39 (page 24) to *Together: Building a United Community (TBUC)*, the new strategy to improve community relations and build a united and shared society.

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<sup>18</sup> *Concluding Observations of the Committee on the Elimination of Racial Discrimination on UK* (2011), paragraph 19, pages 4-5. Available at: <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.GBR.CO.18-20.pdf>

33. However, whilst ECNI welcomed the statement, at paragraph 1.30 (page 18) of the strategy, that it ‘is not intended to replace or subsume our work on racial equality and good race relations. Rather it will complement and provide the co-ordinated framework for aspects of its delivery’, it was unfortunate that no further detail is provided as to how this will happen. Although the Strategy states that ‘Chapter 6 outlines how interventions to promote racial equality and good race relations will be co-ordinated and driven forward within the delivery architecture established under this Strategy’, this outline was not in fact included in the Chapter in question.
34. In its response<sup>19</sup> to the consultation on *A Sense of Belonging- Delivering Social Change through a Racial Equality Strategy for Northern Ireland*, ECNI drew attention to the lack of alignment between the community relations and racial equality strategies, recommending a coherence of approach with the arrangements for implementation and accountability set out in T: BUC.
35. ECNI considers that, in order to provide evidence of the effectiveness of integration policy, it would be helpful if this section provides details of the number and percentage of applications and appointments of BME individuals to public positions and of the number and percentage of elected representatives (Councillors and Members of the Legislative Assembly) who are BME individuals.
36. Whilst ECNI acknowledges and welcomes the list of initiatives arising from the Northern Ireland Housing Executive’s Race Relations Policy, as listed at paragraph 42 (page 12) in the form of outputs, recommends that the State Party report include some information on outcomes achieved as a result of these initiatives.

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<sup>19</sup> Equality Commission for Northern Ireland (2014): *Response to the consultation by OFMDFM on ‘A Sense of Belonging- Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014-2024’*. Available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>

37. We welcome the investigation by the Northern Ireland Executive of research literature concerning the intersection between racism and sectarianism, as alluded to at paragraph 44 (page 13). However, ECNI considers that it would be helpful for the State Party Report to include information on the time scale for completion of this research and confirmation that the results will be placed in the public domain.
38. With respect to Section 37 of the Justice Act (NI) 2011 which makes sectarian of racist chanting at certain major sporting events an offence, it would be helpful for the State Party Report to provide information on the number of prosecutions and convictions achieved through use of the legislation, in order to provide evidence of the effectiveness of this measure.
39. Furthermore, it would be helpful for the State Party Report to draw out the relevance to racial equality of the work of the Youth Justice Agency concerning 'beyond sectarianism' resources and interventions (at paragraphs 46-47) and the impact of this work.

#### **Article 4**

40. With respect to the discussion on maintaining the right to freedom of speech and protecting individuals from violence and hatred, ECNI wishes to draw attention to the findings of the Leveson report (2012)<sup>20</sup> into press standards which found that 'when assessed as a whole, the evidence of discriminatory, sensational or unbalanced reporting in relation to ethnic minorities, immigrants and/or asylum seekers, is concerning... there are enough examples of careless or reckless reporting to conclude that discriminatory, sensational or unbalanced reporting in relation to ethnic minorities, immigrants and/or asylum seekers is a feature of journalistic practice in parts of the press, rather than an aberration'. The report

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<sup>20</sup> Leveson (November 2012): *Criticism of the Culture, Practices and Ethics of the Press*, Chapter 6, paragraph 8.51. Available at: <https://www.gov.uk/government/publications/leveson-inquiry-report-into-the-culture-practices-and-ethics-of-the-press>

recommended that ‘A new regulator will need to address these issues as a matter of priority, the first steps being to amend practice and the Code to permit third party complaints’. ECNI recommends that the State Party Report should detail the steps taken to address this recommendation.

## **Article 5 (a) – (d)**

### **Tackling Hate Crime**

41. ECNI recommends that the State Party Report includes some statistics reflecting recent trends with respect to racial hate crime in Northern Ireland. Such information would provide a yardstick to enable the measurement of the effectiveness of legislation and policies to tackle hate crime.
42. Police Service for Northern Ireland (PSNI) statistics show that race hate crime is the second most common form of hate crime in Northern Ireland. The number of racist incidents rose by 54 (7.8%) between 2011/12 and 2012/13. The number of racist crimes also increased, from 458 in 2011/12 to 470 in 2012/13<sup>21</sup>.
43. Latest statistics available from the Police Service of Northern Ireland show that, in 2013/2014, racist incidents<sup>22</sup> reported to the police in Northern Ireland increased by almost a third (982 racist incidents, an increase of 30.9%<sup>23</sup>) compared to the previous year.

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<sup>21</sup> Police Service of Northern Ireland (2013): *Trends in Hate Motivated Incidents and Crimes recorded by the Police in Northern Ireland from 2004/05 – 2012/13*, page 10.

<sup>22</sup> A racist incident is defined as any incident which is perceived to be racist by the victim or any other person. A racial group can be defined as a group of persons defined by reference to race, colour, nationality or ethnic or national origins (this includes UK National origins i.e. Scottish, English, Welsh and Irish) and references to a person's racial group refer to any racial group into which he/she falls. Racial group includes the Irish Traveller community. Additionally the PSNI define racist incidents within the Hate incidents definition which is "any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate".

<sup>23</sup> PSNI Statistical Press Notice: 1<sup>st</sup> April 2013 to 31<sup>st</sup> March 2014

44. Compared with the previous year there were increases in all but one of the six hate crime<sup>24</sup> types<sup>25</sup>, with the majority of racist crimes involving violence against the person (48.6%) or criminal damage (45.7%)<sup>26</sup>. Racist hate crimes were up by 221 (47.0%)<sup>27</sup> from the previous year.
45. In 2013/14, over half of all racist crimes were committed against people of the white ethnic group (51.6%)<sup>28</sup>, particularly those of an Eastern European<sup>29</sup> nationality (28.5%). Racist crimes against those of an Eastern European nationality have risen by 5.3 percentage points from the previous year. In addition, racist crimes against black people have risen in the last five years from 5.7% in 2007/08 to 16.0% in 2013/14<sup>30</sup>.
46. In 2013/14, the outcome rate<sup>31</sup> for racist crimes was 17.2%<sup>32</sup> (a decrease of 1.7 percentage points<sup>33</sup> from the previous year). In 2013/14, 15.1%<sup>34</sup> of all racist crimes resulted in a charge / court summons<sup>35</sup>.

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<sup>24</sup> Recorded crime covers all indictable and triable-either-way offences. Additionally, a few closely associated summary offences are included. In general attempting, conspiring, aiding, abetting, causing or permitting a crime a crime is classified under the heading of the crime itself, though in certain cases it is shown separately. Recorded crimes with a racist motivation include: Violence against the person; Theft offences; Criminal damage; All other victim-based offences (including other fraud), and; Other crimes against society. For a full list of recorded crimes please see PSNI (2014): *User Guide to Police Recorded Crime Statistics in Northern Ireland*, Appendix 1.

<sup>25</sup> Ibid

<sup>26</sup> PSNI (2014): *Trends in Hate Motivated Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2013/14*, Annual Bulletin (PSNI: Belfast).

<sup>27</sup> PSNI Statistical Press Notice: 1<sup>st</sup> April 2013 to 31<sup>st</sup> March 2014.

<sup>28</sup> PSNI (2014): *Trends in Hate Motivated Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2013/14*, Annual Bulletin (PSNI: Belfast).

<sup>29</sup> Includes Poland, Lithuania, Slovakia, Romania, Latvia, Czech Republic and Hungary.

<sup>30</sup> PSNI (2014): *Trends in Hate Motivated Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2013/14*, Annual Bulletin (PSNI: Belfast).

<sup>31</sup> For an outcome to be assigned to a recorded crime the following basic principles must apply: a notifiable offence has been committed and recorded; a suspect has been identified and has been made aware that they will be recorded as being responsible for committing that crime and what the full implications of this are; and one of the following outcome types applies, charge or summons, caution, offence taken into consideration, youth conference, penalty notice, the offence is 'indictable only' and the case cannot proceed and discretionary disposal. Prior to April 2013 outcome rates were mainly presented in the form of sanction detections and sanction detection rates which did not include discretionary disposals or indictable only offences where no action was taken against the offender.

<sup>32</sup> PSNI (2014): *Trends in Hate Motivated Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2013/14*, Annual Bulletin, paragraph 2.1, page 13 (PSNI: Belfast).

<sup>33</sup> Ibid.

<sup>34</sup> Ibid. Table 2.8, page 18.

<sup>35</sup> Ibid.

47. The latest hate crime statistics<sup>36</sup>, published in November 2014, also show that racist incidents and crimes have **increased in the latest 12 months to September 2014** compared with the previous 12 months. There were 1,273 racist incidents, an increase of 43.3% on the previous year, and there were 905 racist crimes, an increase of 63.6% on the previous year. More than half of the increase in incidents and two thirds of the increase in crimes is concentrated within Belfast<sup>37</sup>.
48. Higher levels were most notably seen in the months of October 2013 and in each month between May and September 2014, with these months accounting for more than one third of all racist incidents and crimes for the latest twelve months. The number of incidents recorded in May 2014 (152), June 2014 (161) and July 2014 (138) are currently the highest monthly levels recorded since the data series began in April 2004<sup>38</sup>.
49. A recent report by the Northern Ireland Human Rights Commission (NIHRC) found that ‘underreporting of hate crimes by victims was commonplace’<sup>39</sup> and identified problems concerning telephone and online reporting facilities for victims with limited ability to speak English.
50. Research has shown that hate crime legislation is used less often in Northern Ireland than in other parts of the UK. In Northern Ireland, despite the legislation allowing for an enhanced sentence to be passed

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<sup>36</sup> PSNI (2014): *Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland* (Quarterly Update to September 2014) (PSNI: Belfast).

<sup>37</sup> Ibid.

<sup>38</sup> PSNI (2014): *Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland* (Quarterly Update to September 2014) (PSNI: Belfast).

<sup>39</sup> Northern Ireland Human Rights Commission (2013): *Racist Hate Crime – Human Rights and the Criminal Justice System*, page 63 (Belfast: NIHRC). Available at:

[http://www.fra.europa.eu/sites/default/files/frc-2013-g-sauberli-investigation\\_report\\_full\\_en.pdf](http://www.fra.europa.eu/sites/default/files/frc-2013-g-sauberli-investigation_report_full_en.pdf)

The report highlighted that between April 2007 and January 2012 only five race hate crimes had resulted in the use of the 2004 order to enhance the sentences. The NIHRC argued that the order had been underutilised. When hate crimes are investigated the legislation allow for both ‘motivation’ and ‘demonstration’ on the part of the accused to be considered. The Commission said that the PSNI over-relied on motivation – by nature difficult to prove. The *demonstration* of hostility, as it manifests itself in language and other behaviours, sets a lower bar for the attachment of the ‘aggravated by hostility’ descriptor, and the NIHRC argued that greater use of this part of the legislation would result in more hate crime being prosecuted.

by a court where a crime is proven to have been motivated by hate, only 12 enhanced sentences out of almost 13,655 complaints, have been passed under this legislation over the last five years<sup>40</sup>.

51. Hate Crime in Northern Ireland has been the focus of a number of reports from human rights bodies, NGOs and statutory inspection bodies<sup>41</sup> in recent years. It would be helpful for the State Party Report to acknowledge the responses by the Northern Ireland Executive and Departments to the key recommendations made in these reports.

## **Representation of Black and Minority Ethnic people in Police Forces and the Criminal Justice System**

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<sup>40</sup> Jarman, N. (2012): *Criminal Justice Responses to Hate Crime in Northern Ireland*, (Belfast: Institute for Conflict Research), Figure 13, page 38. Available at: [http://www.niacro.co.uk/filestore/documents/hate\\_crime\\_project\\_papers/01\\_Criminal\\_Justice\\_Responses\\_to\\_Hate\\_Crime\\_in\\_NI.pdf](http://www.niacro.co.uk/filestore/documents/hate_crime_project_papers/01_Criminal_Justice_Responses_to_Hate_Crime_in_NI.pdf)

<sup>41</sup> For example see:

McVeigh, R. (2006): *The Next Stephen Lawrence?* (Belfast: NICEM). Available at: <http://nicem.org.uk/e-library/next-stephen-lawrence>

Criminal Justice Inspection Northern Ireland (2007): *Hate Crime in Northern Ireland – A Thematic Inspection of the Management of Hate Crime by the Criminal Justice System in Northern Ireland* (Belfast: CJINI). Available at: <http://www.cjini.org/CJINI/files/02/0272e50a-2218-482a-87e0-66a243a27900.pdf>.

Criminal Justice Inspection Northern Ireland (2007): *Hate Crime – A Follow-up Inspection of the Management of Hate Crime by the Criminal Justice System in Northern Ireland* (Belfast: CJINI). Available at: <http://www.cjini.org/CJINI/files/16/16f98312-469d-464f-adcc-f7b2513adda7.pdf>

Jarman, N. (2012): *Criminal Justice Responses to Hate Crime in Northern Ireland* (Belfast: Institute for Conflict Research). Available at: [http://www.niacro.co.uk/filestore/documents/hate\\_crime\\_project\\_papers/01\\_Criminal\\_Justice\\_Responses\\_to\\_Hate\\_Crime\\_in\\_NI.pdf](http://www.niacro.co.uk/filestore/documents/hate_crime_project_papers/01_Criminal_Justice_Responses_to_Hate_Crime_in_NI.pdf)

Northern Ireland Council for Ethnic Minorities (2013): *Race in the Criminal Justice System in Northern Ireland* (Belfast: NICEM). Available at: [http://nicem.org.uk/wp-content/uploads/2014/02/Race\\_and\\_Criminal\\_Justice\\_2013.pdf](http://nicem.org.uk/wp-content/uploads/2014/02/Race_and_Criminal_Justice_2013.pdf).

The Northern Ireland Human Rights Commission (2013): *Racist Hate Crime – Human Rights and the Criminal Justice System* (Belfast: NIHRC). Available at: [http://www.fra.europa.eu/sites/default/files/frc-2013-g-sauberli-investigation\\_report\\_full\\_en.pdf](http://www.fra.europa.eu/sites/default/files/frc-2013-g-sauberli-investigation_report_full_en.pdf)

Montague, R. and Shirlow, P. (2014): *Challenging Racism Ending Hate*. Available at: [http://www.qub.ac.uk/research-centres/isctsj/filestore/Filetoupload\\_472425.en.pdf](http://www.qub.ac.uk/research-centres/isctsj/filestore/Filetoupload_472425.en.pdf).

(Belfast: Unite Against Hate/Centre for Democracy and Peace Building).

52. The Census 2011 revealed that people belonging to black and minority ethnic groups represent 1.8% % of the total population in Northern Ireland<sup>42</sup>.
53. ECNI notes that the NIHRC's recent report on *Racist Hate Crime – Human Rights and the Criminal Justice System* identified that 'the number of minority ethnic PSNI officers in 2013<sup>43</sup> did not meet the desired level of representation', commenting that this 'was a cause for concern and may impact on effective policing of racist hate crimes'<sup>44</sup>.
54. We would welcome the presentation of statistical evidence in the State Party Report on the representation of BME people in the PSNI, Policing Board and other Criminal Justice agencies in Northern Ireland.
55. ECNI would also like to see further information in the section dealing with the NI Prison Service (paragraph 41, page 24) relevant to its interaction with BME individuals and communities.
56. Whilst paragraph 46 (page 25) states that the Macpherson Report's recommendations have led to improved treatment of victims and witnesses, ECNI notes with concern the finding, in recent research into the criminal justice system, that Northern Ireland remains in a 'pre-Macpherson' situation, lacking a 'blueprint' for dealing effectively with institutional racism within the context of criminal justice<sup>45</sup>.
57. Furthermore, the report found that *'the key statistics necessary to facilitate, the performance of those engaged in the administration of*

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<sup>42</sup> Northern Ireland Statistics and Research Agency (2012): *Census 2011: Key Statistics for Northern Ireland*, Table KS211NI, page 19. Available at: [http://www.nisra.gov.uk/Census/key\\_report\\_2011.pdf](http://www.nisra.gov.uk/Census/key_report_2011.pdf)

<sup>43</sup> 0.5%.

<sup>44</sup> The Northern Ireland Human Rights Commission (2013): *Racist Hate Crime – Human Rights and the Criminal Justice System*, page 34 (Belfast: NIHRC). Available at: [http://www.fra.europa.eu/sites/default/files/frc-2013-g-sauberli-investigation\\_report\\_full\\_en.pdf](http://www.fra.europa.eu/sites/default/files/frc-2013-g-sauberli-investigation_report_full_en.pdf)

<sup>45</sup> Northern Ireland Council for Ethnic Minorities (2013): *Race and Criminal Justice in Northern Ireland: Towards a Blueprint for the Eradication of Racism from the Northern Ireland Criminal Justice System*, page 5. Available at:

[http://nicem.org.uk/wpcontent/uploads/2014/02/Race\\_and\\_Criminal\\_Justice\\_2013.pdf](http://nicem.org.uk/wpcontent/uploads/2014/02/Race_and_Criminal_Justice_2013.pdf).

*justice to avoid discriminating against any persons on the ground of race are still not being produced*<sup>46</sup>.

## **Immigration Exception under equality legislation**

58. As noted above, ECNI is on record as having recommended the removal of the immigration exception in the race equality legislation which permits discrimination on the grounds of ethnic or national origins in the carrying out of immigration functions<sup>47</sup>

### **Article 5 (e) – (f)**

59. ECNI welcomes the acknowledgement in the consultation paper for the Race Equality Strategy 2014-2024 of the need for specific challenges and vulnerabilities facing particular groups such as Irish Travellers and the Roma (as detailed in paragraph 8, page 29) and look forward to learning about the specific details of these programmes as these are developed during 2015.

60. ECNI recommends that the State Party Report provide further details of the challenges and vulnerabilities faced by the Travellers and Roma in this section of the report in order to appropriately describe the context for the proposed interventions.

61. Furthermore, ECNI also recommends that the State Party provide further details of the particular challenges and vulnerabilities experienced by the wider black and minority ethnic population with respect to the enjoyment of economic, social and cultural rights.

62. ECNI's *Racial Equality – Policy Priorities and Recommendations* (2014) found that with respect to **employment** that Racial harassment in

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<sup>46</sup> Ibid.

<sup>47</sup> Equality Commission for Northern Ireland (2014): *Strengthening protection against racial discrimination – recommendations for law reform*, page 42. Available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx>

work remains an issue<sup>48 49</sup> while research<sup>50</sup> also suggests that issues impacting on migrant workers include underemployment, recognition of overseas qualifications, lack of English language skills, problems in accessing childcare, gaps in legal protection, racial harassment, severe exploitation and forced labour.

63. For Irish Travellers, issues include a lack of recognition of Traveller culture; low expectations and fear of losing benefits<sup>51</sup>.

64. We are also concerned about the exclusion of asylum seekers from labour market while awaiting a decision on their Refugee application<sup>52</sup>.

65. With regard to the information on employment-related services in Northern Ireland at paragraphs 17-23 (pages 33-34), it would be helpful for the State Party Report to include some quantitative or qualitative information to illustrate the uptake of these services and their impact with respect to BME individuals.

66. With respect to **housing**, ECNI is concerned that there is an undersupply of accommodation and lack of basic amenities for Irish Travellers with no key driver of provision<sup>53</sup>.

67. ECNI recommends that the section of the draft State Party Report (paragraph 25, page 39) dealing with **accommodation** for Travellers in Northern Ireland includes quantitative and qualitative evidence of the extent to which provision meets need.

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<sup>48</sup> Northern Ireland Council for Ethnic Minorities (2012): *Bayanihan: the Filipino community in Northern Ireland*. Available at: <http://nicem.org.uk/e-library/bayanihan-filipino-community-northern-ireland>, pages 22- 23.

<sup>49</sup> BBC (16th December 2013): 'Sharp increase in racist attacks'. Available at: [http://www.bbc.co.uk/news/health-25368332#story\\_continues\\_1](http://www.bbc.co.uk/news/health-25368332#story_continues_1)

<sup>50</sup> Joseph Rowntree Foundation (2013): *Poverty and Ethnicity in Northern Ireland*. Available at: <http://www.jrf.org.uk/publications/poverty-ethnicity-northern-ireland>

<sup>51</sup> Ibid.

<sup>52</sup> The majority of families researched for the report were waiting for four years on average for an outcome on their initial application for refugee status.

<sup>53</sup> Equality Commission for Northern Ireland (2009): *Outlining minimum standards in Traveller accommodation*, page 9. Available at: <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Housing-communities/Researchinvestigations>

68. Evidence has also shown that Migrant Workers experience overcrowded accommodation provision, insecurity of tenure and poor standards as well as incorrect decision-making by public authorities regarding entitlement to assistance<sup>54</sup>.
69. ECNI is aware that Roma experience overcrowding in housing as well as tensions with local communities<sup>55</sup>.
70. Issues for refugees appear to include a lack of time to find suitable alternative housing once granted refugee status and difficulties in providing deposits or a suitable guarantor with regard to housing in the private rented sector<sup>56</sup>.
71. ECNI recommends that the State Party Report includes information on the extent to which housing need among the BME communities, including migrants and Roma is being monitored and addressed, highlighting key statistics as appropriate.
72. ECNI also recommends that the reference (at paragraph 26, page 39) to the Social Security Agency's Make the Call campaign be strengthened by supporting evidence that Roma, Gypsy and Traveller groups have benefited from this scheme.
73. ECNI acknowledges the detail provided in the section of the State Party Report dealing with healthcare provision in Northern Ireland (paragraphs 5 -26, pages 40-45).

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<sup>54</sup> ECNI (2007): Op. Cit.

Northern Ireland Council for Ethnic Minorities (2013): *Submission to DSD consultation on 'Facing the Future'*:

*Housing Strategy for Northern Ireland* (Belfast: NICEM). Available at:

[http://www.nicem.org.uk/uploads/publications/NICEM\\_DSD\\_Consultation\\_on\\_Facing\\_the\\_Future.pdf](http://www.nicem.org.uk/uploads/publications/NICEM_DSD_Consultation_on_Facing_the_Future.pdf)

<sup>55</sup> Anecdotal evidence from those working closely with the Roma community suggests that over half live in accommodation with 10 or more people. If these figures are considered in tandem with the small number working and deriving a small income, and acknowledging the absence of Housing Benefit entitlement for Roma families, it is highly likely that shared accommodation has been driven by need rather than choice.

<sup>56</sup> Conversation between Equality Commission for Northern Ireland and the Northern Ireland Community of Refugees and Asylum Seekers of 4<sup>th</sup> February 2014.

74. However, we would welcome further information on the health inequalities experienced BME communities in Northern Ireland, including Roma and Travellers and the extent to which the various initiatives described have reduced these inequalities
75. With respect to the right to **public health, medical care, social security and public services**, the ECNI remains concerned<sup>57</sup> about the low life expectancy and the high levels of suicide and infant mortality experienced by the Irish Traveller community highlighted in the All-Ireland Travellers Health Study (AITHS)<sup>58</sup>. The Health and Social Wellbeing Thematic Action Plan for 2013/14 and 2014-15 (at paragraphs 17-18, page 43) is described as reflecting AITHS priorities and includes arrangements for monitoring, evaluation and research. It would be helpful for the State Party Report to refer to the outcomes of this evaluation. In order to provide evidence of the effectiveness of the interventions set out in the Plan.
76. We are also aware that maternal and infant mortality is higher among BME groups and that there are difficulties for some groups in accessing primary and secondary health care<sup>59</sup>.

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<sup>57</sup> Equality Commission for Northern Ireland (2011): *Shadow Report to the UN Committee on the Elimination of Racial Discrimination (CERD) on the UK Government's 18th Periodic Report*, page 24.

Available at: <http://www.equalityni.org/consultationresponses?subject=Race&type=&year=2011>

<sup>58</sup> Kelleher, C. et al. (2010): *All Ireland Traveller Health Study*, University College Dublin (Department of Health and Children & DHSSPS). Available at:

[http://www.dohc.ie/publications/aihts2010/ExecutiveSummary/AITHS2010\\_SUMMARY\\_LR\\_All.pdf?direct=1](http://www.dohc.ie/publications/aihts2010/ExecutiveSummary/AITHS2010_SUMMARY_LR_All.pdf?direct=1)

Equality Commission for Northern Ireland (2001): *Response from the Equality Commission for Northern Ireland to the consultation on 'The Final Report of the Promoting Social Inclusion Working Group on Travellers*.

<sup>59</sup> Department for Health, Social Services and Public Safety (2011): *Equality Action Plan for the Department of Health Social Services and Public Safety*.

Wright, D. (undated): *Roma Health and Wellbeing in Northern Ireland*. Available at:

<http://www.publichealth.hscni.net/sites/default/files/Denise%20Wright%20-%20Roma.pdf>

Belfast Health Development Unit (2010): *Barriers to Health – Migrant Health and Well-being in Belfast*.

Available at: <http://www.belfasttrust.hscni.net/pdf/Migrant-Health-Strategy.pdf>

Law Centre (2013): *The case for free healthcare for asylum seekers*. Available at

<http://www.lawcentreni.org/Publications/Frontline/Frontline-90.pdf>

BBC Democracy Live (3 December 2013): 'Call for universal healthcare for failed asylum seekers'.

Available at: <http://www.bbc.co.uk/democracylive/northern-ireland-25223423>

77. Research into migrant health and wellbeing in Belfast suggested that key barriers included lack of awareness; low levels of GP registration with GP; fears about entitlements; frustration and stress in accessing healthcare; and negative attitudes etc<sup>60</sup>.
78. The limited evidence that is available suggests that health outcomes are generally worse for Roma than for majority population<sup>61</sup>..
79. ECNI welcomes the confirmation that the Health and Social Care Board is taking forward a project, including the development of guidance, to improve ethnic monitoring on a number of key Health and Social Care systems. However, we understand that the Department for Health, Social Services and Public Safety is currently the only Government department in Northern Ireland which is taking forward action to put ethnic monitoring arrangements in place.
80. ECNI would welcome the provision of further information in the State Party Report of proposals by the Northern Ireland Executive and Departments to put in place arrangements for effective ethnic monitoring.
81. With respect to **education** (paragraphs 53-61, pages 56-58), ECNI has long been concerned<sup>62</sup> <sup>63</sup>about racist bullying, high rates of non-attendance at school, high drop-out rates and poor educational outcomes experienced by Irish Travellers.

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Institute of Conflict Research (2012): *The Horn of Africa Community in Belfast - a needs assessment*.

Available at: <http://www.conflictresearch.org.uk/Resources/Documents/HAPANIapril12.pdf>

<sup>60</sup> Belfast Health Development Unit (2010): *Barriers to Health – Migrant Health and Well-being in Belfast*.

Available at: <http://www.belfasttrust.hscni.net/pdf/Migrant-Health-Strategy.pdf>

<sup>61</sup> Wright, D. (undated): *Roma Health and Wellbeing in Northern Ireland*.

Available at: <http://www.publichealth.hscni.net/sites/default/files/Denise%20Wright%20-%20Roma.pdf>

<sup>62</sup> Equality Commission for Northern Ireland (Nov 2008): *Every Child an Equal Child – Statement on Key Inequalities in Northern Ireland and a strategy for Intervention*.

Available at:

<http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Keyinequalitiesineducation2008.pdf>

<sup>63</sup> ECNI (2011): *Shadow Report to the UN Committee on the Elimination of Racial Discrimination on the UK Government's 18th Periodic Report*, page 2.

Available at: <http://www.equalityni.org/consultationresponses?subject=Race&type=&year=2011>

82. ECNI is also aware that Newcomer and Roma or refugee children can also lack English language skills; encounter difficulty accessing school or adapting to school regimes; have high levels of nonattendance and can have limited participation in the school community and experience racist bullying<sup>64</sup>.
83. ECNI recommends that the State Party Report include statistics on the attendance and attainment levels of ethnic minorities, including Irish Travellers and Roma in this section.
84. ECNI has previously drawn attention to the bullying experienced by minority ethnic pupils in its policy paper *Promoting Racial Equality – Priorities and Recommendations*<sup>65</sup>.
85. We consequently welcomed the Department of Education’s recent consultation on ‘Addressing Bullying in Schools’ (referenced at paragraph 58, page 57), and its three key proposals for legislative change: to provide a legal definition of bullying; to require schools to record incidents of bullying and the motivating factors behind these; and to place a legal obligation on schools to be responsible for anti-bullying policies and processes within schools.

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<sup>64</sup> The Equality Commission (March 2012): *Inequalities in Education*.

Available at: [http://www.equalityni.org/archive/pdf/EveryChildIndicators\\_FinalMainReport250412.pdf](http://www.equalityni.org/archive/pdf/EveryChildIndicators_FinalMainReport250412.pdf)  
Education and Training Inspectorate (2009): *An Evaluation of the Provision to Support Newcomer Pupils in a range of primary and post-primary schools*.

Available at: <http://www.etini.gov.uk/index/surveyevaluations/surveys-evaluations-primary/surveys-evaluations-primary-2009/an-evaluation-of-the-provision-to-support-newcomer-pupils-in-a-range-of-primary-and-post-primary-schools.pdf>

Connolly, P. And Keenan, M. (2000): *Opportunities for All: Ethnic Minority People’s Experience of Education, Training and Employment in Northern Ireland* (NISRA).

<sup>65</sup> Equality Commission for Northern Ireland (2014): *Racial Equality – Policy Priorities and Recommendations*, paragraphs 4.15 -4.17. Available at: <http://www.equalityni.org/Delivering-Equality/Equality-Themes/Racial-equality.aspx> The Commission made a number of recommendations for schools to address racist bullying including that the Department of Education considers placing a duty on schools to record disaggregated data on incidents of bullying in order to improve their understanding of, and responses to, prejudice-based bullying. Any duty placed on schools should include appropriate safeguards to encourage schools to be open about reporting incidents of bullying. The Commission also recommended that the Department ensures that schools provide regularly updated in-service training to staff on the impact of racist bullying and on the strategies to tackle and prevent it and that training on prejudice-based bullying is incorporated within teacher training.

86. With respect to the section of the draft State Party Report which refers to the receipt by schools of additional factors in their schools budgets for their Traveller and Roma pupils, ECNI understands that each full time pupil designated on the day of the school census as being of the Traveller community will generate an additional allocation for the school.

87. However, we have previously expressed concerns that this is problematic as Traveller children may not be in school on the day of the school census or may attend another school in the same year. Furthermore, we have also expressed concern that as the money is not ring fenced, it may be appropriated for the general school budget. It is unclear whether the use of this extra funding is monitored<sup>66</sup>. It would be helpful for the State Party Report to confirm whether such arrangements are in place and, if so, to make reference to any conclusions arising from monitoring and evaluation of the scheme.

#### **Article 6**

88. With regard to the reference to the Police Ombudsman for Northern Ireland (paragraphs 5-8, pages 59-60) it would be helpful for the State Party Report to provide statistics on the number of complaints made by BME individuals received and the outcome from these.

#### **Article 7**

89. With regard to the obligation on State Parties to adopt effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promote understanding and tolerance, and various initiatives described with respect to Northern Ireland, it would be helpful if the State Party Report provided information on any arrangements in place to evaluate the effectiveness of these and the outcomes of any such evaluations.

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<sup>66</sup> Equality Commission for Northern Ireland (2006): *Mainstreaming Equality of Opportunity for Travellers in Education – Towards a Strategy*, paragraphs 34-35, pages 13-14). Available at: [http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2006/Mainstreaming\\_Equality\\_for\\_Travellers\\_Education.pdf?ext=.pdf](http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2006/Mainstreaming_Equality_for_Travellers_Education.pdf?ext=.pdf)

## **Article 14**

90. Although the draft State Party Report indicates (at paragraphs 1-2, page 68) that Government remains to be convinced of the practical value to people in the UK of rights of individual petition under CERD, ECNI notes that the UK Government has ratified similar right under optional protocols to the Convention on the Elimination of All Forms of Discrimination Against Women (2004) and the United Nations Convention on the Rights of Persons with Disabilities (2009).

91. ECNI is aware that the benefits of establishing the right to individual petition include:

- improving on and adding to existing enforcement mechanisms;
- improving States' and individuals' understanding the Convention;
- stimulating States to take steps to implement the Convention;
- stimulating changes in discriminatory laws and practices;
- enhancing existing mechanisms for the implementation of human rights within the UN system;
- creating greater public awareness of human rights standards.

## **Appendix 1**

## The impact of the two tier level of protection under the Race Relations (Northern Ireland) Order 1997 as amended.

The **main impact** of this 'two tier' level of protection is summarised below:

1. The statutory definition of **harassment** which applies to the grounds of race, ethnic or national origins, in a wide range of areas (including employment and the provision of goods and services), **does not** extend to the grounds of colour and nationality. As a result, it is **more difficult** for individuals to bring complaints if they are subjected to offensive or degrading comments on the grounds of their colour or nationality.
2. Whilst the race legislation prohibits **public bodies** from discriminating on the grounds of race, ethnic or national origins when exercising their public functions, this prohibition **does not extend** to the grounds of colour or nationality.
3. Although the race legislation prohibits discrimination against **office holders**, such as chairpersons or board members of non-departmental public bodies, this prohibition **does not exist** on the grounds of colour and nationality.
4. A more **restrictive definition** of **indirect discrimination** applies to the grounds of colour and nationality than on the other racial grounds. This means it is more difficult for claimants alleging unlawful discrimination on the grounds of colour and nationality to successfully prove their case. Effective protection against indirect discrimination is particularly important in challenging systemic or institutional racism; where policies and practices of an employer, service provider or public authority may, without justification, have a particular adverse impact on BME individuals.
5. There are also differences in relation to the **exceptions** under the race equality legislation, depending on the racial ground in question. For example, the exceptions relating to employment for the purposes of a private household and genuine occupational requirement only apply to the grounds of colour and nationality; and not the grounds of race, ethnic or national origins.

## **Appendix 2**

## **The Equality Commission for Northern Ireland**

1. The Equality Commission for Northern Ireland (the Commission) is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.
2. The Commission's remit also includes overseeing the statutory duties on public bodies under Section 75 of the Northern Ireland Act 1998 (Section 75) and under the Disability Discrimination Act 1995.
3. The Commission is empowered under Schedule 9 of the Northern Ireland Act 1998 to, inter alia, offer advice to public authorities and others in connection with the duties imposed by Section 75 of the Act. It is also empowered to authorise investigations into alleged failures by such authorities to comply with equality scheme commitments.
4. The Commission has particular duties under the Race Relations (Northern Ireland) Order 1997, ('RRO 1997') as amended. It has a duty to work to eliminate unlawful racial discrimination and harassment, to promote equality of opportunity, to promote good relations between persons of different racial groups and to keep the working of the legislation under review.
5. In addition, the Equality Commission, together with the Northern Ireland Human Rights Commission, has been designated under the United Nations Convention on the rights of Persons with Disabilities (UNCRPD) as the independent mechanism tasked with promoting, protecting and monitoring implementation of the Convention in Northern Ireland.



## Appendix 2

### EQUALITY COMMISSION FOR NORTHERN IRELAND

#### Commentary on the draft Annual Indicators for the disability strategy OFMdFM

February 2015

## 1 Overarching comments

- 1.1 The draft Annual Indicators for the Disability Strategy<sup>1</sup> sets out OFMdFM's proposals for Annual indicators for monitoring progress against the 16 Strategic Priorities set out in the disability strategy.
- 1.2 The key overarching issue with the draft annual indicators is the lack of connection between the aims<sup>2</sup> and actions of the Strategic Priorities<sup>3</sup>. While, the indicators have been broadly drawn up to measure outcomes in relation to the aim of each Priority, actions<sup>4</sup> are not always relevant to the aims or are not clearly articulated as such. This is a critical flaw in that actions should produce change in areas identified by each Strategic Priority and the impact of these actions should then be measurable by the use of indicators.

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<sup>1</sup> OFMdFM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdFM: Stormont).

<sup>2</sup> Ibid.

<sup>3</sup> OFMdFM (2014): Draft Annual Indicators for the Disability Strategy (OFMdFM: Stormont).

<sup>4</sup> OFMdFM (2012): A Strategy to improve the lives of people with disabilities 2012-2015. (OFMdFM: Stormont) – see Appendix 1.

- 1.3 In broad terms, it appears as if the Strategic Priorities have been allocated to actions that reflect pre-existing commitments or planned programmes. This has been undertaken without any consideration of what actions may be required to meet the aims and what indicators may be required to monitor and evaluate implementation and outcomes.
- 1.4 Previous research<sup>5</sup> has indicated that outcomes arising from a disability strategy should be evaluated and measured at two levels; in terms of implementation outcomes (that is, did it do what it said it was going to) and life outcomes for disabled people (what impact did it have on people with disabilities). The draft Annual Indicators currently do not evaluate implementation outcomes in relation to actions associated with the Strategy. In addition, many of the indicators do not cover life outcomes, with respect to every areas covered by the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). Given the disconnect between the aims, actions and indicators associated with the Strategic Priorities it is difficult to see how this could be undertaken in the present format.
- 1.5 In addition, for many of the indicators there is no indication of the extent to which data can or will be disaggregated and therefore the degree with which the relevant indicators meet this particular requirement of Article 31. This is of particular concern given that some indicators will be based on survey methodology with a limited sample of people with disabilities which may impact on the robustness of disaggregated data.
- 1.6 The preamble for the Disability Strategy indicates that the “Strategy is developed on a rights based approach to fulfil obligations provided for in the United Nations Convention on the

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<sup>5</sup> Flynn, E. (2013): Summary of Critical Success factors for Implementing and Monitoring National Disability Strategies (NUI: Galway)

Rights of Persons with Disabilities (UNCRC<sup>6</sup>). However, recent research commissioned by the Equality Commission<sup>7</sup> has identified a similar disconnect between actions outlined in Appendix 1 and the articles of the UNCRC. It was the conclusion of the authors that articles of the UNCRC has been assigned to existing or planned commitments and programmes “without any consideration of the actual obligations and rights contained in those articles”<sup>8</sup>.

- 1.7 Given the misalignment of the aims, actions and indicators of the Strategy and that the connection between actions and particular articles of the UNCRC has been described as “weak, unclear or, in some cases, not actual”<sup>9</sup>; it is difficult to see how the draft Annual indicators will effectively evaluate implementation and life outcomes in relation to UNCRC.
- 1.8 In addition, the Strategy and, therefore, subsequent actions and indicators do not cover all articles of the UNCRC. Recent research has noted the omission of actions in Appendix 1 relating to Article 6 of the UNCRC on *Women with disabilities* and only a brief mention of Article 7 on *Children with disabilities*<sup>10</sup>. In addition there is a lack of reference to key human rights within the document such as Article 5 on *Equality and non-discrimination*, Article 10 on the *Right to life*, Article 11 on *Situations of risk and humanitarian emergencies*, Article 14 on *Liberty and security of the person*, Article 15 on *Freedom from torture, or cruel, inhuman or degrading treatment and punishment*, Article 17 on *Protecting the integrity of the person*, Article 18 on *Liberty of movement and*

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<sup>6</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdfM: Stormont).

<sup>7</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRC: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRC (ECNI: Belfast).

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

*nationality, Article 22 on Respect for privacy, Article 25 on Health and Article 26 on Habilitation and rehabilitation.*

- 1.9 Another key area for consideration is the ability of the defined indicators to meet the requirements of Article 31 of the UNCRPD on *Statistics and Data Collection*. Under Article 31, information should be “disaggregated, as appropriate, and used to help assess the implementation of States Parties’ obligations”<sup>11</sup>. The overall lack of alignment between the aims, actions and indicators and the Articles of the UNCRPD is a key concern in that it renders the indicators ineffective in assessing the implementation of the UNCRPD. In addition, there is no indication that the indicators will or can be disaggregated, as appropriate, particularly with respect to age and sex which are required to monitor commitments in relation to cross-cutting Article 6 on *women with disabilities* and Article 7 on *children with disabilities*.

### **Themes and Indicators:**

## **2 Theme: Participation and Active Citizenship**

- 2.1 Strategic priority 1 and 2 are aligned to the theme of *Participation and Active Citizenship* within the Disability Strategy. While indicators have been defined for strategic priority 1 no indicators have been defined for strategic priority 2.

### ***Strategic priority 1***

- 2.2 The aim of Strategic priority 1 is to “Increase people with disabilities’ opportunity to influence policies and programmes in Government including the delivery of this Strategy and the subsequent Action Plan”. Two indicators have been identified for this Strategic priority

- percentage of NI public appointments held by people with disabilities;

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<sup>11</sup> Article 31 (2), United Nations Convention on the Rights of Persons with Disabilities.

- percentage of applications for NI public appointments made by people with disabilities.
- 2.3 These indicators are currently inadequate to measure the breadth of issues covered by the Participation and Active Citizenship theme which include decision-making in policies and programmes, active participation and the provision of support and advocacy to assist in decision making. Moreover, the indicators do not reflect the key aim of Strategic Priority 1 which is for people with disabilities to influence policies and programmes including the Disability Strategy.
- 2.4 In addition, and as mentioned above, the one planned programme identified as an action to address Strategic Priority 1 – to invest in social enterprise growth to increase sustainability in the broad community sector - does not align with the indicators identified to measure the effectiveness of the Strategy and it is unclear how it meets the overall aim of Strategic Priority 1, given that the focus is on employment rather than participation in decision-making.
- 2.5 The Theme of *Participation and Active Citizenship* highlights the Preamble of the UNCRPD as its key influence, however, this theme and associated Strategic Priority 1 has also been commented upon in recent research in relation to Article 29 of the UNCRPD on *Participation in political and public life*<sup>12</sup> and is also a key aspect of Article 4 (3) wherein State Parties “should consult with and actively involve persons with disabilities”<sup>13</sup>, including children, on all matters that relate to them.
- 2.6 The indicators in Strategic Priority 1 partially meet UNCRPD requirements but are too narrow and not broadly enough defined to fully meet the requirements of the UNCRPD, particularly given the emphasis in the preamble and Article 4(3) on decision-making

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<sup>12</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>13</sup> The United Nations Convention on the Rights of Persons with Disabilities.

and the broad scope of Article 29 on political rights and public affairs. Previous research<sup>14</sup> has identified Article 29 as a priority area for people with disabilities in Northern Ireland. Therefore, it is disappointing that the indicators to measure effectiveness of implementation and outcomes do not meet the requirements of the UNCRPD or the aim of Strategic Priority 1.

2.7 To better ensure that the strategy meets the aims of Strategic Priority 1 and can adequately assess the implementation of the UNCRPD it is recommended that the following additional indicators are included<sup>15</sup>:

Indicators of Political participation, for example

- percentage of / uptake of accessible voting facilities, voting procedures and voting materials;
- percentage of people with disabilities in political life;
- number of support provisions developed to assist people with disabilities into public life;
- indicators of participation in decision-making on policies/ programmes, for example;
- number of forums / groups / meetings by States Parties' with disabled people on policies / programmes;
- number of support / advocacy facilities provided;
- percentage uptake of support / advocacy facilities by people with disabilities;
- number of capacity building programmes aimed at people with disabilities.

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<sup>14</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>15</sup> Much of this information could potentially be obtained through S75 Disability duties Annual Progress Reports; through the Electoral Commission; Councils; NI Assembly; Westminster; Party Political Offices and OFMdFM.

Indicators of participation in Disability Strategy and Action Plan, for example

- number of forums / groups / meetings by States Parties' with people with disabilities on the Disability Strategy;
- number of support / advocacy facilities provided to assist people with disabilities in influencing the Strategy;
- to comply with Article 31, Article 6 and Article 7 of the UNCRPD, data should be disaggregated, where appropriate, particularly with respect to sex and age.

***Strategic Priority 2***

2.8 The aim of Strategic priority 2 is to “Improve interaction between all sectors to achieve the social inclusion of people with disabilities”. No draft Annual Indicators have allocated to this priority.

2.9 A key issue with the aim of this priority is that it is not sufficiently well-defined to allow for the allocation of indicators. Actions that may require cross-departmental working or working between public authorities have been allocated to this Priority<sup>16</sup>, however, this has not been specifically articulated within the action. In addition, there is no mention of whether “interaction between all sectors” includes interaction with the disability sector and/or private sector. The lack of definition surrounding this priority makes the allocation of indicators to this aim, difficult if not impossible.

2.10 It is difficult to assess what UNCRPD article this priority is aligned to due to a lack of clarity in the aim of this article. Given the emphasis within the associated theme on participation and active citizenship it is presumed that this article may be associated with Article 4 (3) which indicates that persons with disabilities should

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<sup>16</sup> Appendix 1 – under PfG 2, a commitment to tackle poverty and social exclusion identifies co-ordinating actions between Departments as a significant aspect.

be involved in decision making in all issues relating to them, including legislation and policies to implement the UNCRPD and that State Parties should consult with and actively involve people with disabilities, including children, through their representative organizations<sup>17</sup>.

- 2.11 It is recommended that the aim of this Strategic Priority is fully clarified and aligned to the relevant UNCRPD article. Actions to implement this Priority should also be further clarified which will allow the development of appropriate and relevant indicators.

### **3 Theme: Awareness-raising**

- 3.1 Strategic Priority 3 and 4 are aligned to the theme of *Awareness-raising* in the Disability Strategy. A set of indicators have been developed for both priorities.

#### ***Strategic priority 3***

- 3.2 The aim of Strategic Priority 3 is to “Increase awareness among people with disabilities of their rights and opportunities through a range of communication activities”. Two indicators have been identified for this priority:

- percentage of people with disabilities reporting awareness of the Disability Discrimination Act;
- percentage of people with disabilities reporting awareness of the United Nations Convention on the Rights of Persons with Disabilities.

- 3.3 These indicators partially cover the requirements of Strategic Priority 3, however, measuring awareness of legislation does not fully indicate awareness of rights. People with disabilities may be aware of their rights but not aware of the legislative instrument which provides those rights, or vice versa. Moreover, according to

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<sup>17</sup> Article 4 (3), United Nations Convention on the Rights of People with Disabilities.

Strategic Priority 3, awareness-raising should occur through a range of communication activities: Therefore, indicators should contain a measure of the implementation of these activities as well as their impact on disabled people.

- 3.4 In addition, planned programmes<sup>18</sup> to address these requirements do not align to the indicators or the aim of Strategic Priority 3. It is unclear how planned actions meet the aims of Strategic Priority 3 and fit with the proposed indicators, such as, for example:
- increase the overall proportion of young people who achieve at least 5 GCSE's at A\*-C or equivalent including GCSEs in Maths and English by the time they leave school, and;
  - the improvement of community safety by tackling anti-social behavior.
- 3.5 The indicators partially meet the requirements of Article 8 on Awareness-Raising with regards to raising awareness of the rights of disabled people. However, as mentioned above, awareness of the Convention may not be equivalent to awareness of the rights therein. In addition, the Committee on the Rights of Persons with Disabilities has stated in relation to Article 8 that States Parties should report on actions undertaken to raise awareness and inform persons with disabilities and other parts of society on the Convention and the rights it includes<sup>19</sup>. This indicates that indicators must provide a measure of actions undertaken to inform people with disabilities of their rights in order to address the rights-based awareness-raising requirements of Article 8.
- 3.6 There is also concern regarding the survey instrument used for measurement of these indicators in relation to compliance with Article 31 (*Statistics and Data Collection*) and cross-cutting

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<sup>18</sup> OFMdfM (2014): Draft Annual Indicators for the Disability Strategy (OFMdfM: Stormont).

<sup>19</sup> Guidelines on treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities – cited in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? ECNI: Belfast.

Articles 6 (*Women with disabilities*) and 7 (*Children with disabilities*) of the UNCRPD. The Northern Ireland Omnibus Survey is a survey of approximately 2200 individuals in households in the general population<sup>20</sup> rather than a survey specific to people with disabilities. In addition, as it is a household based survey, people with disabilities in institutions or residential homes will not be included in the sample.

- 3.7 Given that only a small subsample of disabled people within the general population will be obtained, this survey may be inadequate to provide a robust and representative sample size that can be disaggregated, as required by Article 31 of the Convention, particularly with regard to sex (Article 6) and age (Article 7). The current document has not indicated how it will address the issue of small sample size<sup>21</sup> or whether quota sampling will be used to ensure a representative sample of disabled people is obtained.
- 3.8 Another concern is the ability of the Northern Ireland Omnibus Survey to capture awareness of rights amongst children with disabilities in compliance with cross-cutting Article 7. This is of particular concern given that the Northern Ireland Omnibus Survey is a survey of the general population over 16 years<sup>22</sup> and, therefore does not survey children under 16 years. Developmentally appropriate qualitative methodology may be a better vehicle for assessing awareness of rights amongst children with disabilities.
- 3.9 To better ensure that the strategy meets the aims of Strategic Priority 1 and can adequately assess the implementation of the UNCRPD it is recommended that the following indicators are amended:

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<sup>20</sup> See: <http://www.csu.nisra.gov.uk/survey.asp77.htm>

<sup>21</sup> E.g. by use of a booster sample

<sup>22</sup> See: <http://www.csu.nisra.gov.uk/survey.asp77.htm>

- Percentage of people with disabilities, including children, reporting awareness of their rights under the Disability Discrimination Act;
- Percentage of people with disabilities, including children, reporting awareness of the United Nations Convention on the Rights of Persons with Disabilities.

3.10 and, additional indicators are included:

- Number of effective communication activities undertaken with people with disabilities, including children, to inform them of their rights<sup>23</sup>.

#### ***Strategic Priority 4***

3.11 The aim of Strategic Priority 4 is “to develop, in partnership with people with disabilities, a range of awareness raising activities, including those aimed at the general public, to challenge the negative perceptions surrounding disability and to gain a better understanding of the range of diversity of disabilities particularly mental health”. Three indicators have been identified for this priority:

- Percentage of the general population reporting awareness of the Disability Discrimination Act;
- Percentage of the general population reporting awareness of the United Nations Convention on the Rights of Persons with Disabilities;
- Percentage of individuals correctly estimating the prevalence of disability among the general population.

3.12 These indicators do not adequately measure the breadth of issues covered by the awareness-raising theme which includes

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<sup>23</sup> Some of this information could possibly be obtained through S75 / Disability duties Annual Progress Reports.

awareness-raising on the rights, capabilities and positive contributions of people with disabilities and challenging negative perceptions and prejudices relating to disabled people. The current indicators seek to measure only one aspect of the awareness-raising theme, that is, awareness of the rights of people with disabilities among the general population. Moreover, the indicators do not reflect the key aim of Strategic Priority 4 which is to challenge negative perceptions regarding disability and improve understanding of the range of diversity of disabilities.

3.13 In addition, planned programmes<sup>24</sup> to address these requirements do not align to the indicators or the aim of Strategic Priority 4. It is unclear how planned actions meet the aims of Strategic Priority 4 and fit with the proposed indicators, such as, for example:

- increase the overall proportion of young people who achieve at least 5 GCSE's at A\*-C or equivalent including GCSEs in Maths and English by the time they leave school; and
- the improvement of community safety by tackling anti-social behavior.

3.14 Strategic Priority 4 and the Awareness-raising theme in the Disability Strategy aims to broadly align itself with Article 8 of the UNCRPD on *Awareness-raising*. However, the indicators in Strategic Priority 4 are narrowly focused on measuring awareness of legislation and knowledge of disability prevalence. Therefore, they do not adequately meet UNCRPD requirements given the emphasis in Article 8 on raising disability awareness, fostering respect for the rights and dignity of disabled people, combating stereotypes, prejudices and harmful practices, promoting positive perceptions of people with disabilities and recognising the positive contribution of people with disabilities via public awareness campaigns, education, media and training.

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<sup>24</sup> OFMdfM (2014): Draft Annual Indicators for the Disability Strategy, Appendix 1 (OFMdfM: Stormont).

- 3.15 Previous research<sup>25</sup> has identified Article 8 as a priority area for people with disabilities in Northern Ireland. Therefore, it is disappointing that the actions and indicators aligned to Strategic Priority 4 do not meet the requirements of the UNCRPD or the aim of Strategic Priority 4.
- 3.16 Another issue is that the chosen survey instrument may not be able to capture the views of children under 16 years, as mentioned above in Strategic Priority 3. This is of particular concern considering that a requirement of Article 8 (2b) is to foster respect for the rights of persons with disabilities within the education section “in all children from an early age”<sup>26</sup>. Developmentally appropriate qualitative methodology or a school based survey may be a better vehicle for assessing attitudes towards people with disabilities and awareness of the rights of people with disabilities amongst all children.
- 3.17 Article 8(1) of the Convention is explicit in that any awareness-raising measures undertaken must be effective, immediate; and appropriate. Previous research undertaken on behalf of the Commission has indicated that “the requirement for ‘effectiveness’ means in practice that there must be evaluation of the impact of any measures taken and that these measures be adjusted in the light of such evaluation of their effectiveness. General programmes and policies which are not of confirmed impact in raising awareness would not meet the obligations of this article”<sup>27</sup>. Given that the current indicators do not measure the implementation and impact of measures it can be concluded that this Priority does not meet the obligations of Article 8.
- 3.18 To better ensure that the strategy meets the aims of Strategic Priority 4 and can adequately assess the implementation of the

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<sup>25</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>26</sup> Article 8 (2b), United Nations Convention on the Rights of People with Disabilities

<sup>27</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

UNCRPD it is recommended that the following indicators are amended:

- percentage of the general population, including children, reporting awareness of their rights under the Disability Discrimination Act
- percentage of general population, including children, reporting awareness of the United Nations Convention on the Rights of Persons with Disabilities.
- percentage of individuals, including children, correctly estimating the prevalence of disability among the general population

3.19 And additional indicators are recommended<sup>28</sup>, for example:

Indicators for awareness–raising activities

- involvement of people with disabilities in awareness-raising activities
- number of awareness-raising activities undertaken with the general population (via campaigns, media, training) to challenge stereotypes, promote the capabilities and positive contributions of persons with disabilities
- number of communication activities undertaken with the general population to raise awareness of the rights of people with disabilities including understanding of the social model of disability
- effectiveness of awareness-raising activities undertaken with the general population

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<sup>28</sup> Much of the information for these indicators could be obtained from S75 / disability duties annual progress reports.

### Indicators for awareness-raising activities with children

- number of awareness-raising activities undertaken with children in the education system to challenge stereotypes and promote the capabilities and positive contributions of persons with disabilities<sup>29</sup>;
- number of communication activities undertaken with children in the education system<sup>30</sup> to raise awareness of the rights of people with disabilities including understanding of the social model of disability;
- effectiveness of awareness-raising activities undertaken with children in the education system<sup>31</sup>.

### Indicators for attitudes towards people with disabilities

- percentage of the general population, including children displaying negative attitudes towards people with physical, sensory, mental ill health and learning disabilities<sup>32</sup>;
- percentage visibility and positive portrayal of people with disabilities in media;
- percentage of people, including children, displaying understanding of the social model of disability<sup>33</sup>;
- percentage of people with disabilities, including children, experiencing bullying, harassment and/or discrimination on the grounds of their disability<sup>34</sup>.

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<sup>29</sup> DENI or CCEA may be a potential source of information and data in relation to this area.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> This is currently reported in both the EQAS and NILT surveys although not on an annual basis.

<sup>33</sup> This information could be obtained from the YLT and Children's Life and Times survey.

<sup>34</sup> This information is partially provided by the EQAS although not on an annual basis.

## 4 Theme: Accessibility – Physical environment, Goods and Services

4.1 Strategic Priority 5 is aligned to the theme of *Accessibility – Physical environment, Goods and Services* in the Disability Strategy.

### **Strategic Priority 5**

4.2 The aim of Strategic Priority 5 is to “eliminate the barriers people with disabilities face in accessing the physical environment, goods and services so that disabled people can participate fully in all areas of life”. Four indicators are aligned to this priority:

- percentage of Ulsterbus / Metro fleet that is accessible;
- percentage of individuals who have used the internet in the last three months by disability status;
- percentage of households with bank accounts by disability status;
- percentage participating in cultural, leisure and sporting activities in the last 12 months by disability status

4.3 The indicators do not adequately measure the range of issues covered by the theme of *Accessibility – Physical environment, Goods and Services*, or the aim of Strategic Priority 5. It is clear from the aim that this priority covers “all areas of life<sup>35</sup>” including “the physical environment, transportation, information and communications, and other facilities provide to the public<sup>36</sup>”. However, the indicators to measure the aim, while relevant, are too narrowly defined to cover the broad scope of issues covered by this priority.

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<sup>35</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdfM: Stormont).

<sup>36</sup> Ibid.

- 4.4 For example, the indicators cover transport by bus but do not cover the range of private and public transportation available to people with disabilities including rail travel, air travel, taxis, coaches, private car transport (including the needs of Blue Badge holders and disabled parking provision) etc. In addition, the indicators do not cover measures to tackle the prohibitive cost of public transport to people with disabilities who are more likely to live in poverty than the general population in Northern Ireland<sup>37</sup>.
- 4.5 The indicators cover access to the internet but do not cover the range of information and communications needs of people with disabilities, for example, previous research has indicated issues with access to interpreters and accessible printed materials (Braille, Audio, large print, Easy Read etc)<sup>38</sup>.
- 4.6 Moreover, while the indicators address access to bank accounts and cultural, leisure and sporting activities the indicators do not address access to the full range of goods and services including commercial and retail services. For example, previous research<sup>39</sup> has indicated issues for people with disabilities in relation to manufactured goods and other financial services, such as mortgages, insurance etc. Furthermore, the current indicator of access to financial independence, whether a household with a disabled person in it has a bank account, is not adequate given that it is measured at the household level in the Family Resources Survey. In order to measure access financial independence this indicator must measure access to bank accounts for people with disabilities at the individual level.
- 4.7 An additional and crucial omission is that there are no indicators that capture access to the physical environment such as housing, the pedestrian environment, and buildings.

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<sup>37</sup> MacInnes, T., Aldridge, H., Bushe, S., Tinson, A. and Barry Born, T. B. (2014): Monitoring Poverty and Social Exclusion 2014 (JRF: England).

<sup>38</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>39</sup> Ibid.

- 4.8 The majority of the indicators are focused on physical accessibility, however, previous research<sup>40</sup> has indicated many of the issues people with disabilities have with accessibility were attitudinal. Indicators should, therefore, address staff attitudes in the public and private sector as a barrier to accessibility.
- 4.9 In addition, indicators for a disability strategy should measure the effectiveness of implementation of actions as well as the outcomes. However, planned actions and programmes<sup>41</sup> are misaligned with the aims and indicators of Strategic Priority 5. Recent research<sup>42</sup> has indicated that for this priority “no further specific actions or targets are established and it is not clear how these priorities are to be achieved”. Planned actions from the Programme for Government have been proposed<sup>43</sup>, for example:
- introduce and support a range of initiatives aimed at reducing fuel poverty
  - publish and Implement a Childcare Strategy
  - improve access to justice
  - develop sports stadium as agreed with the IFA, GAA and Ulster Rugby.
  - improve online access to government services
- 4.10 Given that the alignment between these actions and the aims and indicators of Strategic Priority 5 are weak or absent, it is unclear how these indicators will measure the implementation of actions.

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<sup>40</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>41</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015, Appendix 1 (OFMdfM: Stormont).

<sup>42</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>43</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015, Appendix 1 (OFMdfM: Stormont).

- 4.11 Strategic Priority 5 and the theme of *Accessibility – Physical Environment, Goods and Services* aims to align itself with UNCRPD Article 9 on *Accessibility*. However, the indicators are too narrowly defined to address the broad scope of issues covered by Article 9. The focus of Article 9 is enabling people with disabilities “to live independently and participate fully in all aspects of life” by ensuring accessibility to the physical environment, transportation, information and communications and to other facilities and services provided to the public, in urban and rural areas. As discussed above, the indicators for this priority currently do not cover the breadth the issues required to measure accessibility “in all aspects of life”. In addition the indicators do not identify how data will be disaggregated to explore barriers in urban and rural areas as required by Article 9(1).
- 4.12 The indicators also do not provide for measures of the effectiveness of actions to identify and eliminate obstacles and barriers to accessibility which is a requirement of Article 9 (1) or to “monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services” as required by Article 9 2(a).
- 4.13 In addition, the indicators do not provide any measure of the effectiveness of implementation of actions related to training and support which is a requirement of Article 9 (2c and f) and is necessary to monitor the attitudinal barriers to accessibility, discussed above.
- 4.14 Moreover, there is no indication over how indicator data will be disaggregated to meet the requirements of Article 9, Article 31 and Article 6 and 7. To meet the requirements of Article 9 (1) data should be disaggregated by urban/rural status. However, to meet the requirements of Article 6 *Women with disabilities* and Article 7 *Children with disabilities*, data should also be disaggregated by sex and age.

4.15 Previous research<sup>44</sup> has identified Article 9 as a priority area for people with disabilities in Northern Ireland. Therefore, it is disappointing that the actions and indicators aligned to Strategic Priority 5 do not meet the requirements of the UNCRPD or the aim of Strategic Priority 5.

4.16 To better ensure that the strategy meets the aims of Strategic Priority 5 and can adequately assess the implementation of the UNCRPD it is recommended that the following indicators are amended:

- percentage of buses, trains, planes, taxis and coaches etc that are accessible, for urban and rural people with disabilities, including women and children;
- percentage of individuals, including women and children who had used the internet in the last three months by disability status;
- percentage of individuals including women and children with bank accounts by disability status;
- percentage participating in cultural, leisure and sporting activities, including women and children, in the last 12 months by disability status in rural and urban areas.

4.17 and the following indicators are recommended, for example:

Indicators for access to transport

- percentage of transport facilities in urban and rural areas (bus, train, plane and taxi firms, as appropriate) which meet required standards for physical access, staff attitudes and information provision for people with disabilities<sup>45</sup>

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<sup>44</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>45</sup>An audit system, which rates physical access, customer service and information provision may provide suitable indicators to assist in monitoring public and private facilities for accessibility. See for example: AdaptNI (2013): ABC Audit Benchmark Change Report (ECNI: Belfast).

- percentage of private and public car parking facilities that are accessible to people with disabilities<sup>46</sup>
- percentage of people with disabilities holding a Blue Badge<sup>47</sup>
- awareness of persons of disabilities of access to concessionary fares for bus and rail transport<sup>48</sup>.

#### Indicators for access to the physical environment and facilities

- percentage of commercial and retail facilities in rural and urban areas which meet required standards for physical access, staff attitudes and information provision for people with disabilities<sup>49</sup>;
- percentage of public sector facilities (including schools, medical facilities etc) in rural and urban areas which meet required standards for physical access, staff attitudes and information provision for people with disabilities<sup>50</sup>;
- percentage of housing in rural and urban areas that meet Lifetime Standards<sup>51</sup> of accessibility<sup>52</sup>;
- percentage of housing in rural and urban areas that have adaptations to improve accessibility<sup>53</sup>;
- percentage of the pedestrian environment in rural and urban areas that meets required standards of physical accessibility<sup>54</sup>.

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<sup>46</sup> DOE / DRD may be a potential source of information and/or data in this area.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> An audit system, which rates physical access, customer service and information provision may provide suitable indicators to assist in monitoring public and private facilities for accessibility, see for example: AdaptNI (2013) ABC Audit Benchmark Change Report. ECNI: Belfast.

<sup>50</sup> Ibid.

<sup>51</sup> See: [http://www.dsdni.gov.uk/index/hsdiv-housing/ha\\_guide/hag-index/hagds-design-standards-contents/hagds-lifetime-homes.htm](http://www.dsdni.gov.uk/index/hsdiv-housing/ha_guide/hag-index/hagds-design-standards-contents/hagds-lifetime-homes.htm)

<sup>52</sup> NIHE may be a potential source of information and/or data in this area.

<sup>53</sup> DSD/ NIHE may be a potential source of information and/or data in this area.

<sup>54</sup> DOE / DRD may be a potential source of information and/or data in this area.

#### Indicators for access to financial services

- percentage of people with disabilities who have been turned down for mortgages and/or life insurance<sup>55</sup>.

#### Indicators for participation

- number of effective consultations with people with disabilities, including children, on the accessibility of transport, facilities, services, housing and the pedestrian environment<sup>56</sup>.

4.18 To comply with Article 31, Article 6 and Article 7 of the UNCRPD, data should be disaggregated, where appropriate, particularly with respect to sex and age.

## **5 Theme: Accessibility – Transport; Personal Mobility**

5.1 Strategic Priority 6 and 7 is aligned to the theme of Accessibility – Transport; Personal Mobility in the Disability Strategy. Three indicators are aligned to Strategic Priority 6 and two indicators are aligned to Strategic priority 7.

### ***Strategic Priority 6***

5.2 The aim of Strategic Priority 6 is to “eliminate the barriers people with disabilities face in accessing transport ensuring necessary measures are in place to allow personal mobility for people with disabilities”. Three indicators are aligned to this priority:

- percentage of Ulsterbus / Metro fleet that is accessible
- percentage of individuals who had used the internet in the last three months by disability status
- percentage of households with bank accounts by disability status

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<sup>55</sup> This may require additional survey and/or qualitative information and/or data.

<sup>56</sup> Much of the information for these indicators could be obtained from S75 / disability duties annual progress reports.

- 5.3 The indicators for Strategic Priority 6 do not measure the breadth of issues covered by the aim of the priority. For example, as identified for Strategic Priority 5, the indicators cover transport by bus but do not cover the range of private and public transportation available to disabled people including rail travel, air travel, taxis, coaches, private car transport, parking provision etc. In addition, the indicators do not cover measures to tackle the prohibitive cost of public transport to people with disabilities who are more likely to live in poverty than the general population in Northern Ireland<sup>57</sup>.
- 5.4 The inclusion of transport in this priority is of concern given the degree of overlap between Strategic 5 and 6 and their associated indicators. Further consideration should be given to which Priority transport belongs in and the strategy and indicators should be amended to reflect this decision.
- 5.5 In addition, the indicators include measures that are not relevant to the aim of the priority. Indicators 2 and 3 are not relevant to personal mobility and overlap with the indicators and aims of Strategic Priority 5. It is recommended that indicators which reflect the Strategic aim to ensure “necessary measures are in place to allow personal mobility for people with disabilities” should be developed.
- 5.6 Moreover, indicators for a Disability Strategy should measure the effectiveness of implementation of actions as well as the outcomes. However, planned actions and programmes<sup>58</sup> are misaligned with the aims and indicators of Strategic Priority 6. Planned actions from the Programme for Government have been proposed, for example:
- reduce fuel poverty;

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<sup>57</sup> MacInnes, T., Aldridge, H., Bushe, S., Tinson, A. and Barry Born, T. B. (2014): Monitoring Poverty and Social Exclusion 2014 (JRF: York).

<sup>58</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015, Appendix 1 (OFMdfM: Stormont).

- establish an advisory group to assist Ministers in alleviating hardship including any implications of the Welfare Reform;
- invest in sustainable modes of transport and implement the Accessible Transport Strategy;
- ensure all children have the opportunity to participate in shared education programmes by 2015 and substantially increase the number of schools sharing facilities by 2015, etc.

5.7 However, few of the planned programmes / commitments are directly relevant to the aim of this priority or its indicators, i.e. personal mobility. Given that the alignment between these actions and the aims and indicators of Strategic Priority 6 are weak or absent, it is unclear how these indicators will measure the implementation of actions.

5.8 Strategic priority 6 aims to align itself to Article 20 of the UNCRPD on “*Personal mobility*”. Given that the focus of Article 20 is on personal mobility in relation to mobility aids, devices, assistance technologies, live assistance and intermediaries only one of the indicators (i.e. transport) is tentatively relevant, albeit indirectly, to Article 20.

5.9 The current indicators do not provide a measure of how State Parties are “facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries...at affordable cost” as specified by Article 20(b)<sup>59</sup>. In addition no indicators have been specified in relation to “providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities” in compliance with Article 20(c)<sup>60</sup> or in relation to “encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities” as required by Article

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<sup>59</sup> Article 20 (b), United Nations Convention on the Rights of People with Disabilities.

<sup>60</sup> Article 20 (c), United Nations Convention on the Rights of People with Disabilities.

20(d)<sup>61</sup>. Moreover, there is no indication over how indicator data will be disaggregated to meet the requirements of Article 31 on *Statistics and data collection* and Article 6 on *Women with disabilities* and 7 on *Children with disabilities*.

- 5.10 In addition, indicators are unable to measure the implementation of actions to meet the requirements of the UNCRPD, given that the alignment of indicators to actions and the requirements of Article 20 are weak or absent.
- 5.11 Recent research<sup>62</sup> has indicated a focus by the UN Committee with respect to Article 20 on access to assistive devices and research and development on low-cost mobility devices. It also raised issues for people with disabilities in relation to accessing suitable assistive equipment and accessing timely repairs or replacements<sup>63</sup>. Indicators should, therefore also be aligned to these aspects of personal mobility addressed by Article 20.
- 5.12 Moreover, in order to comply with general obligations under Article 4(3), indicators should reflect the degree to which persons with disabilities, including children, are consulted with and actively involved in the production of mobility aids, assistive technologies and live assistance to ensure the “greatest possible independence” as outlined in Article 20.
- 5.13 To better ensure that the strategy meets the aims of Strategic Priority 5 and can adequately assess the implementation of the UNCRPD it is recommended that the following indicators are amended:

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<sup>61</sup> Article 20 (d), United Nations Convention on the Rights of People with Disabilities.

<sup>62</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>63</sup> Ibid.

- percentage of buses, trains, planes, taxis and coaches etc that are accessible, for urban and rural people with disabilities, including women and children.

5.14 The following indicators are discarded:

- percentage of individuals who had used the internet in the last three months by disability status;
- percentage of households with bank accounts by disability status.

5.15 And the following indicators are recommended, for example:

Indicators for access to the physical environment and facilities

- percentage of transport facilities in urban and rural areas (bus, train, plane and taxi firms, as appropriate) which meet required standards for physical access, staff attitudes and information provision for people with disabilities<sup>64</sup>;
- percentage of private and public car parking facilities that are accessible to people with disabilities<sup>65</sup>;
- percentage of people with disabilities holding a Blue Badge<sup>66</sup>;
- awareness of persons of disabilities of access to concessionary fares for bus and rail transport<sup>67</sup>.

Indicators for access to mobility aids and assistive technologies

- median length of waiting list(s)<sup>68</sup> for appropriate mobility aids, devices and assistive technologies, for people with disabilities, including children<sup>69</sup>;

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<sup>64</sup>An audit system, which rates physical access, customer service and information provision may provide suitable indicators to assist in monitoring public and private facilities for accessibility. See for example: AdaptNI (2013) ABC Audit Benchmark Change Report (ECNI: Belfast).

<sup>65</sup> DRD / DOE may be a potential source of information / data in this area

<sup>66</sup> DRD / DOE may be a potential source of information / data in this area

<sup>67</sup> DRD / Translink may be a potential source of information and/or data in this area

<sup>68</sup> Perceived timeliness of receipt of aid would also be an acceptable measure

<sup>69</sup> DHSSPS may be a potential source of information and/or data in this area

- median length of time for repairs or replacements<sup>70</sup> of mobility aids, devices and assistive technologies, for people with disabilities, including children<sup>71</sup>;
- number of effective training sessions<sup>72</sup> provided for people with disabilities, including children, on the use of mobility aids, devices, and assistive technologies.

#### Indicators for access to live assistance

- median length of waiting list(s) for appropriate live assistance (e.g. human, animal etc) for people with disabilities, including children<sup>73</sup>;
- median length of time for replacement of live assistance for people with disabilities, including children<sup>74</sup>.

#### Indicators for training

- number of effective training sessions provided for people with disabilities, including children, on the use of live assistance<sup>75</sup>;
- number of effective training sessions provided for specialist staff in the use mobility aids, devices and assistive technologies<sup>76</sup>;
- number of effective training sessions provided for people with disabilities, including children, on the use housing adaptations<sup>77</sup>.

#### Indicators for housing adaptations

- median length of waiting list(s) for housing adaptations for people with disabilities, including children<sup>78</sup>;

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<sup>70</sup> Perceived timeliness of repair or replacement would also be an acceptable measure.

<sup>71</sup> DHSSPS may be a potential source of information and/or data in this area.

<sup>72</sup> Perceived effectiveness of training sessions would also be an acceptable measure.

<sup>73</sup> DHSSPS may be a potential source of information and/or data in this area.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid.

<sup>76</sup> DHSSPS may be a potential source of information and/or data in this area.

<sup>77</sup> DHSSPS / DSD / NIHE may be a potential source of information and/or data in this area.

- Median length of time for repair or replacement of adaptations for people with disabilities, including children<sup>79</sup>.

#### Indicators for research and development

- Number of effective research and development programmes on low-cost mobility devices with Northern Ireland funded or part-funded by government at the regional, national or European level;
- Number of programmes involving the active participation of people with disabilities, including children, in the design and implementation of mobility aids, devices and assistive technologies.

5.16 To comply with Article 31, Article 6 and Article 7 of the UNCRPD, data should be disaggregated, where appropriate, particularly with respect to sex and age.

## **6 Strategic Priority 7**

6.1 The aim of Strategic Priority 7 is to “increase the level of accessible / inclusive communications so that people with disabilities can access information as independently as possible and make informed choices. Two indicators are aligned to this priority:

- percentage of individuals who own a mobile phone by disability status
- percentage of individuals with internet access by disability status

6.2 The alignment between the indicators for and aim of Strategic Priority 7 is weak and not well-defined. It is linked to the Programme for Government commitment “to improve online

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<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

access to government services” with actions to promote digital inclusion for people with disabilities. However, the scope of accessible / inclusive communications is much broader than access to the internet / mobile phones, as it covers a range of communications including the use of sign language and Braille, and other communications and the provision of information in accessible formats<sup>80</sup>.

- 6.3 Strategic Priority 7 aims to align itself with Article 21 on “*Freedom of expression and opinion, and access to information*” in the UNCRPD. The focus of Article 21 is on “freedom of expression and opinion including the freedom to seek, receive and impart information on an equal basis with others and through all forms of communication of their choice”<sup>81</sup>. Given the strong emphasis in Article 21 on a broad range of accessible / inclusive communications, the focus of the current indicators -on internet / mobile phone access - is not broad enough to fulfil the requirements of Article 21.
- 6.4 The current indicators do not provide a measure of the degree to and timeliness by which public information “is provided in accessible formats and technologies” as required by Article 21(a). In addition, there is no indicator to measure the degree to which a range of communications (including sign language, Braille etc.) is accepted and facilitated ‘in official interactions’ as required by Article 21 (b) and the degree of recognition and/or promotion of sign language.
- 6.5 Moreover, there are no indicators to measure the degree to which the private sector (Article 21(c)) and mass media (Article 21(d)) provide information and services in accessible formats. To comply with the requirements of Article 21 indicators should also

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<sup>80</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>81</sup> Article 21 United Nations Convention on the Rights of People with Disabilities.

measure the percentage of public websites that comply with Web Accessibility Initiative (WAI) standards<sup>82</sup>.

6.6 In order to comply with general obligations under Article 4(3), indicators should reflect the degree to which persons with disabilities, including children, are consulted with and actively involved in the production of accessible information. Furthermore, indicator data should be able to be disaggregated to meet the requirements of Article 31 on *Statistics and data collection* and Article 6 on *Women with disabilities* and 7 on *Children with disabilities*.

6.7 To better ensure that the strategy meets the aims of Strategic Priority 5 and can adequately assess the implementation of the UNCRPD it is recommended that the following indicators are amended:

- percentage of individuals, including children who own a mobile phone by disability status;
- percentage of individuals, including children, with internet access by disability status.

6.8 And the following indicators are recommended, for example:

Indicators for accessibility of websites

- percentage of public websites that comply with the Web Accessibility Initiative (WAI) standards<sup>83</sup>;
- percentage of mass media websites that comply with the Web Accessibility Initiative (WAI) standards.

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<sup>82</sup> Article 21 in the Guidelines on treaty specific document to be submitted by States Parties under Article 35, paragraph 1, of the CRPD as cited in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>83</sup> This information may be available from S75 / Disability duties Annual progress reports.

#### Indicators for accessibility of public information

- percentage of public information that is available in accessible formats appropriate to different kinds of disabilities<sup>84</sup>.

#### Indicators for interpreters and sign language

- number of available interpreters for different communication methods (including sign language, Braille and other alternative communication methods);
- number of government funded programmes to promote and encourage sign language usage

#### Indicators for training

- number of training sessions / programs aimed at encouraging the private sector to provide accessible information and services to persons with disabilities, including through the Internet;
- number of training sessions / programs aimed at encouraging the local mass media (newspapers, television, radio etc.) to make their services accessible, including through the Internet to persons with disabilities, including children.

6.9 To comply with Article 31, Article 6 and Article 7 of the UNCRPD, data should be disaggregated, where appropriate, particularly with respect to sex and age.

## **7 Theme: Independent Living – Choice and Control**

7.1 Strategic Priority 8 is aligned to the theme of *Independent Living – Choice and Control* in the Disability Strategy. Three indicators are aligned to Strategic Priority 8.

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<sup>84</sup> Ibid.

## **Strategic Priority 8**

- 7.2 The aim of Strategic Priority 8 is to “increase the level of choice, control and freedom that people with disabilities have in their daily lives”. Three indicators are aligned to this priority:
- Percentage of Ulsterbus / Metro fleet that is accessible
  - Percentage of individuals who had used the internet in the last three months by disability status
  - Percentage of households with bank accounts by disability status
- 7.3 The indicators, while relevant, do not adequately address the broad range of issues covered by the aim of this priority. Choice, control and freedom covers a wide range of issues that impact on the ability of people with disabilities to lead independent and fulfilling lives. As stated in the preamble to the priority 8 in the Disability Strategy “independent living is about the ability to make choices about a wide range of issues such as housing, care, social activities and transport”<sup>85</sup>. It also concerns choices in education, career, leisure activities and involvement in community and decision making. At present the current indicators do not measure any aspect of choice, control and freedom.
- 7.4 Recent research<sup>86</sup> has identified “silo working” within Departments as a barrier to choice, control and independent living. This issue is acknowledged in the preamble to Strategic priority 8 in that a stated aim of this priority is “to get Executive departments to work together more effectively<sup>87</sup>” to support independent living. However none of the indicators identified provide a measure of

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<sup>85</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdfM: Stormont).

<sup>86</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>87</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdfM: Stormont).

“working together” amongst Departments to develop more independent programmes for disabled people.

7.5 Indicators for a Disability Strategy should measure the effectiveness of implementation of actions as well as the outcomes. While, many of the actions may impact on the aim of Priority 8, they are not clearly articulated and not directly aligned to the proposed indicators. Therefore, it is unclear how planned actions and programmes<sup>88</sup> will increase choice, freedom and control for people with disabilities. Planned actions from the Programme for Government are:

- deliver 8,000 social and affordable homes;
- publish and implement a Childcare strategy;
- delay domestic water charges;
- establish an advisory group to assist Ministers in alleviating hardship;
- invest over £500m in sustainable modes of transport; and
- introduce programmes to address chronic condition management, etc.

7.6 Given that the alignment between these actions and the indicators of Strategic Priority 8 are weak or absent, it is unclear how the proposed indicators will measure the implementation of actions.

7.7 Strategic priority 8 and the theme –“*Independent living / choice and control*” aims to align itself to Article 19 in the UNCRPD on “*living independently and being included in the community*”. The focus of Article 19 is on the right of people with disabilities to live in the community with choices equal to others, measures to facilitate this right and to support participation and inclusion in the

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<sup>88</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015, Appendix 1 (OFMdfM: Stormont).

community. While the specific focus of Strategic priority 8 is on Article 19 the Disability Strategy acknowledges that fulfillment of this priority and Article 19 “will also include reference to a wide range of articles in the UNCRPD<sup>89</sup>”.

- 7.8 Given this wide scope, the proposed indicators, while partially relevant, do not cover the breadth of issues required to fully comply with Article 19 of the UNCRPD. For example, the indicators do not address choice of residence, provision of community support and availability of community services as required by Article 19 (a), (b) and (c) respectively. This is of concern, given that the preamble to Strategic Priority 8<sup>90</sup> identifies residence and housing support services as relevant areas. In addition, the indicators do not provide any measure of progress towards resettlement of those individuals in residential institutions who are capable of living within the community with appropriate support. This has been raised as a particular concern by the Commission<sup>91</sup> and in the UN Committee’s Concluding Observations to date in relation to Article 19<sup>92</sup>.
- 7.9 The current indicators focus on accessibility to other community services and facilities (e.g. transport, internet, bank accounts) that may promote choice, control and freedom of people with disabilities. While these indicators are relevant they should already be addressed by other Strategic Priorities and other articles of the UNCRPD (e.g. Article 9). It may, therefore, be more expedient for this priority to focus on issues emerging from the UN Committee’s Concluding Observations that are not addressed by

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<sup>89</sup> OFMdFM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdFM: Stormont).

<sup>90</sup> Ibid.

<sup>91</sup> Joint submission from the Equality and Human Rights Commission, the Equality Commission for Northern Ireland, the Northern Ireland Human Rights Commission and the Scottish Human Rights Commission to the Joint Committee on Human Rights Inquiry into the implementation of the right of disabled people to independent living, October 2011.

<sup>92</sup> Cited in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

other Articles - that is residence, provision of community support and choice / control.

- 7.10 For example, a crucial omission is that currently none of the indicators provide a measure of the degree of choice or control a person with disabilities has over the everyday decisions in their life or the community services provided for them (e.g. financial independence, medical care, career, participation in social life and decision-making) as required by Article 19 and Article 4(3).
- 7.11 Recent research<sup>93</sup> has indicated that many people with disabilities lack the choice, control and freedom to determine where and with whom they live, yet this is a fundamental requirement of Article 19 (a)<sup>94</sup>. In addition, indicators do not identify whether any data will be collected from those in institutions, residential homes etc. who may be particularly vulnerable to lack of choice, control and freedom<sup>95</sup>.
- 7.12 The lack of alignment between indicators and Article 19 of the UNCRPD is disappointing, considering that recent research<sup>96</sup> has identified this as priority area with substantive shortfalls in policies and programmes in Northern Ireland against the CRPD.
- 7.13 In order to comply with general obligations under Article 4(3) and Preamble CRPD (n) and (o), indicators also should reflect the degree to which persons with disabilities, including children, are consulted with and actively involved in decision-making on matters which affect them. Furthermore, indicator data should be able to be disaggregated to meet the requirements of Article 31 on

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<sup>93</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>94</sup> Ibid.

<sup>95</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdfM: Stormont).

<sup>96</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

*Statistics and data collection and Article 6 on Women with disabilities and 7 on Children with disabilities.*

7.14 To better ensure that the strategy meets the aims of Strategic Priority 5 and can adequately assess the implementation of the UNCRPD it is recommended that the following indicators are discarded:

- percentage of Ulsterbus / Metro fleet that is accessible;
- percentage of individuals who had used the internet in the last three months by disability status;
- percentage of households with bank accounts by disability status.

7.15 And the following, more relevant indicators are recommended, for example:

Indicators for residence

- percentage of people of disabilities in residential institutions (capable of living in the community with support) who have been successfully resettled in the community in the last 12 months<sup>97</sup>;
- median waiting time for resettlement of people of disabilities in residential institutions into the community<sup>98</sup>;
- median waiting time for people with disabilities for sheltered housing schemes<sup>99</sup>.

Indicators for support for independent living and community living

- percentage of people with disabilities, including children, receiving community support services (community care, meals

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<sup>97</sup> DHSSPS / Health Trusts may be a potential source of information and/or data in this area.

<sup>98</sup> Ibid.

<sup>99</sup> DHSSPS / DSD / NIHE may be a potential source of information and/or data in this area.

on wheels or equivalent, home helps, warden services) in their own homes or sheltered housing<sup>100</sup>;

- number of community daycare and other facilities available to reduce social isolation among people with disabilities and/or promote inclusion in the community<sup>101</sup>.
- percentage of people with disabilities using community daycare and other community facilities<sup>102</sup>.

Indicators for support for choice and control

- percentage of people with disabilities, including children, in households and institutions, who feel they have a good / very good level of choice, control and freedom in their daily life in respect of: where they live, whom they live with, financial independence, medical care, transport, participation in community life, participation in decision making, participation in social life, choice of school / educational subjects and career.

7.16 To comply with Article 31, Article 6 and Article 7 of the UNCRPD, data should be disaggregated, where appropriate, particularly with respect to sex and age.

## **8 Theme – Children, Young People and Family**

8.1 Strategic Priority 9 and 10 is aligned to the theme of *Children and Young People* in the Disability Strategy. No indicators have been identified for Strategic Priority 9 or 10.

### ***Strategic Priority 9***

8.2 The aim of Strategic Priority 9 is to “ensure that families and carers with children or a family member with a disability have access to appropriate support to enable the child or family member with a disability to fulfil their full potential and that other

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<sup>100</sup> DHSSPS / Health Trusts may be a potential source of information and/or data in this area.

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

children within the family have the same opportunities as children in families without a child or family member with a disability. Ensure that women with disabilities are able to fully enjoy the rights and freedoms set out in the UNCRPD". No draft Annual indicators have been identified for this priority.

- 8.3 The failure to identify indicators for Strategic Priority 9, is perhaps an indication that the aim of this priority is too broad and not sufficiently well-defined to allow for the allocation of indicators. However, reading of the preamble for Strategic Priority 9 provides the context for the development of indicators. The preamble raises issues arising from the UN Committee's general comment No 9 on the rights of children with disabilities in the CRC<sup>103</sup>, including inclusion in play, advocacy and inclusion of the whole family, which could be developed into actions and indicators for Strategic priority 9. In addition, issues raised in the preamble<sup>104</sup> regarding provision of support for parents and guardians and protection of children with disabilities from abuse could be used to develop appropriate actions and indicators to meet the aims.
- 8.4 It is of concern, that the preamble for Strategic Priority 9 and associated actions have not identified any issues for Women with disabilities which would aid in the development of indicators.
- 8.5 Moreover, indicators should measure the effectiveness of implementation of actions as well as the outcomes. Therefore, identification of actions may assist in the development of indicators. Planned actions from the Programme for Government<sup>105</sup> include, for example:

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<sup>103</sup> Cited in OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdfM: Stormont).

<sup>104</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdfM: Stormont).

<sup>105</sup> Ibid.

- increase the overall proportion of young people who achieve at least 5 GCSEs at A\*-C or equivalent including GCSE's in Maths and English by the time they leave school;
- upskill the working population by delivering over 200,00 qualifications;
- develop and implement a Strategy to reduce economic inactivity;
- publish and implement a Childcare Strategy; and
- deliver a range of measures to tackle poverty and social exclusion through the Delivering Social Change framework, etc.

8.6 Many of these actions relate to improving life opportunities and reducing poverty. However, it is not clear how planned actions will improve life opportunities and reduce poverty for people with disabilities or how the actions align to the aim of Strategic priority 9. Therefore, it would be difficult to provide indicators in for implementation on the basis of the proposed actions.

8.7 Strategic Priority 9 aims to align itself with an amalgamation of UNCRPD articles including aspects of Article 23 on "*Respect for home and family life*", Article 6 on "*Women with disabilities*" and Article 7 on "*Children with disabilities*". While there are no indicators aligned to this priority or the associated Articles of the UNCRPD, the respective UNCRPD Articles may provide further direction to assist in the development of indicators.

8.8 Recent research<sup>106</sup> has commented on the lack of assignment of action points against Article 6 on "*Women with disabilities*" in relation to Strategic Priority 9. The research indicated that "it was difficult to see how the rights of women with disabilities can be

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<sup>106</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

effectively protected through implementation of the Strategy”<sup>107</sup>. Current observations have identified a lack of focus on women throughout this Strategy, a general lack of mainstreaming of gender issues in indicators, and women treated as an add-on to Strategic Priority 9. Indicators both for this document and all relevant disability-related documents should focus on the measurement of mainstreaming women with disabilities in all policies, programmes and services and gender disaggregation of disability data in compliance with Article 6.

- 8.9 In addition, in relation to Article 6 on “Women with disabilities”, the UN Committee in its Concluding Observations to-date<sup>108</sup> have identified a need for strategies to protect the rights of women and girls with disabilities; a requirement to mainstream disability in gender-equality policies including gender-based violence, and a need for more information on women and girls with disabilities. Indicators could, therefore, focus on developing and measuring progress in these areas.
- 8.10 Strategic Priority 9 also aims to align itself with Article 7 “Children with disabilities”. Article 7 like Article 6 is cross-cutting and is focused on ensuring that children with disabilities have full enjoyment of their rights, that the best interest of the child is paramount and that children have the right to express their views on all matters affecting them. The Concluding Observations to date from the UN Committee<sup>109</sup> give direction on recommended actions and associated indicators. These include measures to ensure the mainstreaming of disability considerations into all policies, programmes and practices that apply to children and young people; programmes to guarantee children’s rights and to allow them to express their views; measures to challenge stigma

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<sup>107</sup> Ibid.

<sup>108</sup> Cited in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>109</sup> Ibid.

and protect children from violence and abuse; measures to replace institutional care with community-based care; measures to provide resources and professional and financial support services; the need for co-ordination of public policies and accurate data. Indicators could be developed to measure the implementation of these obligations under Article 7.

- 8.11 In addition, recent research<sup>110</sup> has identified a number of actions that should be addressed to assist in meeting the requirements of Article 7 including the need for more research on disabled children and young people, the accessibility of disability-specific and mainstream services to children, active participation in decision-making and greater participation in social activities. Indicators could also be developed to measure how the Northern Ireland Executive is addressing these issues.
- 8.12 The aim of Strategic Priority 9 is also aligned to Article 23 on *“Respect for home and family”*. Reflecting the aim of this priority, Article 23 (2 and 3) emphasize that State Parties should provide assistance to parents in their child-rearing responsibilities and “undertake to provide early and comprehensive information, services and support to children with disabilities and their families<sup>111”</sup>. Indicators should, therefore, focus on the number of support programmes and effectiveness of support provided to children with disabilities and/or parents with disabilities and their families.
- 8.13 In order to comply with general obligations under Article 4(3), Preamble CRPD (n) and (o), and Article 7, indicators should also reflect the degree to which persons with disabilities, including children, are consulted with and actively involved in decision-making on matters which affect them. Furthermore, indicator data

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<sup>110</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>111</sup> Article 23 (2 and 3) United Nations Convention on the Rights of People with Disabilities.

should be able to be disaggregated to meet the requirements of Article 31 on “*Statistics and data collection*” and Article 6 on “*Women with disabilities*” and 7 on “*Children with disabilities*”.

8.14 To ensure that the indicators meets the aims of Strategic Priority 9 and can adequately assess the implementation of the UNCRPD it is recommended that the following indicators are included, for example:

Indicators for support for families

- percentage of new carers of children and young people with disabilities who are offered a carer’s assessment<sup>112</sup>;
- percentage of new carers of children and young people with disabilities who are take up a carer’s assessment<sup>113</sup>;
- percentage of siblings of children and young people with disabilities who are offered an assessment of their needs<sup>114</sup>
- percentage of siblings of children and young people with disabilities who take up an assessment of their needs<sup>115</sup>;
- number of effective information and advice services available to children and young people with disabilities and their families;
- number of effective information and advice services available to parents with disabilities and their families;
- percentage of parents with disabilities and their families receiving information, assistance and support services to assist with child-rearing<sup>116</sup>;
- percentage of children with disabilities and their families able to access appropriate respite care and short breaks<sup>117</sup>;

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<sup>112</sup> DHSSPS / Health Trusts may be a potential source of information and/or data in this area.

<sup>113</sup> Ibid.

<sup>114</sup> Ibid.

<sup>115</sup> DHSSPS / Health Trusts may be a potential source of information and/or data in this area.

<sup>116</sup> Ibid.

- percentage of parents with disabilities and their families able to access appropriate respite care and short breaks<sup>118</sup>.

#### Indicators for poverty

- median additional cost of disability for households with one or more individuals with a disability<sup>119</sup>;
- percentage of children living in households with incomes below 60% of median equivalised household income (after housing costs, AHC<sup>120</sup>) by disability status.

#### Indicators for participation

- percentage of children and young people with all types of disabilities who are able to express their views on matters that affect them (to include medical care, education, career etc);
- number of effective advocacy programmes which provide support for children and young people with disabilities to express their views on matters that affect them (to include medical care, education, career etc).

#### Indicators for attitudes and abuse

- percentage of children and young people with disabilities who have experienced prejudice, stigma and/or discrimination in school / college on the grounds of their disability<sup>121</sup>;
- percentage of schools / colleges with a robust anti-bullying / harassment policy in place<sup>122</sup>.

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<sup>117</sup> Ibid.

<sup>118</sup> Ibid.

<sup>119</sup> Family resources Survey may be a potential source of information and/or data in this area.

<sup>120</sup> "After housing costs is a better measure of relative poverty for two reasons (1) Housing costs can vary considerably for people in otherwise identical circumstances (e.g. pensioners who have paid off their mortgage versus pensioners who are renting) without the people having any realistic ability to change these costs. It is the money left over after that is therefore the measure of a household's standard of living. (2) Unlike a 'before deducting housing costs' basis, the 'after deducting housing costs' calculations are not affected by such matters as whether Housing Benefit - which provides for the housing costs of many of the poorest - is considered to be income or not". See:

<http://www.poverty.org.uk/summary/income%20intro.shtml>.

<sup>121</sup> DE may be a potential source of information and/or data in this area

- percentage of children and young people with disabilities, boys and girls, on the Child Protection Register<sup>123</sup>.
- percentage of women with disabilities experiencing abuse or violence within the home or institution in which they live<sup>124</sup>

#### Indicators for inclusion

- number of effective programmes that promote the inclusion of children with disabilities in play and social activities;
- percentage of public play facilities that are accessible to children with disabilities<sup>125</sup>.

#### Indicators for mainstreaming

- evidence of disability mainstreaming into gender-based policies and programmes and gender mainstreaming into disability-based policies and programmes;
- evidence of mainstreaming of disability issues into policies and programmes for children and young people and mainstreaming of children's issues into disability-based policies and programmes.

#### Indicators for research

- number of publicly funded research programmes on the experiences of women with disabilities;
- number of publicly funded research programmes on the experiences of children and young people with disabilities.

8.15 To comply with Article 31, Article 6 and Article 7 of the UNCRPD, data should be disaggregated, where appropriate, particularly with respect to sex and age.

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<sup>122</sup> Ibid.

<sup>123</sup> DHSSPS may be a potential source of information and/or data in this area.

<sup>124</sup> PSNI / DOJ may be a potential source of information and/or data in this area.

<sup>125</sup> DOE may be a potential source of information and/or data in this area.

## **9 Strategic Priority 10**

- 9.1 The aim of Strategic Priority 10 is to “ensure parents and carers with a disability have access to effective and appropriate support, where required, to access their right to a family life”. No indicators have been identified for this indicator.
- 9.2 Previous research has stated that indicators should measure the effectiveness of implementation of actions as well as the outcomes. Therefore examination of actions aligned to Strategic Priority 10 may assist in the development of indicators. Planned actions from the Programme for Government include, for example:
- deliver 8,000 social and affordable homes (DSD);
  - introduce initiatives to reduce fuel poverty;
  - publish and implement a Childcare Strategy;
  - deferment of additional water charges;
  - establish an advisory group to assist Ministers in alleviating hardship including any implications of the UK Government’s Welfare Reform Programme;
  - tackle rural poverty and social and economic isolation.
- 9.3 While some actions may have a role in supporting family life for people with disabilities through the prevention of poverty, the alignment between many of the planned actions and Strategic Priority 10 is weak, absent or not clear. Therefore, it would be difficult to provide indicators for implementation on the basis of the proposed actions.
- 9.4 The failure to identify indicators for Strategic Priority 10, is perhaps an indication that the aim of this priority is too broad and not sufficiently well-defined to allow for the allocation of indicators. However, when considered within the context of Article 23 with which the aim of this priority is aligned, indicators can be readily

defined and developed based on measures required to comply with the CRPD.

- 9.5 The focus of Article 23 on “*Respect for home and family life*” is on *effective* and appropriate measures to eliminate discrimination and support the rights of persons with disabilities to marry and found a family (Article 23 (1a)); measures to support access to reproductive and family planning information, education and services (Article 23 (1b)), and measures to prevent forced sterilization, particularly for women and girls (Article 23 (1c)). It also includes measures to ensure access to fertility services, adoption (etc) and fostering programmes (Article 23(2)); measures to provide support and assistance to persons with disabilities in their child-rearing responsibilities (Article 23(2)); measures to support parents to prevent concealment, abandonment or neglect of children with disabilities (Article 23(3)). It also states that there should be measures to ensure that no child be separated from their parents except where it is in the best interest of the child (Article 23(4)) and that children should be placed within the wider family or a family setting where immediate family care is not available (Article 23(5)). Indicators could, therefore, focus on developing and measuring progress in relation to support measures these areas.
- 9.6 In addition, the Concluding Observations of the UN Committee on the CRPD to-date<sup>126</sup> has indicated that State parties should provide support services to enable families that include at least one person with a disability to live together, adopt measures to encourage foster families, prohibit forced sterilization and abortion on women with disabilities and adopt measures that enable people with disabilities to marry and have a family. Many of these rights are currently addressed by legislation and/or policy in the

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<sup>126</sup> Cited in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B, (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

United Kingdom. However, indicators could, focus on measuring the implementation of these rights in practice.

- 9.7 Previous research<sup>127</sup> has identified issues relevant to Article 23 and Strategic Priority 10 concerning the access of women with disabilities to maternity services and the attitudes of health and social care staff towards the sexuality of disabled people, particularly those with learning disabilities. However, there is little information about the sexual health of people with disabilities in Northern Ireland<sup>128</sup>. In addition, recent research<sup>129</sup> has raised issues regarding the quality of provision of “family-friendly” and age-appropriate short-break respite care for children and young people and a lack of support services for ageing carers. Moreover, a need for sexuality and relationships education for children and young people with learning disabilities has been identified<sup>130</sup>, particularly for those in the transition to adulthood. Indicators could also be developed to measure how the Northern Ireland Executive is providing support to address these issues.
- 9.8 In order to comply with general obligations under Article 4(3), Preamble CRPD (n) and (o), and Article 7, indicators should also reflect the degree to which persons with disabilities, including children, are consulted with and actively involved in decision-making on matters which affect their home and family life. Furthermore, indicator data should be able to be disaggregated to meet the requirements of Article 31 on *Statistics and data collection* and Article 6 on *Women with disabilities* and 7 on *Children with disabilities*.

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<sup>127</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>128</sup> Ibid.

<sup>129</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>130</sup> Lundy, L., Byrne, B. and McKeown, P. (2012): Review of Transitions to Adult Services for Young People with Learning Disabilities (NICCY: Belfast).

9.9 To ensure that the indicators meets the aims of Strategic Priority 9 and can adequately assess the implementation of the UNCRPD it is recommended that the following indicators are included, for example:

Indicators for access to reproductive services

- percentage of family planning facilities and information which are accessible to people with different types of disabilities<sup>131</sup>
- number of effective programmes to raise awareness of family planning specifically with people with disabilities, including children and young people<sup>132</sup>
- percentage of children and young people with disabilities in special schools or special educational units within mainstream schools, who have received education on sexuality and sexual health<sup>133</sup>
- percentage of people with disabilities, including women, children and young people, who have accessed contraceptive services<sup>134</sup>
- percentage of people who have accessed sexual health services by disability status<sup>135</sup>

Indicators for access to maternity and IVF services

- percentage of people who have accessed IVF services by disability status<sup>136</sup>
- percentage of people who turned down for IVF services by disability status<sup>137</sup>

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<sup>131</sup> DHSSPS may be a potential source of information and/or data in this area.

<sup>132</sup> DHSSPS / DE may be a potential source of information and/or data in this area.

<sup>133</sup> DE may be a potential source of information and/or data in this area.

<sup>134</sup> DHSSPS may be a potential source of information and/or data in this area.

<sup>135</sup> DHSSPS may be a potential source of information and/or data in this area.

<sup>136</sup> Ibid.

<sup>137</sup> Ibid.

### Indicators for staff attitudes and training

- number of effective disability awareness training sessions for staff in maternity and reproductive services<sup>138</sup>;
- percentage of maternity and reproductive service staff holding negative attitudes towards the rights of people with disabilities to their sexuality and family life<sup>139</sup>;
- number of effective disability awareness training sessions covering sexuality and family life for staff in residential homes, institutions and sheltered housing schemes<sup>140</sup>;
- percentage of staff in residential homes, institutions, sheltered housing schemes holding negative attitudes towards the rights of people with disabilities to their sexuality and family life<sup>141</sup>.

### Indicators for sexuality in housing

- number of residential homes, institutions, sheltered housing schemes providing support for people with disabilities to maintain their sexuality and family life<sup>142</sup>.

### Indicators for access to fostering and adoption services

- number of programs to encourage adoption and fostering by people with disabilities<sup>143</sup>;
- percentage of people applying for fostering and/or adoption by disability status<sup>144</sup>;
- percentage of people turned down for fostering and/or adoption by disability status (including those with chronic health conditions)<sup>145</sup>.

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<sup>138</sup> DHSSPS / Health Trusts S75 and disability duties annual progress reports may be a potential source of information in this area.

<sup>139</sup> DHSSPS/ Health Trusts may be a potential source of information and/or data in this area.

<sup>140</sup> Ibid.

<sup>141</sup> Ibid.

<sup>142</sup> Ibid.

<sup>143</sup> DHSSPS/ Health Trusts may be a potential source of information and/or data in this area.

<sup>144</sup> Ibid.

### Indicators for access to support for child-rearing

- percentage of parents with disabilities and their families receiving information, assistance and support services to assist with child-rearing<sup>146</sup>;
- percentage of children with disabilities and their families able to access appropriate respite care and short breaks<sup>147</sup>;
- percentage of parents with disabilities and their families able to access appropriate respite care and short breaks<sup>148</sup>;
- percentage of people with disabilities and/or carers (including older carers) aware of the personal assistance and financial support (benefits) available for them to maintain home and family life<sup>149</sup>;
- percentage take-up of personal assistance and financial support to maintain home and family life, among people with disabilities and carers (including older carers) eligible for support<sup>150</sup>.

9.10 To comply with Article 31, Article 6 and Article 7 of the UNCRPD, data should be disaggregated, where appropriate, particularly with respect to sex and age<sup>151</sup>.

## **10 Theme – Transition from Childhood to Adulthood**

10.1 Strategic Priority 11 is aligned to the theme of *Transition from childhood to adulthood* in the Disability Strategy. No indicators have been identified for this theme.

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<sup>145</sup> Ibid.

<sup>146</sup> Ibid.

<sup>147</sup> Ibid.

<sup>148</sup> Ibid.

<sup>149</sup> DSD may be a potential source of information and/or data in this area.

<sup>150</sup> Ibid.

<sup>151</sup> DSD may be a potential source of information and/or data in this area.

## **Strategic Priority 11**

- 10.2 The aim of Strategic Priority 11 is to “transform the process of transition to adulthood for young people with disabilities”. No indicators have been identified for this priority.
- 10.3 A key issue with the aim of this priority is that it is not sufficiently well-defined to allow for the allocation of indicators. The aim of the priority does not clarify how the process of transition to adulthood should be transformed – which would give rise to actions and indicators to measure the implementation of those actions. In addition, the aim does not specify the need for a holistic transition to adulthood (e.g. integrated transitions for education, health and social care etc) as recommended by recent research<sup>152</sup> – which would provide a defined scope for the proposed indicators.
- 10.4 Previous research has stated that indicators should measure the effectiveness of implementation of actions as well as the outcomes. Therefore examination of actions aligned to Strategic Priority 10 may assist in the development of indicators. Planned actions from the Programme for Government include, for example:
- contribute to rising levels of employment by supporting the promotion of over 25,000 new jobs;
  - increase overall proportion of young people achieving GCSE’s A\*-C;
  - upskill working age population;
  - strategy to reduce economic inactivity through skills, training, incentives and job creation;
  - improve pathways to employment;
  - deliver measures to tackle poverty and social exclusion;

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<sup>152</sup> Kelly, B. (2013): Don’t Box Me In! Disability, Identity and Transitions to Young Adult Life (Barnardos: Belfast).

- use Social Protection Fund to help individuals and families facing hardship due to the economic downturn;
- support people (emphasis on young people) in to employment by providing skills and training.

10.5 While some actions may have a role in assisting young people with disabilities transitioning into adult life, the alignment between many of the planned actions and Strategic Priority 11 is weak, absent or not clear. Therefore, it would be difficult to provide indicators for implementation on the basis of the proposed actions.

10.6 However, recent research has identified issues with the process of transition that may be used to develop indicators to assess outcomes. For example, previous research<sup>153</sup> has identified a lack of holistic, person-centered and timely transition planning for young people and parallel planning for transitions in different spheres of life (e.g. education, health and social care) which causes a lot of anxiety for young people and their families. This would require better cross-working between Government departments (e.g. DHSSPS, DENI, DSD).

10.7 In addition, previous research has highlighted issues in transitioning to adult health services, particularly in relation to mental health and adult residential services. Moreover, there are issues with the transitions from school to further education, training and/or employment<sup>154</sup>. Young people with disabilities and their families felt that they weren't provided with sufficient information and support for the transition, and weren't afforded sufficient choice in terms of work placements, further education

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<sup>153</sup> E.g. Kelly, B. (2013): Don't Box Me In! Disability, Identity and Transitions to Young Adult Life. (Barnardos: Belfast) and Lundy, L., Byrne, B. and McKeown, P. (2012): Review of Transitions to Adult Services for Young People with Learning Disabilities (NICCY: Belfast).

<sup>154</sup> E.g. Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast) and Lundy, L., Byrne, B. and McKeown, P. (2012): Review of Transitions to Adult Services for Young People with Learning Disabilities. (NICCY: Belfast).

college courses and employment opportunities<sup>155</sup>. In addition, issues with the provision of age appropriate and flexible day services and short break services have been raised<sup>156</sup>.

- 10.8 A major concern is a lack of access to Transition Officers and support workers during the Transition period<sup>157</sup>. Young people with disabilities and their families also identified<sup>158</sup> the need for greater information and support in relation to claiming benefits and to connect to local community services including leisure opportunities. This may require opportunities for travel training and independent travel initiatives<sup>159</sup>. Given that the Children and Young People's Strategic Partnership<sup>160</sup> has already identified indicators covering transition to adulthood, these indicators could be used to measure progress in addressing these issues.
- 10.9 No particular UNCRPD article has been aligned to the aims of Strategic Priority 11, however, previous research<sup>161</sup> has aligned many UNCRPD Articles to the issues identified for the transition process to adulthood including: Article 7 on Children with disabilities; Article 9 on Accessibility; Article 19 on Independent living and being included in the community; Article 21 on Freedom of expression and opinion and access to information; Article 23 on Respect for home and family; Article 24 on Education; Article 25 on Health; Article 26 on Habilitation and rehabilitation; Article 27

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<sup>155</sup> E.g. Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast)

<sup>156</sup> E.g. Kelly, B. (2013): Don't Box Me In! Disability, Identity and Transitions to Young Adult Life. (Barnardos: Belfast) and Lundy, L., Byrne, B. and McKeown, P. (2012): Review of Transitions to Adult Services for Young People with Learning Disabilities (NICCY: Belfast).

<sup>157</sup> Lundy, L., Byrne, B. and McKeown, P. (2012): Review of Transitions to Adult Services for Young People with Learning Disabilities (NICCY: Belfast).

<sup>158</sup> E.g. Kelly, B. (2013): Don't Box Me In! Disability, Identity and Transitions to Young Adult Life. (Barnardos: Belfast) and Lundy, L., Byrne, B. and McKeown, P. (2012): Review of Transitions to Adult Services for Young People with Learning Disabilities (NICCY: Belfast).

<sup>159</sup> Lundy, L., Byrne, B. and McKeown, P. (2012): Review of Transitions to Adult Services for Young People with Learning Disabilities (NICCY: Belfast).

<sup>160</sup> Children and Young People Strategic Partnership (2011): Transition to Adulthood of Young People with Disabilities Draft Action Plan 2011-2014 (CYPSP: NI)

<sup>161</sup> Lundy, L., Byrne, B. and McKeown, P. (2012): Review of Transitions to Adult Services for Young People with Learning Disabilities (NICCY: Belfast).

on Work and employment; Article 28 on Adequate standard of living and social protection and Article 30 on Participation in cultural life, recreation, leisure and sport.

- 10.10 In addition, many Convention on the Rights of the Child (CRC) articles have been aligned to the issues identified with the transition process including Article 3 on the “*Best interest of the child*” and Article 12 on the “*Right of the child to be heard*”<sup>162</sup>. Given that both CRC and CRPD articles have been aligned to the issues identified above, any resulting actions and indicators developed should be aligned to these issues and the requirements of these Articles.
- 10.11 In order to comply with general obligations under Article 4(3), Preamble CRPD (n) and (o), and Article 7, indicators should also reflect the degree to which persons with disabilities, including children, are consulted with and actively involved in decision-making on matters which affect their home and family life. Furthermore, indicator data should be able to be disaggregated to meet the requirements of Article 31 on *Statistics and data collection* and Article 6 on *Women with disabilities* and 7 on *Children with disabilities*.
- 10.12 To ensure that the indicators meets the aims of Strategic Priority 11 and can adequately assess the implementation of the UNCRPD it is recommended that the following indicators (many of which are from CYPSP draft Action Plan) are included, for example:

Indicators for planning and supporting transition to adulthood

- percentage of young people with disabilities who receive an integrated plan<sup>163</sup>;

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<sup>162</sup> Lundy, L., Byrne, B. and McKeown, P. (2012): Review of Transitions to Adult Services for Young People with Learning Disabilities (NICCY: Belfast).

<sup>163</sup> CYPSP (2011): Transition to Adulthood of Young People with Disabilities Draft Action Plan 2011-2014 (CYPSP: NI).

- numbers of Transition Officers available for young people and their families<sup>164</sup>;
- percentage of young people with disabilities and their families reporting access to a Transition Officer / support worker<sup>165</sup>;
- percentage of young people with disabilities and their families who perceive they have been given sufficient holistic and personalised support for the transition process<sup>166</sup>;
- number of transition programmes involving cross-departmental working;
- effectiveness of transition programmes involving cross-departmental working;
- percentage of young people with disabilities reporting negative experiences with the transition process.

#### Indicators for achievement

- percentage of young people achieving 5 or more GCSE's A\*-C (including Maths and English) by disability and SEN status<sup>167</sup>;
- percentage of young achieving 2 or more A-levels A\*-E on leaving school by disability and SEN status<sup>168</sup>;
- percentage of young people with disabilities achieving no qualifications on leaving school by disability and SEN status<sup>169</sup>.

#### Indicators for transition from school to FE/HE, training or employment

- percentage of young people with disabilities moving from mainstream, mainstream special units and special schools into further and higher education<sup>170</sup>;

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<sup>164</sup> DHSSPS / Health Trusts may be a potential source of information and/or data in this area.

<sup>165</sup> Ibid.

<sup>166</sup> Ibid.

<sup>167</sup> Data available from DENI – School Leavers Survey.

<sup>168</sup> Ibid.

<sup>169</sup> Ibid.

- percentage of young people with disabilities moving from mainstream, mainstream special units and special schools into training<sup>171</sup>;
- percentage of young people with disabilities moving from mainstream, mainstream special units and special schools into employment – under 16 hours a week / over 16 hours a week<sup>172</sup>;
- percentage of young people with disabilities leaving further education / higher education into paid work – under 16 hours a week / over 16 hours a week<sup>173</sup>;
- percentage of young people with special educational needs and disability moving who transfer from mainstream education to special schools at aged 16 years<sup>174</sup>;
- number and percentage of young people identified as SLDD in mainstream and discreet provision in Further Education (FE) colleges<sup>175</sup>;
- percentage of young people with disabilities who perceive they have been given sufficient choice in subject and career choice at school and FE<sup>176</sup>;
- percentage of young people with disabilities who perceive they have been given sufficient choice in work placements and employment opportunities<sup>177</sup>.

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<sup>170</sup> CYPSP (2011): Transition to Adulthood of Young People with Disabilities Draft Action Plan 2011-2014 (CYPSP: NI).

<sup>171</sup> Ibid.

<sup>172</sup> Ibid.

<sup>173</sup> Ibid.

<sup>174</sup> Ibid.

<sup>175</sup> CYPSP (2011) Transition to Adulthood of Young People with Disabilities Draft Action Plan 2011-2014. (CYPSP: NI).

<sup>176</sup> DE / DEL may be a potential source of information and/or data in this area

<sup>177</sup> Ibid.

### Indicators for employment

- percentage of young people with disabilities in full-time paid employment (16+ hrs a week)<sup>178</sup>
- percentage of young people with disabilities in part-time paid employment<sup>179</sup>
- percentage of young people with disabilities who are not in education, employment or training<sup>180</sup>

### Indicators for transition to adult health services

- percentage of young people with disabilities who experience mental health difficulties who transition into adult mental health services (i.e. are assessed by / access adult mental health services)<sup>181</sup>
- percentage of young people with disabilities who experience mental health difficulties who report negative experiences with transition into adult mental health services
- percentage of young people with disabilities who using residential services who transition into adult residential services
- percentage of young people with disabilities and their families using residential services who report negative experiences with transition into adult residential services

### Indicators for transition to independent living

- percentage of young people with disabilities living in accessible out-of-home placements<sup>182</sup>
- percentage of young people with disabilities living in inappropriate accommodation<sup>183</sup>

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<sup>178</sup> CYPSP (2011): Transition to Adulthood of Young People with Disabilities Draft Action Plan 2011-2014 (CYPSP: NI).

<sup>179</sup> Ibid.

<sup>180</sup> Ibid.

<sup>181</sup> Ibid.

<sup>182</sup> CYPSP (2011): Transition to Adulthood of Young People with Disabilities Draft Action Plan 2011-2014 (CYPSP: NI).

- percentage of young people with disabilities living in homes not adapted for independent living<sup>184</sup>

#### Indicators for transition to community living

- percentage of young people with disabilities attending a range of activities and mainstream leisure and youth services<sup>185</sup>;
- percentage of children with disabilities and their families able to access age appropriate short breaks, if required<sup>186</sup>;
- percentage of children with disabilities and their families able to access age appropriate day care services, if required<sup>187</sup>;
- number and percentage of young people with disabilities who have received transport training and independent travel initiatives (if required).

#### Indicators for support in accessing benefits

- percentage of young people with disabilities who have received support in accessing benefits<sup>188</sup>;
- percentage of young people who access personalised individual budgets<sup>189</sup>;
- percentage of young people who access direct payments.<sup>190</sup>

10.13 To comply with Article 31, Article 6 and Article 7 of the UNCRPD, data should be disaggregated, where appropriate, particularly with respect to sex and age.

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<sup>183</sup> Ibid.

<sup>184</sup> Ibid.

<sup>185</sup> Ibid.

<sup>186</sup> DHSSPS / Health Trusts may be a potential source of information and/or data in this area.

<sup>187</sup> Ibid.

<sup>188</sup> DSD may be a potential source of information and/or data in this area.

<sup>189</sup> (CYPSP (2011): Transition to Adulthood of Young People with Disabilities Draft Action Plan 2011-2014 (CYPSP: NI).

<sup>190</sup> Ibid.

## **11 Strategic Priority 12**

- 11.1 The aim of Strategic Priority 5 is to “transform the process of transition from adulthood to later life for people with a disability”. No indicators have been identified for this priority.
- 11.2 A key issue with the aim of this priority is that it is not sufficiently well-defined to allow for the allocation of indicators. It is difficult to assess how the process of transition into later life should be transformed, given a lack of definition in the aim regarding what transition to later life involves and a lack of specificity in the proposed actions aligned to this aim. Planned actions from the Programme for Government include<sup>191</sup>, for example:
- deliver 8,000 social and affordable homes;
  - reduce fuel poverty;
  - improve pathways to employment, tackle systemic issues linked to deprivation and increase community services;
  - tackle poverty and social exclusion;
  - tackle crime against older and vulnerable people;
  - improve access to justice.
- 11.3 While, many of these proposed actions include reducing poverty, providing homes, fuel poverty and tackling crime - all of which may be generically relevant to the concerns of older people with disabilities – they are irrelevant to the transition process and do not specify how they will transform it. The lack of definition surrounding this priority makes the allocation of indicators to this aim, difficult if not impossible.

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<sup>191</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdfM: Stormont).

- 11.4 However, one proposed action in the Programme to Government<sup>192</sup>, “*to extend age discrimination legislation to goods, facilities and services*”, is key to transforming the transition process for older people with disabilities. The preamble to this Strategic Priority reported a reduction in or removal of services, particularly health and social care services for older people with disabilities<sup>193</sup> and barriers to older people with disabilities accessing other goods and services including appropriate housing services and adaptations<sup>194</sup> and financial services<sup>195</sup> on the grounds of their age. The transformation process should, therefore, focus primarily on removing barriers for people with disabilities in later life through the introduction of appropriate legislation.
- 11.5 The aims of Strategic Priority 12 have not been aligned to any specific UNCRPD article. However, given the issues raised in the preamble and the key associated action “*to extend age discrimination legislation to goods, facilities and services*”, Article 5 on “*Equality and non-discrimination*” is particularly relevant to transforming the transition process for older people with disabilities. Article 5 (1) states that “all persons are equal before and under the law<sup>196</sup>” and instructs State Parties in Article 5(2) to “prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds<sup>197</sup>”.

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<sup>192</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015, Appendix 1 (OFMdfM: Stormont).

<sup>193</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015, Appendix 1 (OFMdfM: Stormont). See also: ECNI (2012): Strengthening protection for all Ages - ending discrimination in the provision of goods, facilities and services, Proposals for Reform – Full Report (ECNI: Belfast).

<sup>194</sup> See ECNI (2012): ECNI (2012): Strengthening protection for all Ages - ending discrimination in the provision of goods, facilities and services, Proposals for Reform – Full Report (ECNI: Belfast). Belfast) and Wallace, A. (2015): Housing Inequalities in Northern Ireland. (not yet published – ECNI: Belfast).

<sup>195</sup> Fitzpatrick, B. and Kingston, I. (2008): Older People’s Access to Financial Services (ECNI: Belfast).

<sup>196</sup> Article 5 (1), United Nations Convention on the Rights of People with Disabilities.

<sup>197</sup> Article 5 (2), United Nations Convention on the Rights of People with Disabilities.

- 11.6 Article 5 prohibits discrimination against **all** persons with disabilities on **all** grounds and therefore emphasises that people with disabilities should not be discriminated against in accessing goods, facilities and services on the grounds of their age. In this respect, Article 5 is reinforced by the UN Principles for Older People which emphasises the requirement that “older people be treated fairly regardless of their **age**, gender, racial or ethnic backgrounds, **disability**, or other status”<sup>198</sup>. In effect, Article 5 indicates that there should be no or very little negative transition process for people with disabilities to later life, that is, older people with disabilities should have access to the same quality and quantity of services as younger people with disabilities.
- 11.7 To ensure full compliance with Article 5 and the UN principles for older people, the indicators for this strategic priority should focus on the proposed actions to transform the transition process through the introduction of legislation to protect older people (including older people with disabilities) against discrimination in accessing goods, facilities and services. This will also ensure that Northern Ireland age equality legislation complies with the requirements of the European Convention on Human Rights<sup>199</sup>, the anticipated requirements of the draft European Commission directive<sup>200</sup> and other EU law<sup>201</sup> and will ensure parity with equality law in Great Britain<sup>202</sup>.

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<sup>198</sup> United Nations Principles for Older People (1991) Number 18, 74<sup>th</sup> Plenary meeting of the United Nations General Assembly. Available at: <http://www.un.org/documents/ga/res/46/a46r091.htm>

<sup>199</sup> Allen, R. and Master, D. (2013): Opinion in the matter of children and young people and the proposed legislation in Northern Ireland to protect against age discrimination in the provision of goods, facilities and services (ECNI and NICCY: Belfast). N.B. the relevant EU legislation applies to older people as well as children and young people.

<sup>200</sup> ECNI (2012) Strengthening Protection for all Ages: Ending Discrimination in the provision of Goods and Services: Proposals for Reform – Full Report (ECNI: Belfast).

<sup>201</sup> Allen R and Master D (2013): Opinion in the matter of children and young people and the proposed legislation in Northern Ireland to protect against age discrimination in the provision of goods, facilities and services. ECNI and NICCY: Belfast. N.B. the relevant EU legislation applies to older people as well as children and young people.

<sup>202</sup> ECNI (2012): Strengthening protection for all Ages - ending discrimination in the provision of goods, facilities and services, Proposals for Reform – Full Report (ECNI: Belfast).

- 11.8 The actions and indicators of Strategic Priority 12 will also provide consistency, for the Northern Ireland Executive, with its statutory duty to promote equality of opportunity under Section 75 of the Northern Ireland Act 1998<sup>203</sup>. In addition it will ensure that an artificial and often negative<sup>204</sup> transition process is eliminated by ensuring that older people with disabilities are not discriminated against with respect to access to goods and services on the grounds of their age<sup>205</sup>.
- 11.9 It is recommended that the aim of this Strategic Priority is fully clarified and aligned to the relevant UNCRPD article. Actions to implement this Priority should also be further clarified with appropriate emphasis on the key action for the transition process, that is “*to extend age discrimination to goods, facilities and services*”, which will allow the development of appropriate and relevant indicators.
- 11.10 In order to comply with general obligations under Article 4(3), Preamble CRPD (n) and (o), and Article 6, indicators should also reflect the degree to which older persons with disabilities, including women, are consulted with and actively participate in the development of age legislation. Furthermore, indicator data should be able to be disaggregated to meet the requirements of Article 31 on *Statistics and data collection* and Article 6 on *Women with disabilities*.
- 11.11 To ensure that the indicators meets the aims of Strategic Priority 12 and can adequately assess the implementation of the UNCRPD it is recommended that the following indicators are included, for example:

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<sup>203</sup> Available at: <http://www.legislation.gov.uk/ukpga/1998/47/section/75>

<sup>204</sup> I.e. associated with a reduction and/or removal of services.

<sup>205</sup> ECNI (2012): Strengthening protection for all Ages - ending discrimination in the provision of goods, facilities and services, Proposals for Reform – Full Report (ECNI: Belfast).

Indicators on participation in the development of age legislation

- number of effective consultation events involving older people with disabilities on the development of age legislation<sup>206</sup>

Indicators on support for people with disabilities in later life

- percentage of older people with disabilities who have received support to access health and social care services accessible to older people<sup>207</sup>
- percentage of older people with disabilities who have received support to access financial services and benefits<sup>208</sup>
- percentage of older people with disabilities who have received support to access community and housing services, including adaptations<sup>209</sup>.

Indicators on perceived access to services

- percentage of older people with disabilities in transition who report decreased access to and/or removal of services<sup>210</sup>;
- percentage of older people with disabilities, and their representatives reporting negative experiences with accessing health and social care services<sup>211</sup>;
- percentage of older people with disabilities, and their representatives reporting negative experiences with accessing housing services, including adaptations<sup>212</sup>;

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<sup>206</sup> This information could be obtained from OFMdfM S75 / disability duties annual progress reports.

<sup>207</sup> DHSSPS may be a potential source of information and/or data in this area.

<sup>208</sup> DSD may be a potential source of information and/or data in this area.

<sup>209</sup> DSD, NIHE may be a potential source of information and/or data in this area.

<sup>210</sup> Complaints may be another indicator. DHSSPS / COPNI may be a potential source of information and/or data in this area.

<sup>211</sup> Ibid.

<sup>212</sup> Complaints may be another indicator. DSD/ NIHE / COPNI may be a potential source of information and/or data in this area.

- percentage of older people with disabilities, and their representatives reporting negative experiences with accessing financial services and/or benefits<sup>213</sup>.

## 12 Theme – Standard of Living

12.1 Strategic Priority 13 and 14 is aligned to the theme of *Standard of Living* in the Disability Strategy. Three indicators have been identified for Strategic Priority 13 and one indicator has been identified for Strategic priority 14.

### ***Strategic Priority 13***

12.2 The aim of Strategic priority 13 is to “reduce poverty among people with disabilities and their families and protect their right to an adequate standard of living”. Indicators developed for this priority are as follows:

- Percentage of children living in households below 60 percent median equivalised household income (before housing costs, BHC) by disability status
- Percentage of children living in households with incomes below 50 percent of median equivalised household income (BHC) by disability status
- Percentage of working-age adults living in households with incomes below 60 percent of median equivalised household income (BHC) by disability status.

12.3 The indicators, while relevant to the aim, are too narrow in scope to cover the breath of issues covered by Priority 13. The indicators provide a measure of household poverty but do not address issues of poverty and standard of living for individuals with disabilities, including measures of working poverty<sup>214</sup>. For example

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<sup>213</sup> Complaints may be another indicator. COPNI may be a potential source of information and/or data in this area.

<sup>214</sup> E.g. Heslop, P. (2013): Disabled people and their relationship with poverty, Poverty and social exclusion in the UK Working paper – Methods Series No. 23 (PSEUK: Bristol).

recent research has indicated a disability employment penalty, with people with disabilities more likely to be “lacking but wanting work” or low paid than those with similar qualifications but without disabilities<sup>215</sup>. Further, disabled people are over-represented in entry-level jobs and under-represented in higher level occupations which may leave more at risk of poverty<sup>216</sup>. Indicators should, therefore, reflect indices of working poverty such as employment rates, unemployment rates, hourly wage, and occupation.

- 12.4 In addition, the current indicators provide a measure of household income before housing costs (BHC), however this does not account for the impact of housing costs (AHC, which may be variable according to region and locality) on the amount of disposable income a person has to live<sup>217</sup> and does not offset an increase in housing benefits measured as income against a rise in rent that the housing benefit was meant to address<sup>218</sup>.
- 12.5 Further, it is not clear if the current indicators will account for the additional cost of living with a disability. This could be achieved by not including disability benefits received in recognition of these additional costs (e.g. DLA, AA) as income into the HBAI analysis<sup>219</sup> and estimating extra costs as a percentage of income<sup>220</sup>. Moreover, it has been suggested that indicators of poverty among people with disabilities should provide measures of material deprivation<sup>221</sup> and expenditure<sup>222</sup>. Previous research<sup>223</sup>

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<sup>215</sup> MacInnes, T., Tinson, A., Gaffney, D., Horgan, G. and Baumberg, B. (2014): Disability, long term conditions and poverty (JRF: York).

<sup>216</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>217</sup> DSD (2014): Households below Average Income 2012/13. Appendix 2: Methods (DSD: Belfast).

<sup>218</sup> See: <http://www.poverty.org.uk/summary/income%20intro.shtml>

<sup>219</sup> MacInnes, T., Aldridge, H., Bushe, S., Tinson, A. and Born, T.B. (2014): Monitoring poverty and social exclusion 2014 (JRF: York).

<sup>220</sup> MacInnes, T. and Tinson, A. (2014): Disability and long-term conditions and poverty (JRF: York).

<sup>221</sup> e.g. MacInnes, T., Aldridge, H., Bushe, S., Tinson, A. and Born, T.B. (2014): Monitoring poverty and social exclusion 2014 (JRF: York) and Heslop, P. (2013): Disabled people and their relationship with poverty. Poverty and social exclusion in the UK Working paper – Methods Series No. 23. (PSEUK: Bristol).

<sup>222</sup> Berthoud, R. and Zantomio, F. (2008): Measuring poverty: seven key issues (ISER: Essex).

has indicated that people with disabilities face extra expenditure such as having to pay for private transport due to the inaccessibility of public transport, having to pay for adaptations, disability aids or assistive technologies and/or social care support.

12.6 The Family Resources Survey is capable of providing measures for indicators of both material deprivation and households below average income (BHC and AHC) excluding income from disability benefits<sup>224</sup> while current Labour Market Statistics (e.g. Labour Force Survey) can provide measures of working poverty for disabled people<sup>225</sup>.

12.7 Indicators for a Disability Strategy should measure the effectiveness of implementation of actions as well as the outcomes. However, indicators for Strategic Priority 13 do not measure the implementation of planned actions and programmes<sup>226</sup>. Planned actions from the Programme for Government have been proposed, for example:

- deliver 8,000 social and affordable homes;
- improve thermal efficiency of housing stock;
- regeneration of deprived areas;
- publish and implement a Childcare Strategy;
- tackle poverty and social exclusion;
- help individuals and families facing hardship via the Social Protection Fund;
- reduce child poverty;

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<sup>223</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? ECNI: Belfast

<sup>224</sup> DSD (2014): Households below Average Income 2012/13 (DSD: Belfast).

<sup>225</sup> MacInnes, T., Tinson, A., Gaffney, D., Horgan, G. and Baumberg, B. (2014): Disability, long term conditions and poverty (JRF: York).

<sup>226</sup> OFMdfM (2014): Draft Annual Indicators for the Disability Strategy, Appendix 1 ( OFMdfM: Stormont)

- tackle rural poverty and social and economic isolation.
- 12.8 While many of these planned actions are focused on reducing poverty generally, actions to reduce poverty among people with disabilities have not been specified. Therefore, it is unclear how these actions align to the indicators or the aims of Strategic Priority 13.
- 12.9 Strategic priority 13 and the theme –“*Standard of living*” aims to align itself to Article 28 of the UNCRPD on “*Adequate standard of living and social protection*”. The focus of Article 28 is on people with disabilities having a adequate standard of living for themselves and their families including adequate food, clothing and housing (Article 28 (1)) and the right to social protection without discrimination (Article 28 (2))<sup>227</sup>.
- 12.10 The indicators for Priority 13 do not adequately address the breadth of measures required to comply with the requirements of Article 28, given that the indicators do not measure the range of issues associated with disability poverty. Previous research has indicated that disability poverty is “not just about low income but relates to lack of opportunity and other barriers, and the additional costs associated with disability”<sup>228</sup>. As mentioned above, the current indicators do not account for the additional costs of disability<sup>229</sup> as required by Article 29(c) and do not measure other indices of poverty such as housing costs<sup>230</sup>, material deprivation,<sup>231</sup> expenditure<sup>232</sup> and working poverty<sup>233</sup>.

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<sup>227</sup> Article 28, United Nations Convention on the Rights of Persons with Disabilities

<sup>228</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>229</sup> MacInnes, T., Aldridge, H., Bushe, S., Tinson, A. and Born, T.B/ (2014): Monitoring poverty and social exclusion 2014 (JRF: York).

<sup>230</sup> See: <http://www.poverty.org.uk/summary/income%20intro.shtml>

<sup>231</sup> Heslop, P. (2013): Disabled people and their relationship with poverty. Poverty and social exclusion in the UK Working paper – Methods Series No. 23 (PSEUK: Bristol)

<sup>232</sup> Berthoud, R. and Zantomio, F. (2008): Measuring poverty: seven key issues (ISER: Essex).

<sup>233</sup> MacInnes, T., Tinson, A., Gaffney, D., Horgan, G. and Baumberg, B. (2014): Disability, long term conditions and poverty (JRF: York).

- 12.11 Previous research<sup>234</sup> has indicated that in order to fully measure disability poverty in compliance with Article 28, indicators must cover a range of areas including savings, employment rates, types of work, benefit take-up, accommodation, educational attainment, quality of life and access to services. In addition, indicators should incorporate a range of measures of disability poverty including “those of opportunity, expectation and aspiration that can stem from public attitudes towards disabled people”<sup>235</sup>.
- 12.12 According to Article 28 (2) people with disabilities have the right to social protection without discrimination. However concern has been raised<sup>236</sup> that proposed changes to the benefit system via welfare reform may have a retrogressive impact on people with disabilities in Northern Ireland in relation to Article 28(2). Research<sup>237</sup> suggests that some reforms, for example the bedroom tax and the criteria and assessments for the new Personal Independence Payments, are particularly concerning for people with disabilities. Given the concerns raised<sup>238</sup>, the current indicators should measure the impact of welfare reform changes on poverty among people with disabilities, to monitor for retrogressive changes in social protection with respect to Article 28.
- 12.13 In addition, the Department of Social Development has acknowledged the importance of a lack of awareness of entitlement to social protection in the form of benefits as a

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<sup>234</sup> Parckar, G. (2008): Disability Poverty in the UK (Leonard Cheshire: London).

<sup>235</sup> Ibid.

<sup>236</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B.(2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast) and ECNI (2011): Response to the Department for Social Development’s consultation on the Welfare Reform Bill (Northern Ireland) 2011 Equality Impact Assessment (ECNI: Belfast).

<sup>237</sup> e.g. Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B.(2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>238</sup> e.g. ECNI (2011): Response to the Department for Social Development’s consultation on the Welfare Reform Bill (Northern Ireland) 2011 Equality Impact Assessment (ECNI: Belfast).

contributing factor to poverty among people with disabilities<sup>239</sup>. Therefore, to comply with Article 28, indicators should also measure awareness of entitlement to the right to various forms of social protection.

- 12.14 Moreover, as stated in the preamble to Strategic Priority 13<sup>240</sup>, there is a particular focus in Article 28 (2b) on women and girls with disabilities and older persons with disabilities. While the current indicators provide measures of household child income poverty<sup>241</sup> it is not clear whether these measures of child poverty are measures of household income poverty in relation to children with disabilities. In addition, no similar indicator is provided for women and older people with disabilities.
- 12.15 In order to comply with general obligations under Article 4(3), Preamble CRPD (n) and (o), Article 6, Article 7, and the specific requirements of Article 28 (b) indicators should also reflect the degree to which persons with disabilities, including women, children, and older people are consulted with and actively involved in decision-making on social protection and poverty reduction programmes. Furthermore, indicator data should be able to be disaggregated to meet the requirements of Article 31 on *Statistics and data collection* and Article 6 on *Women with disabilities* and 7 on *Children with disabilities*.
- 12.16 To better ensure that the strategy meets the aims of Strategic Priority 13 and can adequately assess the implementation of the UNCRPD it is recommended that the following indicators are amended:

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<sup>239</sup> DSD (2012): Maximising Incomes and Outcomes: A plan for maximising the uptake of benefits (DSD: Belfast).

<sup>240</sup> OFMdFM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdFM: Stormont).

<sup>241</sup> Heslop, P. (2013): Disabled people and their relationship with poverty. Poverty and social exclusion in the UK Working paper – Methods Series No. 23 (PSEUK: Bristol).

- percentage of children living in households below 60 percent median equivalised household income (before housing costs, BHC and after housing costs, AHC), excluding benefits to cover the additional costs of disability, by disability status;
- percentage of children living in households with incomes below 50 percent of median equivalised household income (BHC and AHC), excluding benefits to cover the additional costs of disability, by disability status;
- percentage of working-age adults, men and women, living in households with incomes below 60 percent of median equivalised household income, (BHC and AHC), excluding benefits to cover the additional costs of disability, by disability status.

12.17 And the following indicators are recommended for example,

Indicators of income deprivation

- percentage of older people living in households below 60 percent median equivalised household income (before housing costs, BHC and after housing costs, AHC), excluding benefits to cover the additional costs of disability, by disability status<sup>242</sup>.

Indicators of expenditure deprivation / disability related costs

- percentage of people with disabilities living in households below 60 percent median equivalised household income (before housing costs, BHC and after housing costs, AHC), disaggregated by sex and age and adjusted to incorporate estimates of additional disability-related costs of living and disability-related expenditure<sup>243</sup>.

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<sup>242</sup> Family Resources Survey (FRS) may be a potential source of information and/or data in this area.

<sup>243</sup> Heslop, P. (2013): Disabled people and their relationship with poverty. Poverty and social exclusion in the UK Working paper – Methods Series No. 23 (PSEUK: Bristol).

### Indicators of material deprivation

- percentage of people with disabilities who<sup>244</sup>:
- could not afford to pay a utility bill on time;
- regularly went without meals;
- sought financial help from family and friends;
- could not afford to pay credit cards, store cards or other debts on time;
- percentage of people with disabilities who have no savings<sup>245</sup>;
- median amount held in savings by people with disabilities;
- median amount of debt owed by households by disability; status<sup>246</sup>;
- percentage of individuals including women and children with bank accounts by disability status.

### Indicators of employment deprivation

- percentage of the working age population by disability status, who are<sup>247</sup>:
- in full-time paid employment (16+ hrs a week);
- in part-time paid employment by disability status;
- who are not in education, employment or training;
- who lack work but are actively seeking work;
- who lack work but want to work (economically inactive);
- who are not in work and not looking for work (economically inactive);

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<sup>244</sup> Ibid.

<sup>245</sup> Ibid.

<sup>246</sup> FRS may be a potential source of information and/or data in this area.

<sup>247</sup> Information available from the Labour Force Survey.

- employment rate of people with disabilities, by disability type<sup>248</sup>
- median and average gross hourly basic pay by disability status<sup>249</sup>
- percentage of the working age population in social occupational classification (SOC) category 1-3<sup>250</sup>, by disability status<sup>251</sup>
- percentage of the working age population in social occupational classification (SOC) category 8-9<sup>252</sup>, by disability status<sup>253</sup>

Indicators of income from benefits

- estimates of take-up for disability-related benefits<sup>254</sup>
- percentage of the population in receipt of disability benefits<sup>255</sup>
- percentage of people with disabilities aware of their entitlement to disability benefits<sup>256</sup>
- percentage of people with disabilities who express:
  - overall satisfaction with the benefits system,
  - some degree of decision-making over how their benefits are managed
  - a discrepancy between benefit income and outgoings,
  - satisfaction with the effectiveness of return to work support

12.18 To comply with Article 31, Article 6 and Article 7 of the UNCRPD, data should be disaggregated, where appropriate, particularly with respect to sex and age.

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<sup>248</sup> The Labour Force Survey (LFS) may be a potential source of information and/or data in this area.

<sup>249</sup> The Annual Survey of Hours and Earnings may be a potential source of information and/or data in this area.

<sup>250</sup> Based on SOC 2010.

<sup>251</sup> The Labour Force Survey (LFS) may be a potential source of information and/or data in this area.

<sup>252</sup> Based on SOC 2010.

<sup>253</sup> The Labour Force Survey (LFS) may be a potential source of information and/or data in this area.

<sup>254</sup> DSD may be a potential source of information and/or data in this area.

<sup>255</sup> Ibid.

<sup>256</sup> Ibid.

## 13 Strategic Priority 14

- 13.1 The aim of Strategic priority 14 is to “ensure that people with disabilities and their families have appropriate accommodation and adequate support to live independently”. One indicator has been developed for this priority as follows:
- percentage of households living in non-decent accommodation by disability status.
- 13.2 The indicator, while relevant to the aim, is too narrow in scope to cover the breadth of issues covered by Strategic Priority 14. The indicator provide a measure of how many people with disabilities and their families live in non-decent accommodation but it does not provide a measure of the appropriateness of accommodation in terms of availability of adaptation, fuel poverty, fuel efficiency and the adequacy of support to live independently. For example recent research<sup>257</sup> has identified concerns regarding inadequate access to occupational therapists and affordable adaptations to homes to allow appropriate accommodation and independent living, particularly for people with disabilities in private housing. Further, NISALD data<sup>258</sup> identified that among those individuals with disabilities who did not have adaptations 18% said that they needed them. Lack of access to appropriate and affordable adaptations results in some people with disabilities having to stay in the family home, unable to access independent living<sup>259</sup> and is associated with a greatly increased risk of accidents and hospitalisation<sup>260</sup>.
- 13.3 Moreover, for many people with disabilities there is often a lack of support for independent living. Recent research<sup>261</sup> has identified that people with learning disabilities who have been resettled from long-term institutions often end up in similar types of institutional

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<sup>257</sup> Wallace, A. (2015): Housing Inequalities in Northern Ireland. (not yet published – ECNI: Belfast)

<sup>258</sup> OFMdFM (2013)

<sup>259</sup> Wallace, A. (2015): Housing Inequalities in Northern Ireland. (not yet published – ECNI: Belfast)

<sup>260</sup> Ibid.

<sup>261</sup> Ibid.

residential care or live at home with elderly parents due to a lack of funding and structure to support independent living. Concerns have also been raised about the quality and standards of domiciliary care<sup>262</sup> necessary to support independent living in the community. There is a perception amongst older people with disabilities<sup>263</sup> that only “high level” care needs are met, particularly within domiciliary care and other needs necessary for independent living (e.g. help with housework, cooking, shopping) are not met. In addition, previous research<sup>264</sup> has indicated that insufficient support is provided to address other aspects of support necessary for independent living such as access to transport, access to community facilities and social inclusion.

13.4 The indicators focus on households and therefore do not measure the appropriateness of accommodation for people with disabilities living in residential, nursing or institutional care. For example, previous research<sup>265</sup> has raised significant human rights concerns regarding the standard and quality of nursing home care in relation to quality of life, personal care, eating and drinking, medication and health care and the use of restraint. In addition, concerns have been raised about lack of access to rehabilitation programmes, inadequate resources, social exclusion and bullying among prisoners with learning disabilities<sup>266</sup>.

13.5 Indicators for a disability strategy should measure the effectiveness of implementation of actions as well as the outcomes. However, indicators for Strategic Priority 14 do not measure the implementation of planned actions and

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<sup>262</sup> Patient and Client Council (2012): Care at Home: Older people’s experience of domiciliary care (PCC: Belfast).

<sup>263</sup> Commissioner for Older People NI (2013): Response submitted by the Commissioner for Older People in Northern Ireland to the DHSSPS Consultation on ‘Who Cares? – The Future of Adult Social Care and Support in Northern Ireland’ (COPNI: Belfast).

<sup>264</sup> Wallace, A. (2015): Housing Inequalities in Northern Ireland (not yet published – ECNI: Belfast).

<sup>265</sup> Northern Ireland Human Rights Commission (2012): In Defence of Dignity: The human rights of older people in nursing home (NIHRC: Belfast).

<sup>266</sup> Talbot, J. (2008): No One Knows: The views of prison staff in Northern Ireland (Prison Reform Trust: Belfast).

programmes<sup>267</sup>. Planned actions from the Programme for Government have been proposed, for example:

- increase the overall proportion of young people who achieve at least 5 GCSE's at A\*-C;
- ensure availability of pre-school education;
- deliver 8,000 social and affordable homes;
- reduce fuel poverty;
- improve thermal efficiency of housing stock;
- publish and implement a Childcare Strategy;
- tackle poverty and social exclusion;
- help individuals and families facing hardship via the Social Protection Fund;
- reduce child poverty;
- tackle rural poverty and social and economic isolation.

13.6 While many of these planned actions are focused on reducing poverty and raising standards of education generally, the relevance of these actions to ensuring appropriate accommodation has not been specified or is not clear. Therefore, the alignment between many of the planned actions and the aims of Strategic Priority 14 is weak, absent or not clear. It would, therefore, be difficult to propose indicators for implementation on the basis of these planned actions.

13.7 Strategic priority 14 and the theme –“*Standard of living*” aims to align itself to Article 28 of the UNCRPD on “*Adequate standard of living and social protection*”. The focus of Article 28 is on the right of people with disabilities to have an adequate standard of living

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<sup>267</sup>OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015, Appendix 1 (OFMdfM: Stormont).

for themselves and their families including adequate food, clothing and housing (Article 28 (1)) and the right to social protection without discrimination (Article 28 (2))<sup>268</sup> including the right to assistance with disability-related expenses (Article 28 (2c)) and the right to public housing programmes (Article 28 (2d)).

- 13.8 The indicators for Strategic Priority 14 do not adequately address the breadth of measures required to comply with the requirements of Article 28, given that the indicator does not measure the range of issues associated with the provision of social protection and public housing. The indicators do not address Article 28(1) and (2d) on access to housing without discrimination. However, available evidence indicates<sup>269</sup> that between 2004-2009 waiting for housing among wheelchair users notably exceeded the median wait of seven months for all general housing.
- 13.9 Further, the lack of available data on NIHE waiting list and allocations data for applicants with disabilities<sup>270</sup> does not comply with Article 28 as well as Article 31 on “*Statistics and Data Collection*” in that data is not available to “help assess the implementation of States Parties’ obligations under the present Convention<sup>271</sup>”
- 13.10 Moreover, the indicators do not address the availability of affordable adaptations to meet the requirements of Article 28 (2d) which states that States Parties’ “ensure access to appropriate and affordable services, devices and other assistance for disability-related needs”.
- 13.11 In addition, indicators to address the availability of affordable adaptations are necessary to meet the requirements of Article 20(b) on “*Personal mobility*” which requires States parties’ to “facilitate access by persons with disabilities to quality mobility

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<sup>268</sup> Article 28, United Nations Convention on the Rights of Persons with Disabilities.

<sup>269</sup> NI Housing Executive, 2011.

<sup>270</sup> Wallace, A. (2015): Housing Inequalities in Northern Ireland. (not yet published – ECNI: Belfast).

<sup>271</sup> Article 31 (2), United Nations Convention on the Rights of Persons with Disabilities.

aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at an affordable cost<sup>272</sup>". Indicators should, therefore, be developed to measure the provision and affordability of adaptations.

- 13.12 The indicators also do not provide a measure of the provision of adequate support to live independently, which is a key aim of Strategic Priority 14 and is aligned with Article 19 on "*Living independently and being included in the community*" which indicates that "persons with disabilities should have access to a range of in-home, residential and other community support services" to support independent living and prevent social isolation<sup>273</sup>. Given the issues identified with domiciliary care and social isolation and the requirements of Article 19, indicators should address the quality, type and standard of community care and community infrastructure provided to people with disabilities.
- 13.13 To meet the requirements of Article 28(1) in relation to adequate food, clothing and housing indicators for adequate accommodation should provide a measure of the experiences of people with disabilities in residential, housing and other institutions. This is crucial given issues identified in relation to the provision of adequate resources, personal care and undignified treatment<sup>274</sup>.
- 13.14 Some of the issues raised<sup>275</sup> regarding personal care have been serious enough to be considered a breach of fundamental human rights including Article 7 of the International Covenant on Civil and Political Rights<sup>276</sup> on the right not to be subjected to cruel,

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<sup>272</sup> Article 20(b), United Nations Convention on the Rights of People with Disabilities.

<sup>273</sup> Article 19 (b), United Nations Convention on the Rights of People with Disabilities.

<sup>274</sup> E.g. NI Human Rights Commission (2012): *In Defence of Dignity: The human rights of older people in nursing homes* (NIHRC: Belfast) and Talbot, J. (2008): *No One Knows: The views of prison staff in Northern Ireland* (Prison Reform Trust: Belfast).

<sup>275</sup> E.g. incidences of malnutrition, dehydration, lack of privacy and dignity, lack of stimulation, inappropriate used of sedation among other matters. See NIHRC (2012): *In Defence of Dignity: The human rights of older people in nursing homes* (NIHRC: Belfast)

<sup>276</sup> Article 7, International Covenant on Civil and Political Rights.

inhuman or degrading treatment and Article 15 of the UNCRPD on “*Freedom from torture or cruel, inhuman or degrading treatment or punishment*”<sup>277</sup> and Article 16 “*Freedom from exploitation, violence and abuse*”<sup>278</sup>. Indicators should, therefore, be developed to enable the Northern Ireland Executive to monitor aspects of personal care and support provided by care homes and institutions in order to ensure compliance with fundamental international human rights obligations.

13.15 In order to comply with general obligations under Article 4(3), Preamble CRPD (n) and (o), Article 6, Article 7, and the specific requirements of Article 28 (b) indicators should also reflect the degree to which persons with disabilities, including women, children, and older people are consulted with and actively involved in decision-making on access to adequate accommodation and independent living. Furthermore, indicator data should be able to be disaggregated to meet the requirements of Article 31 on *Statistics and data collection* and Article 6 on *Women with disabilities* and 7 on *Children with disabilities*.

13.16 To better ensure that the strategy meets the aims of Strategic Priority 14 and can adequately assess the implementation of the UNCRPD following additional indicators are recommended, for example:

Indicators for residence<sup>279</sup>

- percentage of people in social rented, private rented, supported housing and privately owned accommodation, by disability status.
- median waiting time for applicants with disabilities for social housing

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<sup>277</sup> Article 15, United Nations Convention on the Rights of People with Disabilities.

<sup>278</sup> Article 16, United Nations Convention on the Rights of People with Disabilities.

<sup>279</sup> DSD, NIHE, DHSSPS may be a potential source of information and /or data for this area.

- percentage of people of disabilities in residential institutions (capable of living in the community with support) who have been successfully resettled in the community in the last 12 months
- median waiting time for resettlement of people of disabilities in residential institutions into the community
- median waiting time for people with disabilities for supported housing schemes

Indicators for adequacy of housing<sup>280</sup>

- percentage of people with disabilities, including children and older people, in social rented, private rented, supported housing and privately owned accommodation:
  - who have adaptations to their home;
  - who are waiting for adaptations to be made to their home;
  - who do not have but require adaptations to their home;
  - median waiting time for adaptations to social rented, private rented, supported housing and privately owned accommodation<sup>281</sup>;
  - number of housing-related occupational therapists per person with disability in Northern Ireland<sup>282</sup>.
  - percentage of people with disabilities living in households in fuel poverty<sup>283</sup>
  - percentage of thermally efficient homes in Northern Ireland by disability status<sup>284</sup>

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<sup>280</sup> Ibid.

<sup>281</sup> DSD, NIHE, DHSSPS may be a potential source of information and /or data for this area.

<sup>282</sup> DHSSPS may be a potential source of information and /or data for this area.

<sup>283</sup> Family Resources Survey may be a potential source of information and /or data for this area.

<sup>284</sup> Ibid.

- percentage of people with disabilities living in households who cannot afford home repairs<sup>285</sup>.

#### Indicators of support for independent living and community living

- percentage of people with disabilities, including children and older people, receiving community support services (community care, meals on wheels or equivalent, home helps, warden services) in their own homes or supported housing<sup>286</sup>.
- number of community daycare and other facilities available to reduce social isolation among people with disabilities and/or promote inclusion in the community;<sup>287</sup>
- percentage of people with disabilities using community daycare and other community facilities<sup>288</sup>.
- percentage of people with disabilities who experience difficulties in accessing community facilities due to a lack of accessible public and private transport.

#### Indicators for adequacy of accommodation for those in residential / care institutions

- percentage of people with disabilities, by impairment in<sup>289</sup>:
  - residential accommodation;
  - nursing homes;
  - long-term hospital care;
  - prisons;
  - refugee and asylum seeker accommodation;

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<sup>285</sup> Ibid.

<sup>286</sup> DHSSPS may be a potential source of information and /or data for this area.

<sup>287</sup> DHSSPS may be a potential source of information and /or data for this area.

<sup>288</sup> Ibid.

<sup>289</sup> DHSSPS may be a potential source of information and /or data for this area.

- Percentage of people with disabilities in residential / care institutions who report negative experiences regarding:
  - access to facilities;
  - access to educational / social activities and stimulation;
  - personal care (e.g. eating, drinking, clothing, bathing and toileting);
  - medication and health care;
  - use of restraint;
  - privacy and decision-making;
  - harassment and abuse.
- number of complaints made by people with disabilities and their representatives against residential / care institutions regarding<sup>290</sup>:
  - access to facilities;
  - access to educational / social activities and stimulation;
  - personal care (e.g. eating, drinking, clothing, bathing and toileting);
  - medication and health care;
  - use of restraint;
  - privacy and decision-making
  - harassment and abuse;
- number of complaints investigated and upheld against residential / care institutions regarding<sup>291</sup>:

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<sup>290</sup> RQIA, DHSSPS, COPNI may be a potential source of information and /or data for this area.

<sup>291</sup> RQIA, DHSSPS, COPNI may be a potential source of information and /or data for this area.

- access to facilities;
- access to educational / social activities and stimulation;
- personal care (e.g. eating, drinking, clothing, bathing and toileting);
- medication and health care;
- use of restraint;
- privacy and decision-making;
- harassment and abuse.

Indicators for staff attitudes in residential / care institutions<sup>292</sup>

- number of training sessions for staff in residential / care institutions on disability awareness and their obligations under UNCRPD;
- effectiveness of training sessions for staff in residential / care institutions on disability awareness and their obligations under UNCRPD;

13.17 To comply with Article 31, Article 6 and Article 7 of the UNCRPD, data should be disaggregated, where appropriate, particularly with respect to sex and age.

## **14 Theme – Employment and Employability**

14.1 Strategic priority 15 and 16 are aligned to the theme of “*Employment and Employability*” in the Disability Strategy. Eight indicators are associated with Strategic Priority 15 and six indicators are associated with Strategic Priority 16.

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<sup>292</sup> DHSSPS S75 / disability duties annual progress reports may be a potential source of information for this area.

## ***Strategic Priority 15***

14.2 The aim of Strategic Priority 15 is to “work towards increasing the number of people with disabilities entering all levels of employment and safeguard the rights of those disabled people already in work”. Eight indicators have been developed for this priority as follows:

- employment rate by disability status
- employment rate by main impairment
- economic inactivity rate by disability status
- percentage of individuals in high-level employment by disability status
- percentage of individuals who have never worked by disability status
- hourly wage rate by disability status
- educational qualifications (proportion with no qualifications and proportion with degree level qualifications) by disability status
- percentage of individuals not in work who want to work by disability status

14.3 The indicators, while relevant to the aim, are too narrow in scope to cover the breath of issues covered by Priority 15. Given that recent research<sup>293</sup> has identified an employment penalty for people with disabilities with equivalent qualifications to people without disabilities, indicators for employment and unemployment should contain a measure of equivalisation for qualifications to measure this penalty. Moreover, people with disabilities are more likely to be in low paid employment, therefore indicators should

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<sup>293</sup> MacInnes, T., Tinson, A., Gaffney, D., Horgan, G., Baumberg, B. (2013): Disability and Long-term Conditions and Poverty (JRF: York).

monitor the percentage of people in low-level as well as high-level employment.

- 14.4 In addition, given the many barriers to employment identified for people with disabilities<sup>294</sup>, including transport, lack of flexibility and lack of support, indicators should identify the effectiveness of measures of support provided and programmes undertaken to enable people with disabilities into employment.
- 14.5 People with disabilities are less likely to have qualifications than people without disabilities<sup>295</sup>. Therefore, indicators should also provide a measure of the effectiveness of actions undertaken to provide qualifications and training to people with disabilities both pre-employment and in the workplace.
- 14.6 Recent research<sup>296</sup> has identified employer attitudes to people with disabilities in relation to productivity and capability as a key issue in improving employment outcomes of workers with disabilities. Therefore, indicators should provide a measure of the effectiveness of actions undertaken by the Northern Ireland Executive to challenge employer attitudes and the effectiveness of support provided to employers to remove any element of risk or cost<sup>297</sup> in recruiting, retaining and / or making adjustments for a person with disabilities. This would assist in safeguarding the rights of people with disabilities as stated in the aim of the Priority<sup>298</sup>.
- 14.7 Another key issue in safeguarding the rights of people with disabilities in employment is protecting rights through legislative

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<sup>294</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>295</sup> Ibid.

<sup>296</sup> MacInnes, T., Tinson, A., Gaffney, D., Horgan, G., Baumberg, B. (2013): Disability and Long-term Conditions and Poverty (JRF: York) and Employment Research Institute (2015): Employment Inequalities in Northern Ireland (ECNI - not yet published).

<sup>297</sup> Employment Research Institute (2015): Employment Inequalities in Northern Ireland (ECNI - not yet published).

<sup>298</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015. OFMdfM: Stormont

means. The impact of the House of Lords' decision in June 2008 in the case of *Mayor and Burgesses of the London Borough of Lewisham v Malcolm (Malcolm)*<sup>299</sup> was to weaken the protection of people with disabilities against indirect disability discrimination and discrimination arising from disability<sup>300</sup> in Northern Ireland with respect to the Disability Discrimination Act 1995. While the introduction of the Equality Act 2010<sup>301</sup>, removed the impact of *Malcolm* and strengthened disability equality legislation in Great Britain no such amendment has been undertaken in Northern Ireland. The Commission has outlined the necessary changes to equality legislation required to harmonise, simplify and strengthen the legislation and maintain parity with legislation in Great Britain<sup>302</sup>. The indicators should, therefore, measure the effectiveness of actions undertaken to strengthen the protection equality legislation affords to people with disabilities in employment.

14.8 Indicators for a Disability Strategy should measure the effectiveness of implementation of actions as well as the outcomes. However, indicators for Strategic priority 15 do not measure the implementation of planned actions and programmes<sup>303</sup>. Planned actions from the Programme for Government have been proposed, for example:

- contribute to rising levels of employment by supporting the promotion of over 25,000 new jobs;
- upskill the working age population by delivering over 200,000 qualifications;

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<sup>299</sup> ECNI (2012): Strengthening Protection for Disabled People. Proposals for Reform – Full report (ECNI: Belfast).

<sup>300</sup> In employment and good, facilities and services.

<sup>301</sup> Ibid.

<sup>302</sup> ECNI (2012): Strengthening Protection for Disabled People. Proposals for Reform – Full report. ECNI: Belfast.

<sup>303</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015, Appendix 1 (OFMdfM: Stormont).

- strategy to reduce economic inactivity through skills, training, incentives and job creation;
- deliver 8,000 social and affordable homes;
- improve pathways to employment, tackle systemic issues linked to deprivation and increase community services;
- tackle poverty and social exclusion;
- support people into employment;
- no increases in student fees beyond rate of inflation;
- improve community safety by tackling anti-social behavior;
- promote sustainable modes of transport including implementation of Accessible Transport Strategy.

14.9 Many of these planned actions are focused on increasing employment and improving transport generally, which, while relevant to people with disabilities, are often not specific to people with disabilities. The actions do not provide specific measures to support people with disabilities in employment or measures to strengthen equality legislation to better protect people with disabilities in employment. Therefore, the alignment between many of the planned actions and the aims and indicators of Strategic Priority 15 is not fully specified or weak.

14.10 Strategic Priority 15 and the theme *Employment and Employability* aims to align itself to Article 27 of the UNCRPD on “*Work and employment*”. The focus of Article 27 is on the right of people of disabilities to work<sup>304</sup>. Work should be freely chosen or accepted in a labour market and the work environment should be open,

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<sup>304</sup> Article 27, United Nations Convention on the Rights of Persons with Disabilities.

inclusive and accessible to people with disabilities<sup>305</sup>. In addition, this right to work should be safeguarded via legislative means<sup>306</sup>.

- 14.11 The indicators for Priority 15 do not adequately address the breadth of measures required to comply with the requirements of Article 27. Article 27 prohibits discrimination on the basis of disability in all forms of recruitment and employment (Article 27 (1a)), in relation to terms and conditions, health and safety, equal pay, protection from harassment and redress of grievances (Article 27 (1b)) and in the provision of reasonable accommodation (Article 27 (1i)). The indicators provide measures relevant to the employment of people with disabilities and equal pay. However, they do not provide a measure of experiences of people with disabilities in the workplace including an estimate of the extent of discrimination and harassment against people with disabilities in recruitment and employment.
- 14.12 The indicators do not provide a measure of the effectiveness of disability equality law. Neither do they provide a measure of the effectiveness of actions required to strengthen disability equality legislation in Northern Ireland to comply with Article 27 (1). Such indicators would also promote compliance with Article 5(2) which “prohibits all discrimination on the basis of disability<sup>307</sup>” and obligations to protect the right to work under the Convention on Economic and Social Rights (ICESR)<sup>308</sup>.
- 14.13 Further, the indicators do not provide measures of awareness of the rights of people of disabilities in employment or estimates of the provision of reasonable accommodation to comply with Article 27 (1i). Such indicators would also promote compliance with Article 5(3) which requires States Parties’ to “take all appropriate steps to ensure reasonable accommodation is provided” and

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<sup>305</sup> Article 27 (1), United Nations Convention on the Rights of Persons with Disabilities.

<sup>306</sup> Ibid.

<sup>307</sup> Article 5 (2) United Nations Convention on the Rights of Persons with Disabilities.

<sup>308</sup> Committee on Economic, Social and Cultural Rights (2005) General Comment 18: ‘The right to work’ Paras 25-28.

Article 8 (1a) “to foster respect for the rights and dignity of persons with disabilities”.

14.14 The need for greater inclusion and awareness-raising and availability of reasonable adjustments has been raised in the UN Committee’s Concluding Observations to date<sup>309</sup>. The UN Committee on the CRPD recommends<sup>310</sup> that suitable measures for reasonable accommodation would include indicators of:

- the availability of technical and financial assistance for the provision of reasonable accommodation<sup>311</sup>.
- Flexibility including ensuring various forms of work, such as work on location, telecommuting (off-site/at home) and subcontracting, and work opportunities offered by new communication technologies

14.15 Article 27 (1d) requires States Parties’ to enable effective access for people with disabilities to general, technical and vocational guidance programmes, placement services and vocational and continuing training, to promote the acquisition of experiences in the labour market in Article 27(1j) and promote vocational and professional rehabilitation and return-to-work programmes in Article 27(1k). The need for general, technical and vocational guidance programmes has also been raised in the UN Committee’s Concluding Observations to date<sup>312</sup>. The indicators for Priority 15, therefore, do not comply with the requirements of Article 27 as they do not provide any measures on further education, training and placement services.

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<sup>309</sup> UN Committee’s Concluding Observation to date considered in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>310</sup> Guidelines on treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the CRPD cited in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>311</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>312</sup> Guidelines on treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the CRPD in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

14.16 The development of indicators to meet the requirements of Article 27 should also fulfil the obligations of Article 6 (2) of the ICESR in that technical and vocational guidance and training programmes should reflect the needs of all persons with disabilities, take place in integrated settings, and be planned and implemented with the full involvement of representatives of persons with disabilities<sup>313</sup>. The UN Committee on the CRPD recommends<sup>314</sup> that appropriate measures would include:

- measures of the accessibility of open employment and vocational training services, including for self employment;
- measures taken for the retention and retraining of workers who suffer a workplace injury resulting in a disability preventing them from performing their previous tasks;
- measures taken to ensure students with disabilities the same access to the general labour market.

14.17 In addition, research has identified issues with accessibility to work placements<sup>315</sup> and a lack of choice for many people with learning disabilities in further education, training, work placements and employment<sup>316</sup>. Given that Article 27 emphasises the importance of choice and the role of work placements in accessing the labour market, relevant indicators should provide a measure of the number and accessibility of work placements and the level of choice that people of disabilities have regarding training and employment.

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<sup>313</sup> Committee on Economic, Social and Cultural Rights (1995) Para 24 cited in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>314</sup> Guidelines on treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the CRPD in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>315</sup> Employment Research Institute (2015): Employment Inequalities in Northern Ireland (ECNI - not yet published).

<sup>316</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

14.18 Article 27 requires States parties to support and provide assistance for people in “finding, obtaining, maintaining and returning to employment”<sup>317</sup>, promote self-employment<sup>318</sup> and promote the use of policies and programmes including affirmative action, incentives and other measures to promote the employment of people with disabilities in the private sector<sup>319</sup>. The indicators for Strategic Priority 15 do not contain measures relevant to the provision of support to people with disabilities in employment and therefore do not meet the requirements of Article 27. The UN Committee on the CRPD recommends<sup>320</sup> that suitable measures for the provision of employment support would include:

- the impact of targeted employment programmes and policies in place to achieve full and productive employment among persons with disabilities;
- measures taken to ensure persons with disabilities who have technical and vocational skills are empowered with the support needed for their entry and re-entry to the labour market;
- the impact of measures to facilitate re-employment of persons with disabilities, who are made redundant in public and private enterprises;
- effective affirmative action measures for the employment of persons with disabilities;
- the availability of technical and financial assistance for the provision of reasonable accommodation including the promotion of the establishment of cooperatives and start ups in order to encourage entrepreneurialism.

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<sup>317</sup> Article 27 (1e), United Nations Convention on the Rights of Persons with Disabilities

<sup>318</sup> Article 27 (1f), United Nations Convention on the Rights of Persons with Disabilities

<sup>319</sup> Article 27 (1h), United Nations Convention on the Rights of Persons with Disabilities

<sup>320</sup> Guidelines on treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the CRPD cited in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

- 14.19 The indicators and aims of Strategic Priority 15 do not measure the ability of people of disabilities to access their labour and trade union rights and therefore do not comply with the requirements of Article 27 (c) on labour and trade union rights. The UN Committee on the CRPD recommends<sup>321</sup> that suitable measures for the provision of employment support would include measures taken for the promotion of the trade union rights of persons with disabilities.
- 14.20 In addition, both the UN Committee in its Guidelines<sup>322</sup> and in its Concluding Observations to date<sup>323</sup> has emphasised the need for greater data collection on employment to assess the employment status and outcomes for people with disabilities. Many of the indicators provided are relevant in that they provide information on the most vulnerable groups among people with disabilities in employment through disaggregation by impairment<sup>324</sup>. However, the indicators do not provide information on the implementation of policies and programmes to assist these groups as indicated by the guidelines<sup>325</sup>.
- 14.21 The UN Committee has also commented<sup>326</sup> on the need for greater data collection with respect to the participation of people with disabilities in the informal economy, measures to enable them to move out of the informal economy and access to basic services and social protection with respect to Article 27. However, indicators for Priority 15 do not provide information on the informal economy or access to social protection. Previous research has

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<sup>321</sup> Ibid.

<sup>322</sup> Guidelines on treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the CRPD in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>323</sup> UN Committee's Concluding Observation to date cited in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>324</sup> OFMdfM (2014): Draft Annual Indicators for the Disability Strategy (OFMdfM: Stormont).

<sup>325</sup> Guidelines on treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the CRPD in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>326</sup> Ibid.

identified issues regarding the participation of people with disabilities as volunteers and carers<sup>327</sup> and has raised concern regarding the impact of employment on access to benefits<sup>328</sup>. Given these concerns the current indicators should provide information on the role of people with disabilities in the informal economy and the impact of moving into employment on access to benefits.

- 14.22 In addition, the UN Committee on the CRPD has emphasised the need to collect data on the employment of women with disabilities and programmes to promote their advancement in employment<sup>329</sup>. The promotion of employment among women with disabilities has also been a key concern in Concluding Observations to date<sup>330</sup>. However, the current indicators do not seem to disaggregate employment data by sex.
- 14.23 The UN Committee on the CRPD recommends<sup>331</sup> that suitable measures would include the provision of information on existing differences in employment between men and women with disability and whether there are policies and legislation to cater for these differences in order to promote the advancement of women with disabilities. Indicators to meet these requirements would promote compliance with Article 31 “*Statistics and data collection*” and Article 6 “*Women with disabilities*” of the UNCRPD wherein data should be disaggregated as appropriate and with respect to women with disabilities. In addition given the emphasis in Article

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<sup>327</sup> MacInnes, T., Tinson, A., Gaffney, D., Horgan, G. and Baumberg, B. (2014): Disability, long term conditions and poverty (JRF: York).

<sup>328</sup> Ibid.

<sup>329</sup> Guidelines on treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the CRPD in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>330</sup> UN Committee’s Concluding Observation to date cited in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>331</sup> Guidelines on treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the CRPD in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

27 on the public and private sector<sup>332</sup>, data should be disaggregated by sector where appropriate.

14.24 In order to comply with general obligations under Article 4(3), Preamble CRPD (n) and (o), Article 6 and the requirements of Article 27 indicators should also reflect the degree to which persons with disabilities, including women, are consulted with and actively involved in the development of employment policies and programmes which assist people with disabilities in obtaining, maintaining and retaining employment.

14.25 To better ensure that the strategy meets the aims of Strategic Priority 14 and can adequately assess the implementation of the UNCRPD following additional indicators are amended, for example:

- employment rate for men and women by disability status
- employment rate for men and women by main impairment
- economic inactivity rate for men and women by disability status
- percentage of the working age population, men and women, in social occupational classification (SOC) category 1-3<sup>333</sup>, by disability status
- percentage of individuals who have never worked by disability status
- median and average gross hourly basic pay by disability status
- educational qualifications (proportion with no qualifications and proportion with degree level qualifications) by disability status
- percentage of individuals not in work who want to work by disability status

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<sup>332</sup> Article 27 (1g and h).

<sup>333</sup> Based on SOC 2010.

14.26 And the following additional recommendations are recommended, for example:

Indicators of employment in the formal economy

- percentage of the working age population by disability status, who are<sup>334</sup>:
- in full-time paid employment (16+ hrs a week);
- in part-time paid employment by disability status;
- who are not in education, employment or training;
- who lack work but are actively seeking work;
- who are not in work and not looking for work (economically inactive);
- percentage of the working age population in social occupational classification (SOC) category 8-9<sup>335</sup>, by disability status;
- percentage of the working age population by disability status, equivalised by level of qualification, who<sup>336</sup>:
- are in full-time paid employment (16+ hrs a week);
- are in part-time paid employment by disability status;
- are not in education, employment or training;
- lack work but are actively seeking work;
- are not in work but would like to work (economically inactive);
- are not in work and not looking for work (economically inactive);
- are in social occupational classification (SOC) category 1-3<sup>337</sup>;

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<sup>334</sup> The Labour Force Survey may be a potential source of information and/or data in this area.

<sup>335</sup> Based on SOC 2010.

<sup>336</sup> The Labour Force Survey may be a potential source of information and/or data in this area.

<sup>337</sup> Based on SOC 2010.

- are in social occupational classification (SOC) category 8-9<sup>338</sup>;
- percentage of people in employment who are members of a labour or trade union by disability status and sex.

#### Indicators of employment in the informal economy

- percentage of the working age population working in the informal economy (e.g. volunteering, caring etc) by disability status
- percentage of people with disabilities in the informal economy who are not in work but would like to work in the formal economy

#### Indicators of the provision of support programmes for employment

- percentage of the working age population, by sex and disability status in<sup>339</sup>:
  - further education;
  - employment programmes;
  - training;
  - apprenticeships;
- percentage of people of disabilities who are satisfied with the effectiveness of their education / training in gaining employment;
- percentage of people with disabilities who felt they had a good level of choice in selecting their education / training course and career;

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<sup>338</sup> Based on SOC 2010.

<sup>339</sup> DEL may be a potential source of information and/or data in this area.

- percentage of people with disabilities who have accessed a work placement to assist in moving into employment, by impairment<sup>340</sup>;
- estimates of the number of public and private sector organisations offering work placements for people with disabilities<sup>341</sup>;
- percentage of people with disabilities who have not been able to access a work placement to assist in moving into employment, by impairment type;
- percentage of people with disabilities who have accessed disability-specific employment or employment rehabilitation programmes<sup>342</sup>;
- effectiveness of support programmes in assisting people with disabilities to obtain, maintain and retain employment<sup>343</sup>;
- effectiveness of support programmes in assisting people with disabilities who have been made redundant to retrain and obtain employment<sup>344</sup>;
- effectiveness of support programmes in assisting students with disabilities in further education and higher education to obtain, maintain and retain employment<sup>345</sup>;
- percentage of people who report satisfaction with the outcomes of disability-specific employment programmes<sup>346</sup>;
- number of consultations carried out with people with disabilities and their representatives on the effectiveness and development of employment support programmes<sup>347</sup>.

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<sup>340</sup> DEL / DE may be a potential source of information and/or data in this area.

<sup>341</sup> Ibid.

<sup>342</sup> DEL may be a potential source of information and/or data in this area.

<sup>343</sup> Ibid.

<sup>344</sup> DEL may be a potential source of information and/or data in this area.

<sup>345</sup> Ibid.

<sup>346</sup> Ibid.

### Indicators for the provision of reasonable adjustments and affirmative action

- percentage of people with disabilities who have accessed reasonable adjustments in the workplace;
- percentage of people with disabilities who access flexible working arrangements;
- percentage of people with disabilities aware of their entitlement to employment support and reasonable adjustments;
- percentage of employers aware of support programmes and resourcing for reasonable adjustments available for employees with disabilities, by sector and size of organisation<sup>348</sup>;
- percentage of employers who have implemented affirmative action programmes for people with disabilities by sector and size of organisation<sup>349</sup>.

### Indicators for attitudes and awareness-raising

- percentage of public and private sector employers expressing negative attitudes towards the productivity and capability of people with disabilities, by impairment;
- number of training sessions provided to public and private employers on disability awareness to challenge negative stereotypes<sup>350</sup>;
- effectiveness of training provided to public and private employers on disability awareness to challenge negative stereotypes<sup>351</sup>;

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<sup>347</sup> DEL S75 annual progress reports may provide a potential source of information in this area.

<sup>348</sup> DEL may be a potential source of information and/or data in this area.

<sup>349</sup> ECNI may be a potential source of information and/or data in this area.

<sup>350</sup> ECNI may be a potential source of information and/or data in this area.

<sup>351</sup> Ibid.

- number of training sessions provided to public and private employers on the employment rights of people with disabilities covering equality and human rights legislation<sup>352</sup>;
- effectiveness of training provided to public and private employers on the employment rights of people with disabilities covering equality and human rights legislation<sup>353</sup>;
- take-up of training on disability awareness / rights by private and public sector employers<sup>354</sup>;
- percentage of people of disabilities aware of their rights in employment;
- percentage of the working age population working in the public and private sector who have received training on disability awareness and disability rights;
- number of complaints of discrimination made by people with disabilities in the area of employment;
- percentage of people with disabilities who have experienced discrimination in employment in the last 12 months (whether reported or not reported)<sup>355</sup>.

#### Indicators for Strengthening Disability Legislation

- effectiveness of disability equality legislation in Northern Ireland in protecting people with disabilities from discrimination<sup>356</sup>;
- number of Commission recommendations that have been implemented in the last 12 months to improve effectiveness of

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<sup>352</sup> Ibid.

<sup>353</sup> Ibid.

<sup>354</sup> Ibid.

<sup>355</sup> ECNI (Equality Awareness Survey /Enquiries) and NILT may be potential sources of information and/or data in this area.

<sup>356</sup> ECNI/OFMdFM may be a potential sources of information and/or data in this area.

disability equality legislation in Northern Ireland in protecting people with disabilities from discrimination<sup>357</sup>;

- number of measures taken to strengthen disability equality legislation in Northern Ireland<sup>358</sup>;
- number of consultations with people with disabilities on the effectiveness of disability equality legislation in Northern Ireland in protecting people with disabilities from discrimination<sup>359</sup>.

## **15 Strategic Priority 16**

15.1 The aim of Strategic Priority 16 is to “increase the opportunities for people with disabilities to attain skills and qualifications through access to appropriate training and lifelong learning opportunities”. Six indicators have been developed for this priority as follows:

- percentage of half days missed due to unauthorised absence from school by Special Educational Needs (SEN) status
- percentage of school leavers achieving at least 5 GCSEs at grades A\*-C by SEN status
- disability status of 16 year old post primary and special school pupils
- percentage of full-time first degree qualifiers attaining a first or upper-second degree by disability status
- percentage of students who do not continue in Higher Education after their first year by disability status.

15.2 The indicators are too narrow to measure the breadth of issues covered by the aim of Strategic priority 16. The indicators provide measures of attendance and attainment at school, however, they do not provide measures of access to pre-school provision, support provided by the school or the level of choice and control

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<sup>357</sup> Ibid.

<sup>358</sup> Ibid.

<sup>359</sup> OFMdFM may be a potential source of information and/or data in this area.

each pupil has regarding the progression of their educational and career path.

- 15.3 For example, access to appropriate nursery or pre-school provision has been shown to be important for a child's intellectual and social development and subsequent attainment<sup>360</sup>.
- 15.4 Further, previous research has expressed concern at the support provided to children with Special Educational Needs (SEN) in mainstream settings<sup>361</sup>. For example, research has highlighted delays between SEN diagnosis and subsequent access to equipment and services necessary for learning<sup>362</sup>. The indicators, therefore, not provide a measure of waiting time in the assessment and statementing process for SEN which has been identified as an issue that can impact on a child's access to education<sup>363</sup>.
- 15.5 Moreover, concerns has been expressed<sup>364</sup> regarding the level of subject choice for students with disabilities, the lack of availability of options after school and the lack of progression after further education.
- 15.6 In addition, while the indicators for priority 16 use SEN as a proxy for disability in schools it should be noted that not all children with disabilities have a SEN statement and not all children with a SEN statement have a disability<sup>365</sup>. Recent research<sup>366</sup>, has expressed

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<sup>360</sup> E.g. EPPNI (2006): Effective Pre-school Provision in Northern Ireland (EPPNI); EPPNI (2010): Effective Pre-school Provision in Northern Ireland (EPPNI) (DENI: Bangor); and Preschool experience and Key Stage 2 performance in English and Maths (DENI: Bangor).

<sup>361</sup> NICCY (2008): Children's Rights: rhetoric or Reality (Belfast: NICCY).

<sup>362</sup> Lundy, L., Emerson, L., Lloyd, K., Byrne, B. and Yohanis, J. (2013): Education Reform in Northern Ireland - A Human Rights Review (NIHRC / Centre for Children's Rights: Belfast).

<sup>363</sup> See Burns, S., Leitch, R. and Hughes, J. (2015): Education Inequalities in Northern Ireland (not yet published – ECNI: Belfast); and Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>364</sup> Lundy, L., Byrne, B. and McKeown, P. (2012): Review of Transitions to Adult Services for Young People with learning Disabilities (NICCY: Belfast).

<sup>365</sup> See Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

concern that children with disabilities who do not have a SEN statement may be in need of additional support to fulfil their full human potential, however, children who do not have a statement have fewer legal protections, with the provision of support and resources largely at the discretion of the school. The indicators, therefore, do not provide a measure of attainment for all children with disabilities.

- 15.7 While the indicators provide a measure of GCSE attainment they do not provide a measure of no qualifications which has been linked to disability-related poverty<sup>367</sup> and A-level attainment which is associated with entry into higher education. This is particularly concerning given that in 2012, people with a disability were over twice as likely to have no qualifications than people without a disability<sup>368</sup>, while people without a disability were more than three times more likely to have a higher qualifications than those without a disability<sup>369</sup>.
- 15.8 The indicators do not provide a measure of transitional planning which has been raised by previous research<sup>370</sup> as a key issue in relation to primary to post-primary transition and post-school transition.
- 15.9 In addition, the indicators provide no measure of attainment and progression from further education or access to work placements, volunteering, mentoring or community learning which are

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<sup>366</sup> Burns S, Leitch R and Hughes J (2015) Education Inequalities in Northern Ireland. (not yet published – ECNI: Belfast)

<sup>367</sup> See MacInnes T, Tinson A, Gaffney D, Horgan G and Baumberg B (2014). Disability, long term conditions and poverty (JRF: York).

<sup>368</sup> Burns S, Leitch R and Hughes J (2015) Education Inequalities in Northern Ireland. (not yet published – ECNI: Belfast)

<sup>369</sup> Ibid

<sup>370</sup> See Lundy L, Byrne B and McKeown P (2012) Review of Transitions to Adult Services for Young People with learning Disabilities. NICCY: Belfast; Burns S, Leitch R and Hughes J (2015) Education Inequalities in Northern Ireland. (not yet published – ECNI: Belfast); Harper C, McClenahan S, Byrne B and Russell H (2012) Disability Programmes and Policies: How does Northern Ireland measure up? ECNI: Belfast; and Byrne B, Harper CM, Irvine RS, Russell H and Fitzpatrick B (2014). UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD. ECNI: Belfast .

recognized in the preamble to priority 16<sup>371</sup> as important in developing the skills and confidence of people with disabilities to enter the workplace. Indicators should, therefore, cover all levels of attainment, alternative forms of learning and development and progression from education

15.10 Indicators for a Disability Strategy should measure the effectiveness of implementation of actions as well as the outcomes. However, indicators for Strategic Priority 16 do not measure the implementation of planned actions and programmes<sup>372</sup>. Planned actions from the Programme for Government have been proposed, for example:

- contribute to rising levels of employment by supporting the promotion of over 25,000 new jobs
- increase the proportion of young people achieving at least 5 GCSEs at A\*-C (including Maths and English)
- upskill the working age population by delivering over 200,000 qualifications
- strategy to reduce economic inactivity through skills, training, incentives and job creation
- improve pathways to employment, tackle systemic issues linked to deprivation and increase community services
- publish and implement a Childcare Strategy
- tackle poverty and social exclusion
- support people into employment
- reduce child poverty

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<sup>371</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdfM: Stormont).

<sup>372</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015, Appendix 1 (OFMdfM: Stormont).

- no increases in student fees beyond rate of inflation
  - establish an advisory group to alleviate hardship
  - tackle rural poverty and social and economic isolation in the next three years
- 15.11 Many of these planned actions are focused on broadly increasing attainment and tackling poverty, which, while relevant, are not specific to people with disabilities. However, the actions do not provide specific measures to support people with disabilities in education. Therefore, the alignment between many of the planned actions and the aims and indicators of Strategic Priority 16 is not fully specified or unclear.
- 15.12 Strategic priority 16 and the theme *Employment and Employability* aims to align itself to Article 24 of the UNCRPD on “*Education*”. The focus of Article 24 is on the right of people of disabilities to education. Education should be inclusive at all levels should ensure the full development of potential and dignity<sup>373</sup> including talents, creativity, personality, mental and physical abilities<sup>374</sup>. It should strengthen respect for human rights<sup>375</sup> and enable participation in society<sup>376</sup>.
- 15.13 Article 24 emphasises the right for persons with disabilities to an inclusive, quality and free primary and secondary education<sup>377</sup> with the provision of support<sup>378</sup> and reasonable accommodation<sup>379</sup>. It also states that persons with disabilities have the right to lifelong learning including the provision of alternative modes of

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<sup>373</sup> Article 24 (1a), United Nations Convention on the Rights of Persons with Disabilities.

<sup>374</sup> Article 24 (1b), United Nations Convention on the Rights of Persons with Disabilities.

<sup>375</sup> Article 24 (1a), United Nations Convention on the Rights of Persons with Disabilities.

<sup>376</sup> Article 24 (1c), United Nations Convention on the Rights of Persons with Disabilities.

<sup>377</sup> See Article 24 (2a and b). It should be noted that under the UK’s reservation under Article 24, the UK has submitted an interpretative declaration expressing a commitment to enable parents to access education for their children at mainstream and special schools. See <http://www.disabilityaction.org/centre-on-human-rights/human-rights-and-disability/reservations-to-the-convention/>

<sup>378</sup> See Article (2d and e), United Nations Convention on the Rights of Persons with Disabilities.

<sup>379</sup> Article 24 (2c), United Nations Convention on the Rights of Persons with Disabilities.

communication and languages<sup>380</sup> and access to tertiary education, vocational training, adult education and lifelong learning without discrimination<sup>381</sup>.

15.14 The indicators for Strategic Priority 16 do not cover the breadth of issues required to comply with the requirements of Article 24. Taking into consideration the UK interpretative declaration and reservation on Article 24<sup>382</sup> the indicators do not provide measures to ensure an inclusive education system. The UN Committee in its guidelines<sup>383</sup> has identified that such indicators may include

- Measures to ensure that every child with disabilities has access to early-stage education, and mandatory primary, secondary and higher education;
- Percentage of eligible boys and girls in nursery / pre-school education by disability status;
- Measures that ensure that schools and materials are accessible and that individualised reasonable accommodation and support required by persons with disabilities is provided to ensure effective education and full inclusion

15.15 Given that the indicators use SEN as a proxy for disability, they therefore do not provide a measure of the level of access that all children with disabilities have to an inclusive education as required by Article 24 (1) nor do they provide a measure of whether all children with disabilities are fulfilling their full human potential as required by Article 24 (1a and b). Moreover, while the indicators measure unauthorised absence from school they do not consider the impact of sickness absence or absence due to

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<sup>380</sup> Article 24 (3a-c) and (4), United Nations Convention on the Rights of Persons with Disabilities.

<sup>381</sup> Article 24 (5), United Nations Convention on the Rights of Persons with Disabilities.

<sup>382</sup> See: <http://www.disabilityaction.org/centre-on-human-rights/human-rights-and-disability/reservations-to-the-convention/>

<sup>383</sup> Guidelines on the treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the UNCRPD cited in Harper, C., McClenahan, S., Byrne, B, and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

medical appointments on the ability of children with disabilities to fulfil their potential<sup>384</sup>.

- 15.16 To comply with the requirements of Article 24 on inclusivity, the indicators should provide a measure of performance at all levels of the education system including access to early education and between special schools, special units and mainstream schools. Further, indicators should provide measures that span the breadth of potential indicating those most vulnerable to poverty due to poor attainment and those who have high levels of attainment. Indicators should also provide measures of the general accessibility of schools and further/higher education as required by Article 24 (4).
- 15.17 The indicators do not provide measures of individualised support or reasonable adjustments provided to enable people with disabilities to access equality of opportunity in education as required by Article 24 (2c-e). The indicators also do not provide measures in relation to assessment of need which is required to provide support to people with disabilities in education.
- 15.18 The UN Committee in its Concluding Observations to-date emphasised the need for the allocation of sufficient financial and human resources, and provision of training to enable inclusive education for people with disabilities. Therefore, in compliance with Article 24 (1a and 4), measures of funding allocation should be provided as well as measures of disability awareness training, educational techniques and rights-based training required for staff and teachers to assist people with disabilities to effectively access education. The UN Committee in its guidelines<sup>385</sup> has identified that indicators for support may include:

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<sup>384</sup> Burns, S., Leitch, R. and Hughes, J. (2015): Education Inequalities in Northern Ireland. (not yet published – ECNI: Belfast)

<sup>385</sup> Guidelines on the treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the UNCRPD cited in Harper, C., McClenahan, S., Byrne, B. and Russell, H (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

- Measures that ensure that schools and materials are accessible and that individualised reasonable accommodation and support required by persons with disabilities is provided to ensure effective education and full inclusion;
- Reasonable accommodation provisions and other measures to ensure access to lifelong learning education;
- Measures taken by the State to ensure early identification of persons with disabilities and their education needs.
- Measures to ensure an adequate training on disability to professionals in the education system, as well as measures to incorporate persons with disabilities in the education team;

15.19 The indicators do not provide a measure of support for and learning of alternative languages, modes and means of communication used by people with disabilities including Braille, sign language and other augmentative and alternative modes as required by Article 24 (3a-c). It also does not provide a measure of other skills development or mentoring.

15.20 To support the realisation of this right, Article 24 (4) states that States parties must employ teachers, including those with disabilities, qualified in sign language and Braille<sup>386</sup>. Moreover, teacher-training should include the “use of appropriate augmentative and alternative modes, means and formats of communication”<sup>387</sup>.

15.21 Therefore, indicators should provide a measure of the number of sign language / Braille teachers, the number of teachers with disabilities and the number of teachers trained in augmentative and alternative means of communication.

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<sup>386</sup> Article 24 (3), United Nations Convention on the Rights of Persons with Disabilities.

<sup>387</sup> Article 24 (4), United Nations Convention on the Rights of Persons with Disabilities.

15.22 The UN Committee in its guidelines<sup>388</sup> and Concluding Observations-to-date<sup>389</sup> has identified that indicators for language and mode of communication may include:

- availability of specific skills-training services for children, adults or teachers who so require in Braille, sign languages, augmentative and alternative communication, mobility and other areas;
- measures taken for the promotion of the linguistic identity of deaf persons;
- measures taken to ensure education is delivered in the most appropriate languages, modes, means of communication, and environments for the individual;
- training of teachers and all other educational staff to enable them to work in inclusive educational settings; and,
- the provision of quality teacher training to teachers with disabilities and teachers with sign language skills.

15.23 The indicators do not provide a broad enough measure of access to tertiary education and lifelong learning as required by Article 24 (5), in that access to further education and vocational training are not included as a measure. The UN Committee in its guidelines<sup>390</sup> has identified that such indicators may include:

- number and percentage of students with disabilities in tertiary education;

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<sup>388</sup> Guidelines on the treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the UNCRPD cited in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>389</sup> UN Concluding Observations to-date as cited in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>390</sup> Guidelines on the treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the UNCRPD cited in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

- number and percentage of students with disabilities by gender and fields of study; and,
- reasonable accommodation provisions and other measures to ensure access to lifelong learning education;

- 15.24 Finally, to comply with Article 5 “*Equality and non-discrimination*” indicators should be provided to measure the degree and impact of bullying on children with disabilities. The ECNI<sup>391</sup> has recommended that the Department for Education should take steps to ensure that positive attitudes are promoted towards people with disabilities (including disabled pupils) and to tackle bullying of children with disabilities, given the detrimental impact bullying can have on a child’s access to education. Moreover, indicators to measure awareness of the rights of children with disabilities within schools would further meet the requirements of Article 27 (1a) and Article 8 on “*Awareness-raising*”
- 15.25 In order to comply with general obligations under Article 4(3), Preamble CRPD (n) and (o), and Article 7, indicators should also reflect the degree to which persons with disabilities, including children, and their representatives are consulted with and actively involved in decision-making in educational policy and the day-to-day implementation of inclusive education models<sup>392</sup>.
- 15.26 This will ensure that educational policies and practices comply with Article 3 of the Convention on the Rights of the Child (CRC) and Article 7 “*Children with Disabilities*” of the UNCRPD in that educational policies meet the best interests of the child. In addition and in compliance with Article 7 of the UNCRPD, children

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<sup>391</sup> UN Concluding Observations to-date as discussed in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>392</sup> UN Concluding Observations to-date as discussed in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

with disabilities should be provided with the opportunity to express their views freely and that their views should be given due weight.

15.27 Indicator data should be able to be disaggregated by sex to meet the requirements of Article 31 on *Statistics and data collection* and Article 6 on *Women with disabilities*.

15.28 To better ensure that the strategy meets the aims of Strategic Priority 16 and can adequately assess the implementation of the UNCRPD the following indicators should be amended, for example:

- percentage of full and half days missed by males and females in mainstream, special schools and special units due to unauthorised absence from school by Special Educational Needs (SEN) and disability;
- percentage of school leavers, males and females, achieving at least 5 GCSES's at grades A\*-C (including Maths and English) by SEN and disability status in mainstream, special schools and special units;
- disability status of 16 year old post primary and special school pupils;
- percentage of full-time first degree qualifiers, male and female, attaining a first or upper second degree by disability status; and
- percentage of students who do not continue in Higher Education after their first year by disability status.

15.29 And the following indicators are recommended:

Indicators of Access

- percentage of children, male and female, attending nursery or pre-school by disability / SEN status<sup>393</sup>;

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<sup>393</sup> DE may be a potential source of information and/or data in this area.

- percentage of children, male and female, attending primary sector mainstream schools, special schools or special units by disability status<sup>394</sup>;
- percentage of children, male and female, attending post-primary sector mainstream schools, special schools or special units by disability status<sup>395</sup>;
- percentage of school leavers, male and female by disability / SEN status who go onto: <sup>396</sup>
  - higher education;
  - further education;
  - training;
  - employment;
  - unemployment;
  - work placement / volunteering.
- percentage of people, male and female, by disability status in.<sup>397</sup>
  - higher education;
  - further education;
  - training;
  - employment;
  - unemployment;
  - work placement / volunteering;

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<sup>394</sup> DE may be a potential source of information and/or data in this area.

<sup>395</sup> Ibid.

<sup>396</sup> Ibid.

<sup>397</sup> DEL may be a potential source of information and/or data in this area.

- percentage of graduates from higher education who progress to employment and/or further study by disability status<sup>398</sup>;
- percentage of graduates from further education who progress to employment and/or further study by disability status<sup>399</sup>;
- percentage of schools that are accessible to people with disabilities<sup>400</sup>;
- percentage of further and higher education colleges that are accessible to people with disabilities<sup>401</sup>;
- percentage of educational materials that are accessible to people with disabilities<sup>402</sup>.

#### Indicators of Attendance

- percentage of full and half days missed by males and females in mainstream, special schools and special units due to sickness absence from school by Special Educational Needs (SEN) and disability status<sup>403</sup>;
- percentage of full and half days missed by males and females in mainstream, special schools and special units due to medical appointments by Special Educational Needs (SEN) and disability status<sup>404</sup>;

#### Indicators of Attainment

- percentage of school leavers, males and females, with no qualifications by SEN and disability status in mainstream, special schools and special units<sup>405</sup>;

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<sup>398</sup> DEL may be a potential source of information and/or data in this area.

<sup>399</sup> Ibid.

<sup>400</sup> DE may be a potential source of information and/or data in this area.

<sup>401</sup> DEL may be a potential source of information and/or data in this area.

<sup>402</sup> DE / CCEA may be a potential source of information and/or data in this area.

<sup>403</sup> DE may be a potential source of information and/or data in this area.

<sup>404</sup> Ibid.

<sup>405</sup> Ibid.

- percentage of school leavers, males and females, who achieve 2 or more A-levels A\*-E by SEN and disability status<sup>406</sup>;
- percentage of males and females who complete an accredited further education course by disability status<sup>407</sup>;
- percentage of males and females who complete training or an apprenticeship by disability status<sup>408</sup>.

#### Indicators for Provision of Support

- percentage of people with disabilities who have a Coordinated Support Plan (CSP), in mainstream or special education<sup>409</sup>;
- percentage of people with disabilities who have a Personalised Learning Plan (PLP), in mainstream or special education<sup>410</sup>;
- percentage of children with disabilities who have accessed reasonable adjustments in mainstream or special education<sup>411</sup>;
- percentage of people with disabilities who have accessed reasonable adjustments in tertiary or adult education;
- percentage of people with disabilities, including children, who perceive they have been provided with sufficient individualised support to assist them in fulfilling their educational potential.

#### Indicators for transition from school to FE/HE, training or employment

- percentage of young people with disabilities moving from mainstream, mainstream special units and special schools into further and higher education<sup>412</sup>;

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Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>406</sup> DE may be a potential source of information and/or data in this area.

<sup>407</sup> DEL may be a potential source of information and/or data in this area.

<sup>408</sup> Ibid.

<sup>409</sup> DE may be a potential source of information and/or data in this area.

<sup>410</sup> Ibid.

<sup>411</sup> Ibid.

- percentage of young people with disabilities moving from mainstream, mainstream special units and special schools into training<sup>413</sup>;
- percentage of young people with disabilities moving from mainstream, mainstream special units and special schools into employment – under 16 hours a week / over 16 hours a week,<sup>414</sup>
- percentage of young people with disabilities leaving further education / higher education into paid work – under 16 hours a week / over 16 hours a week<sup>415</sup>;
- percentage of young people with special educational needs and disability moving who transfer from mainstream education to special schools at aged 16 years<sup>416</sup>;
- number and percentage of young people identified as SLDD in mainstream and discreet provision in Further Education (FE) colleges<sup>417</sup>.

Indicators for choice and control

- percentage of people with disabilities, including children, who perceive they have been given sufficient choice in subject and career choice at school and further / higher education
- percentage of people with disabilities, including children, who perceive they have been given sufficient choice in work placements and employment opportunities.

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<sup>412</sup> CYPSP (2011): Transition to Adulthood of Young People with Disabilities Draft Action Plan 2011-2014 (CYPSP: NI).

<sup>413</sup> CYPSP (2011): Transition to Adulthood of Young People with Disabilities Draft Action Plan 2011-2014 (CYPSP: NI).

<sup>414</sup> Ibid.

<sup>415</sup> Ibid.

<sup>416</sup> Ibid.

<sup>417</sup> Ibid.

- number of consultations with people with disabilities and their representatives, including children on educational policies and practices<sup>418</sup>.

#### Indicators for training

- percentage of teachers and staff within mainstream schools, special units and special schools who have received disability awareness training<sup>419</sup>;
- percentage of teachers and staff within mainstream schools, special units and special schools who have received disability rights-based training<sup>420</sup>;
- percentage of teachers and staff within further and higher education colleges who have received disability awareness training<sup>421</sup>;
- percentage of teachers and staff within further and higher education colleges who have received disability rights-based training<sup>422</sup>;
- percentage of children within mainstream schools, special units and special schools who have received disability awareness training<sup>423</sup>
- percentage of children within mainstream schools, special units and special schools who have received disability rights-based training<sup>424</sup>
- percentage of teachers with disabilities and teachers with sign language skills who have received quality teacher training<sup>425</sup>

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<sup>418</sup> DE S75/ disability duties annual progress reports may be a potential of information and/or data in this area.

<sup>419</sup> DE S75/ disability duties annual progress reports may be a potential of information and/or data in this area.

<sup>420</sup> Ibid.

<sup>421</sup> S75 annual progress reports of higher and further education colleges may be a source of information and/or data in this area.

<sup>422</sup> Ibid.

<sup>423</sup> DE may be a potential source of information and/or data in this area.

<sup>424</sup> Ibid.

Indicators for support for different modes of communication

- percentage of children within mainstream schools, special units and special schools by disability status who use:<sup>426</sup>
  - sign languages;
  - Braille;
  - other augmentative and alternative forms of communication;
- Percentage of children within mainstream schools, special units and special schools by disability status who have received training in<sup>427</sup>:
  - Braille;
  - sign languages;
  - other augmentative and alternative forms of communication;
- Percentage of adults with disabilities who have undertaken training in<sup>428</sup>:
  - Braille;
  - sign languages
  - other augmentative and alternative forms of communication
- number of sign language teachers per person who requires sign language provision<sup>429</sup>
- number of Braille teachers per person who requires Braille provision<sup>430</sup>

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<sup>425</sup> Ibid.

<sup>426</sup> DE may be a potential source of information and/or data in this area.

<sup>427</sup> Ibid.

<sup>428</sup> DE/DEL may be a potential source of information and/or data in this area.

<sup>429</sup> Ibid.

<sup>430</sup> Ibid.

### Indicators for attitudes

- percentage of children, male and female, who have experienced bullying or harassment at school by disability status<sup>431</sup>
- percentage of young people / adults, male and female, who have experienced bullying or harassment in further education / higher education by disability status<sup>432</sup>

15.30 To comply with Article 31, Article 6 and Article 7 of the UNCRPD, data should be disaggregated, where appropriate, particularly with respect to sex and age.

## **16 Theme – Justice and Community Safety**

16.1 Strategic Priority 17 is aligned to the theme of “*Justice and Community Safety*” in the Disability Strategy. Three indicators are associated with Strategic priority 17.

### ***Strategic Priority 17***

16.2 The aim of Strategic Priority 17 is to “ensure that people with disabilities are treated equally by the law, have access to justice and can live safely in their own community”. Three indicators have been developed for this priority as follows:

- percentage of adults who were victims of violent crime
- percentage of adults who state that “fear of crime” has a minimal effect on their quality of life
- number of hate crimes with a disability motivation

16.3 The indicators for Strategic Priority 17 are not sufficient to address the breadth of issues covered by the aim. The aim effectively covers three broad areas: legal capacity, ability to obtain justice and safety within the community. However the indicators partially

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<sup>431</sup> DE may be a potential source of information and/or data in this area.

<sup>432</sup> DEL may be a potential source of information and/or data in this area.

cover only one aspect of the aim, that is, safety within the community.

- 16.4 The indicators should provide measures of capacity and equal treatment before the law. The Northern Ireland Executive plans to introduce legislation<sup>433</sup> to address the absence of legal protection for mental capacity in Northern Ireland. This legislation will make an assumption of legal capacity which will provide increased protection for the dignity and autonomy of persons with disabilities than that available under the current Mental Health (NI) Order 1986 as well as providing broader powers relating to financial, health, welfare and criminal justice matters<sup>434</sup>.
- 16.5 The legislation proposes to provide support for exercising legal capacity<sup>435</sup>, however it will still have powers to appoint substitute decision-makers, that is, to provide Lasting Powers of Attorney (LPA – current equivalent Enduring Power of Attorney (EPA)) where a person is deemed to lack capacity despite support provided<sup>436</sup>. While this legislation has not yet been fully agreed or enacted, indicators could provide for both current and future means of assessing capacity, the provision of support to exercise capacity where this is required and measures undertaken to ensure the participation of people with disabilities in developing the legislation.
- 16.6 The indicators currently do not provide measures of the ability to obtain justice. Previous research has highlighted that the main barrier to people with disabilities bringing claims of discrimination or hate crime is high financial costs, the stress associated with bringing a claim and lack of awareness of rights<sup>437</sup>. Issues have also been raised regarding measures to support people with

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<sup>433</sup> DHSSPS (2014): Draft Mental Capacity Bill (DHSSPS: Belfast)

<sup>434</sup> Ibid.

<sup>435</sup> Ibid.

<sup>436</sup> Ibid.

<sup>437</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

disabilities as witnesses and the stereotyping of people with disabilities as court witnesses<sup>438</sup>. The Criminal Evidence (Northern Ireland) Order 1999 and, more recently, the Justice Act (Northern Ireland) 2011 and Victims and Witnesses Strategy makes provision for the examination of a vulnerable witness through an intermediary, while the Registered Intermediaries Schemes pilot<sup>439</sup> seeks to assist victims, witnesses, suspects and defendants with communication deficits to engage more effectively with the criminal justice system<sup>440</sup>. Indicators should, therefore, address the provision of support through these mechanisms, as well as any measures of training and disability awareness among staff in criminal justice agencies. In addition, the indicators should provide measures of awareness among people with disabilities of their rights and availability of support (financial and emotional) for taking a case.

- 16.7 While the indicators provide relevant measures of safety within the community, they do not provide measures of experiences of disability-related harassment, abuse and other hate-related incidents which can often go unreported<sup>441</sup>. In addition, lack of progress or communication on outcomes can impact on fear of crime<sup>442</sup>. Therefore, indicators should provide measures of outcomes and how these are communicated to people with disabilities within the local community. Indicators should also contain measures of awareness raising on crime-prevention with people with disabilities and measures to increase the reporting of hate crimes by people with disabilities.

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<sup>438</sup> Ibid.

<sup>439</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>440</sup> Ibid.

<sup>441</sup> Ibid.

<sup>442</sup> COPNI (2013: An analysis of clearance rates for crime against older people in Northern Ireland 2007/08 to 201/13.

16.8 Indicators for a Disability Strategy should measure the effectiveness of implementation of actions as well as the outcomes. However, indicators for Strategic priority 17 do not measure the implementation of planned actions and programmes<sup>443</sup>. Planned actions from the Programme for Government have been proposed, for example:

- Reduce the level of serious crime;
- Tackle crime against older and vulnerable people by more effective and appropriate sentences and other measures including through the Be Safe, Stay Safe project and Community Safety Strategy;
- Improve community safety by tackling anti-social behavior;
- Improve access to Justice through the Victims and Witnesses Strategy and Access to Justice Review; and,
- Safeguarding Outcomes for Children and Vulnerable Adults

16.9 Many of these planned actions are relevant to improving safety within the community and improving access to justice. However, actions related to equal treatment by the law are absent. In addition, where actions are relevant and aligned to the aims of the strategy, the associated indicators often do not provide a measure of the implementation of those measures. Therefore, the alignment between the indicators and many of the planned actions and aims of Strategic Priority 16 is absent, not fully specified or weak.

16.10 The aim of Strategic Priority 17 and the theme of “Justice and Community Safety” have been aligned to three Articles of the UNCRPD: Article 12 on “*Equal recognition before the law*”, Article

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<sup>443</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015, Appendix 1 (OFMdfM: Stormont).

13 on “*Access to justice*” and Article 16 on “*Freedom from exploitation, violence and abuse*”.

- 16.11 Article 12 is aligned to the aim of Priority 17 to ensure “that people with disabilities are treated equally by the law”. Article 12 states that people with disabilities have the right to recognition as persons before the law<sup>444</sup> and that people with disabilities should enjoy legal capacity on an equal basis with others<sup>445</sup>. It emphasises that States Parties’ should take all measures to support the exercise of legal capacity by people with disabilities<sup>446</sup> and these measures should respect the rights, will and preferences of people with disabilities and should contain safeguards against abuse<sup>447</sup>. In addition, States parties’ should take measures to ensure that people with disabilities have the right to own property and control their own financial affairs<sup>448</sup>.
- 16.12 The indicators for Priority 17 do not provide measures on equal recognition before the law and legal capacity, despite reference to the development of Mental Capacity legislation in the preamble to the Priority<sup>449</sup>. Given the anticipated introduction of Mental Capacity legislation, indicators should provide measures of the participation of people with disabilities in the development and implementation of the legislation, awareness of the legislation, the provision of support to exercise legal capacity in compliance with Article 12 (3 and 4). Indicators should also measure the impact of safeguards as required by Article 12 (4).
- 16.13 In addition, the indicators should provide measures of access to property rights and access to finance as required by Article 12 (5). It is anticipated that the development of indicators for Article 12 (5)

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<sup>444</sup> Article 12 (1), United Nations Convention on the Rights of Persons with Disabilities.

<sup>445</sup> Article 12 (2), United Nations Convention on the Rights of Persons with Disabilities.

<sup>446</sup> Article 12 (3), United Nations Convention on the Rights of Persons with Disabilities.

<sup>447</sup> Article 12 (4), United Nations Convention on the Rights of Persons with Disabilities.

<sup>448</sup> Article 12 (5), United Nations Convention on the Rights of Persons with Disabilities.

<sup>449</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdfM: Stormont).

should reflect those recommended by the current document on access to finance in relation to Strategic Priority 5.

- 16.14 In addition, the UN Committee in its guidelines<sup>450</sup> and the Concluding Observations of the UN Committee to date<sup>451</sup> have identified the need for measures of training and education campaigns to support the exercise of legal capacity and the supported decision-making model<sup>452</sup>.
- 16.15 The proposed Mental Capacity legislation does not currently contain proposals to extend legal capacity to those under 16 years. However to ensure compliance with cross-cutting Article 7 on “*Children with disabilities*”, indicators should provide measures of “disability and age-appropriate<sup>453</sup>” support provided to children to exercise their evolving capacity and enable their views to be given “due weight in accordance with their age and maturity<sup>454</sup>”. In addition, in compliance with Article 12 the UN Committee in its Concluding Observations to date has suggested that indicators should provide data and information on persons with disabilities declared legally incapable; including those currently undocumented<sup>455</sup>.
- 16.16 UNCRPD Article 13 on “*Access to Justice*” is aligned with the aim of Strategic Priority 17 to ensure that people with disabilities “have access to justice<sup>456</sup>”. Article 13 states that persons with disabilities

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<sup>450</sup> Guidelines on treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the CRPD, cited in Harper, C., McClenahan, S., Byrne, B., and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>451</sup> See Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast); and see Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>452</sup> Ibid.

<sup>453</sup> Article 7 (3), United Nations Convention on the Rights of Persons with Disabilities.

<sup>454</sup> Ibid.

<sup>455</sup> See Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>456</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015. OFMdfM: Stormont.

should have effective access to justice on an equal basis with others. States parties' must ensure the provision of support and adjustments to facilitate their effective role in all legal proceedings and all levels of the criminal justice system<sup>457</sup>. In addition, States Parties' should promote training for those working at all levels of the criminal justice system<sup>458</sup>.

16.17 The indicators do not provide measures on access to justice as required by Article 13. The indicators do not provide measures of the provision of support and resources to enable access to justice as required by Article 13 (1), despite legal provisions of support under the Criminal Evidence (NI) Order 1999 and Justice Act (NI) 2011. In addition, the indicators do not provide measures of disability awareness training and training in relation to the provision of disability-related support to staff working in the criminal justice system, including police and prison staff, as required by Article 13 (2). The UN Committee in its guidelines<sup>459</sup> and the Concluding Observations of the UN Committee to date<sup>460</sup> has recommended there should be measures of:

- training programmes for all people involved in the legal system including compulsory modules on working with people with disabilities;<sup>461</sup>
- provision of legal aid services and other forms of support<sup>462</sup>;

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<sup>457</sup> Article 13 (1), United Nations Convention on the Rights of Persons with Disabilities.

<sup>458</sup> Article 13 (2), United Nations Convention on the Rights of Persons with Disabilities.

<sup>459</sup> Guidelines on treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the CRPD, cited in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>460</sup> See Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

and see Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>461</sup> Ibid.

<sup>462</sup> Ibid.

- the availability of reasonable accommodations, including procedural accommodations to ensure effective participation of all persons with disabilities in the criminal justice system<sup>463</sup>; and,
- age-related accommodations to ensure effective participation of children and young persons with disabilities<sup>464</sup>.

- 16.18 The aim of Strategic Priority 17 to ensure people with disabilities “can live safely in their own community<sup>465</sup>” has been aligned to UNCRPD Article 16 on “*Freedom from exploitation, violence and abuse*”. Article 16 states that States Parties’ must take all measures to protect persons with disabilities from all forms of exploitation, violence and abuse, inside and outside the home. Article 16 places a particular emphasis on exploitation, violence and abuse against women and children.
- 16.19 The indicators for Strategic Priority 17, while relevant to Article 16 do not sufficiently measure the breadth of issues required to adequately comply with Article 16. While the indicators are relevant to experiences of violence and abuse outside the home, they do not provide a measure of abuse inside the home or other environments as required by Article 16 (1).
- 16.20 In addition, the indicators do not provide the capacity to measure education and support provided to people with disabilities, their families and caregivers (at home and in care settings) to prevent exploitation, violence and abuse as required by Article 16 (2). Further it does not provide measures for monitoring facilities and programmes involved in the care of people with disabilities to prevent exploitation, violence and abuse in compliance with Article 16 (3).

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<sup>463</sup> Ibid.

<sup>464</sup> Ibid.

<sup>465</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdfM: Stormont).

- 16.21 It also does not provide measures to promote the recovery and rehabilitation and social reintegration of persons with disabilities who are victims of exploitation, violence and abuse as required by Article 16 (5). In addition, it does not provide measures of outcomes, wherein, instances of exploitation, violence and abuse are identified, investigated and prosecuted to comply with Article 13 (5).
- 16.22 In addition, the UN Committee has made general comments in relation to Article 16 in its guidelines in which it emphasises the importance of measures to ensure the accessibility of all services and resources available to prevent and support victims of violence<sup>466</sup>. In consideration of the UN Committee's concluding observations to-date<sup>467</sup> indicators should include:
- the effectiveness of measures to prevent the exploitation of children with disabilities, including for begging and trafficking and programmes to promote reintegration into society;
  - data on violence and abuse against persons with disabilities, particularly women, children and those in care settings; and
  - the effectiveness of training provided to investigate violence against people with disabilities.
- 16.23 In order to comply with general obligations under Article 4(3), Preamble CRPD (n) and (o), Article 6, Article 7 and the specific requirements of Article 16, indicators should also reflect the degree to which persons with disabilities, including women and

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<sup>466</sup> Guidelines on treaty-specific document to be submitted by States Parties under Article 35, paragraph 1, of the CRPD, cited in Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): Disability Programmes and Policies: How does Northern Ireland measure up? (ECNI: Belfast).

<sup>467</sup> UN Committee Concluding Observation to-date as discussed in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

children and people in institutions are consulted with and actively involved in relation to exploitation, violence and abuse<sup>468</sup>.

16.24 Furthermore, given the emphasis on the particular needs of women and children indicator data should be able to be disaggregated by age and sex to meet the specific requirements of Article 16 and the more general requirements of Article 31 on “*Statistics and data collection*”, Article 6 on “*Women with disabilities*” and Article 7 on “*Children with disabilities*”.

16.25 To better ensure that the strategy meets the aims of Strategic Priority 17 and can adequately assess the implementation of the UNCRPD the following indicators should be amended, for example:

- percentage of people with disabilities, including women and children, who were victims of violent crime;
- percentage of people with disabilities, including women and children, who state that “fear of crime” has a minimal effect on their quality of life;
- number of hate crimes, disaggregated by sex and age, with a disability motivation.

16.26 And the following indicators are recommended:

### ***Equal treatment by the law***

#### Indicators for awareness of legislation

- number of consultations with people with disabilities on the Mental Capacity Bill<sup>469</sup>;

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<sup>468</sup> UN Committee Concluding Observation to-date as discussed in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>469</sup> DHSSPS may be a potential source of information and/or data in this area.

- effectiveness of participation of people with disabilities in the development and implementation of the Mental Capacity Bill<sup>470</sup>;
- awareness of people with disabilities and their caregivers of their rights under the Mental Capacity Bill (future measures)<sup>471</sup>;
- awareness of staff involved in the care and treatment of people with disabilities of the implications of the Mental Capacity Bill<sup>472</sup>;
- number of training sessions for staff involved in the care and treatment of people with disabilities (including intermediaries and independent Advocates) of the implications of the Mental Capacity Bill<sup>473</sup>;
- effectiveness of training sessions for staff involved in the care, treatment and support of people with disabilities (including intermediaries and independent Advocates) of the implications of the Mental Capacity Bill<sup>474</sup>;
- awareness of people with disabilities and their caregivers of the support provided to exercise legal capacity including the availability of intermediaries and independent Advocates<sup>475</sup>.

#### Indicators for provision of support

- number of Independent Advocates provided (future measure)<sup>476</sup>;
- percentage of people with disabilities, including women, supported by an intermediary and/or Independent Advocate (future measure);

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<sup>470</sup> Ibid.

<sup>471</sup> Ibid.

<sup>472</sup> DHSSPS may be a potential source of information and/or data in this area.

<sup>473</sup> Ibid.

<sup>474</sup> Ibid.

<sup>475</sup> Ibid.

<sup>476</sup> As the Mental Capacity legislation has not yet been finalised this should be treated as a future measure relevant to the enactment of the legislation.

- percentage of people with disabilities and their caregivers who perceive they have been given adequate support to exercise their capacity.

#### Indicators relating to lack of capacity

- percentage of people with disabilities, including women and children, with an EPA (future LPA)<sup>477</sup>;
- percentage of people with disabilities, including women and children, detained under the Mental Health (NI) Order 1986 / Mental capacity legislation<sup>478</sup>;
- number of complaints made, including those involving women and children, regarding breaches of the mental capacity legislation<sup>479</sup>.

### ***Access to Justice***

#### Indicators relating to training, awareness-raising and attitudes

- number of training sessions for people working in the criminal justice system on disability-awareness, challenging stereotypes and working with people with disabilities<sup>480</sup>;
- effectiveness of training sessions for people working in the criminal justice system on disability-awareness, challenging stereotypes and working with people with disabilities<sup>481</sup>;
- percentage of people with disabilities aware of their rights under equality and human rights legislation<sup>482</sup>;

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<sup>477</sup> DOJ may be a potential source of information and/or data in this area.

<sup>478</sup> DHSSPS / DOJ may be a potential source of information and/or data in this area.

<sup>479</sup> Ibid.

<sup>480</sup> DOJ S75 / disability duties annual progress reports may be a potential source of information and/or data in this area.

<sup>481</sup> Ibid.

<sup>482</sup> ECNI (EQAS) / NIHRC may be a potential source of information and/or data in this area.

- percentage of people with disabilities aware of the support available to them to pursue complaints under equality and human rights legislation<sup>483</sup>;
- percentage of people with disabilities aware of the support available to them to pursue complaints under the criminal justice system<sup>484</sup>.

Indicators relating to provision of support

- percentage of people who have sought advice from the Equality Commission, with regards to a complaint on the grounds of disability<sup>485</sup>;
- percentage of people that have accessed legal aid support for pursuing a case, by disability status<sup>486</sup>;
- percentage of people with disabilities who have applied to the Equality Commission for support to bring a case under equality or employment law<sup>487</sup>;
- percentage of people with disabilities who have accessed an intermediary or other forms of support under the Criminal Evidence (NI) Order 1999 or Justice Act (NI) 2011<sup>488</sup>;
- percentage of people with disabilities satisfied with the support provided to them when pursuing a complaint under equality or employment law<sup>489</sup>.
- percentage of people with disabilities satisfied with the support provided to them in the criminal justice system<sup>490</sup>.

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<sup>483</sup> Ibid.

<sup>484</sup> PSNI / DOJ may be a potential source of information and/or data in this area.

<sup>485</sup> ECNI may be a potential source of information and/or data in this area.

<sup>486</sup> DOJ may be a potential source of information and/or data in this area.

<sup>487</sup> ECNI may be a potential source of information and/or data in this area.

<sup>488</sup> DOJ may be a potential source of information and/or data in this area.

<sup>489</sup> ECNI may be a potential source of information and/or data in this area.

<sup>490</sup> DOJ may be a potential source of information and/or data in this area.

### Indicators relating to access to justice

- number of crimes / incidents pursued by the police / public prosecution service by disability status of the victim<sup>491</sup>;
- number of complaints pursued on the grounds of disability that have been brought to tribunal and/or county court<sup>492</sup>;
- outcome rate of violent crimes by disability status of the victim<sup>493</sup>.

### ***Living safely in the community***

#### Indicators relating to prevention of exploitation, violence and abuse

- number of disability-specific training sessions provided to professionals who investigate exploitation, violence and abuse within the criminal justice and social care regulatory systems<sup>494</sup>
- number of effective crime prevention sessions delivered to people with disabilities<sup>495</sup>;
- percentage of people with disabilities and their caregivers who have access to a social worker<sup>496</sup>;
- percentage of people with disabilities and their caregivers who have accessed respite care<sup>497</sup>.

#### Indicators relating to experiences of exploitation, violence and abuse

- percentage of people with disabilities who have experienced harassment and bullying on the street;

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<sup>491</sup> PSNI / PPS may be a potential source of information and/or data in this area.

<sup>492</sup> ECNI may be a potential source of information and/or data in this area.

<sup>493</sup> PSNI / DOJ may be a potential source of information and/or data in this area.

<sup>494</sup> DOJ / RQIA / DHSSPS / PSNI may be a potential source of information and/or data in this area.

<sup>495</sup> PSNI / DOJ may be a potential source of information and/or data in this area.

<sup>496</sup> DHSSPS may be a potential source of information and/or data in this area.

<sup>497</sup> Ibid

- percentage of children with disabilities who have experienced harassment and bullying in schools<sup>498</sup>;
- percentage of incidents of domestic violence that have involved people with disabilities, including women and children<sup>499</sup>;
- percentage of institutions that care for people with disabilities that have failed regulatory inspections<sup>500</sup>;
- percentage of complaints made by people with disabilities and their families regarding exploitation, violence and abuse within a care setting<sup>501</sup>.
- percentage of trafficked victims by disability status<sup>502</sup>.

Indicators relating to support regarding exploitation, violence and abuse

- percentage of people with disabilities and their caregivers who are satisfied with the support provided to them by their social worker<sup>503</sup>;
- number of effective recovery and rehabilitation programmes that are accessible to people with disabilities<sup>504</sup>;
- percentage of shelter's / safe houses accessible to people with disabilities, including women and children.

16.27 To comply with Article 31, Article 6 and Article 7 of the UNCRPD and to meet the specific focus of Article 16, data should be disaggregated, where appropriate, particularly with respect to sex and age.

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<sup>498</sup> DE may be a potential source of information and/or data in this area.

<sup>499</sup> PSNI / DOJ may be a potential source of information and/or data in this area

<sup>500</sup> DHSSPS / RQIA may be a potential source of information and/or data in this area.

<sup>501</sup> DHSSPS / RQIA may be a potential source of information and/or data in this area.

<sup>502</sup> PSNI may be a potential source of information and/or data in this area.

<sup>503</sup> DHSSPS may be a potential source of information and/or data in this area.

<sup>504</sup> Ibid.

## 17 Theme – Being Part of the Community

17.1 Strategic priority 18 is aligned to the theme of “*Being Part of the Community*” in the Disability Strategy. One indicator is associated with Strategic priority 18.

### **Strategic Priority 17**

17.2 The aim of Strategic Priority 18 is to “Improve access to sports, arts, leisure and other cultural activities so that people with a disability have equal access to community life”. One indicator has been developed for this priority as follows:

- percentage participating in cultural, leisure and sporting activities in the last 12 months by disability status.

17.3 The indicator for Strategic Priority 18, while relevant to the aim, is not sufficiently broad enough to cover the breadth of issues required. Recent research has highlighted that people with a disability are less likely to attend or participate in arts events than people without a disability<sup>505</sup> and issues have been raised regarding the experience of people with disabilities accessing leisure services in Belfast<sup>506</sup>. The Disability Strategy comments<sup>507</sup> that the PSI report had identified numerous barriers to participation in cultural life including costs, transport, physical accessibility, communication support and lack of staff training. Indicators should, therefore provide a measure of the success of initiatives to support people with disabilities to participate in cultural and leisure activities and in relation to physical

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<sup>505</sup> Department of Cultural, Arts and Leisure (2013): Sport Matters implementation Group progress Report (4) (October 2012- September 2013) (DCAL: Belfast) cited in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>506</sup> Disability Action (2013): The experiences of people with disabilities socialising in Belfast (Disability Action: Belfast) cited in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>507</sup> OFMdfM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdfM: Stormont).

accessibility. In addition, indicators should provide measures of training of staff and staff attitudes towards people with disabilities.

17.4 Indicators for a Disability Strategy should measure the effectiveness of implementation of actions as well as the outcomes. However, indicators for Strategic priority 18 do not measure the implementation of planned actions and programmes<sup>508</sup>. Planned actions from the Programme for Government have been proposed, for example:

- deliver 8,000 social and affordable homes;
- publish and implement a Childcare Strategy;
- no additional water charges;
- establish an Advisory Group to alleviate hardship;
- enrol people with chronic conditions in a chronic condition management programme;
- tackle obesity;
- invest in sustainable modes of transport;
- develop sports stadiums as agreed with the IFA, GAA and Ulster Rugby;
- social clauses in public procurement contracts.

17.5 These planned actions are not sufficiently aligned to the aim of improving access to sports, arts, leisure and other cultural facilities and are not relevant to the key aims of Strategic Priority 18. Therefore, the alignment between the indicators and many of the planned actions and aims of Strategic Priority 18 are absent, or unclear. It is difficult to assess how indicators for implementation could be drawn up on the basis of these actions.

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<sup>508</sup> OFMdfM (2014) Draft Annual Indicators for the Disability Strategy, Appendix 1 (OFMdfM: Stormont).

- 17.6 The aim of Strategic Priority 18 has been aligned to Article 30 on “*Participation in cultural life, recreation, leisure and sport*”. Article 30 recognises the right of people with disabilities to take part in cultural life on an equal basis with others and highlights the requirement of States parties’ to ensure the availability of accessible formats and physical accessibility. In addition States parties should recognise and support the cultural and linguistic identity of people with disabilities, including deaf culture and should encourage and promote participation in leisure, tourism and sporting activities, including disability-specific sporting<sup>509</sup>.
- 17.7 The indicators currently do not address the breadth of issues required to comply with the requirements of Article 30. The indicators do not provide measures of the accessibility of formats or physical accessibility of sporting, recreational and sporting venues required by Article 30 (1a, b and c, and 5c) and Article 9 of the UNCRPD on “*Accessibility*”. In addition, the indicators do not provide measures of programmes to develop the creative, artistic and intellectual potential of people with disabilities as required by Article 30(2).
- 17.8 The indicators do not provide a measure of the effectiveness of support provided for deaf culture as required by Article 30(4). Moreover, the indicators do not provide for the effectiveness of measures to promote participation in sporting activities including disability-specific sports, and access for children with disabilities to play, leisure and sporting facilities as required by Article 30 (5). Indicators that meet the Article 30 (5) on access for children with disabilities will also meet the requirements of Article 31 of the CRC on the rights of the child to recreation and cultural activities appropriate to the age of the child.
- 17.9 To comply with general obligations under Article 4(3), Preamble CRPD (n) and (o), Article 6, Article 7 and the specific

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<sup>509</sup> Article 30, United Nations Convention on the Rights of Persons with Disabilities

requirements of Article 30, indicators should also reflect the degree to which persons with disabilities, including women and children are consulted with and actively involved in decision-making on the provision of sporting, leisure and cultural activities<sup>510</sup>.

17.10 Moreover, given the emphasis on the needs children to access play and leisure activities in Article 30(5d), indicator data should be able to be disaggregated by age and sex to meet the specific requirements of Article 30 and the more general requirements of Article 31 on “*Statistics and data collection*”, Article 6 on “*Women with disabilities*” and Article 7 on “*Children with disabilities*”.

17.11 To better ensure that the strategy meets the aims of Strategic Priority 18 and can adequately assess the implementation of the UNCRPD the indicator should be amended, as follows, for example:

- percentage participating in cultural, leisure and sporting activities in the last 12 months by disability status, including women and children.

17.12 And the following indicators are recommended:

Indicators relating to accessibility

- percentage of arts, leisure, tourism and sporting venues in rural and urban areas which meet required standards for physical access and information provision for people with disabilities, including women and children<sup>511</sup>;

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<sup>510</sup> UN Committee Concluding Observation to-date as discussed in Byrne, B., Harper, C., Shea Irvine, R., Russell, H. and Fitzpatrick, B. (2014): UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD (ECNI: Belfast).

<sup>511</sup> DCAL / Councils / DOE may be a potential source of information and/or data in this area.

- percentage of school sporting and leisure facilities in rural and urban areas which meet required standards for physical access for children with disabilities<sup>512</sup>;
- percentage of media providers and venues including television, films, theatre and other cultural providers that provide formats accessible to people with disabilities<sup>513</sup>.

#### Indicators relating to attitudes and awareness

- percentage of staff in the arts, leisure, tourism and sporting industry that report negative attitudes towards people with disabilities<sup>514</sup>;
- number of effective training sessions on disability awareness and working with people with disabilities provided for staff in the arts, leisure, tourism and sporting industry<sup>515</sup>.

#### Indicators relating to experiences

- percentage of people with disabilities that have experienced barriers to participating in the arts, leisure, tourism and sporting industry; and,
- percentage of children with disabilities that have been unable to participate in play, leisure and sporting activities at school.

#### Indicators relating to the provision of support

- number of effective programmes and initiatives provided to encourage people with disabilities, including women and children, to participate in sports, leisure and recreational activities;
- funding provided to disability-specific sports and arts compared to general sporting activities and arts in the last 12 months;

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<sup>512</sup> DE may be a potential source of information and/or data in this area.

<sup>513</sup> DCAL may be a potential source of information and/or data in this area.

<sup>514</sup> Ibid.

<sup>515</sup> DCAL / Council / DOE may be a potential source of information and/or data in relation to publicly owned facilities.

- number of major disability-specific sporting and cultural events in the last 12 months; and
- media coverage of disability-specific sports and arts events compared to general sporting activities and arts events in the last 12 months.

17.13 To comply with Article 31, Article 6 and Article 7 of the UNCRPD and to meet the specific focus of Article 16, data should be disaggregated, where appropriate, particularly with respect to sex and age.

## 18 Concluding Observations

18.1 Article 31 of the UNCRPD on “Statistics and data collection” highlights the crucial importance of data and information in assessing the implementation of the UNCRPD<sup>516</sup> and formulating and implementing policies to give effect to the UNCRPD<sup>517</sup>. It is, therefore, of concern that the consultation on draft annual indicators should occur at end of the period covered by the Disability Strategy 2012-2015, particularly given that the Disability Strategy is provided as the framework for delivering the Northern Ireland Executive’s Commitment under the UNCRPD<sup>518</sup>.

18.2 In addition, given that the Disability Strategy is the framework for delivery of the Convention, it is of concern that the present Strategy does not address all of the Commitments of the UNCRPD, including key commitments such as those relating to Article 10 on the “*Right to Life*”, Article 11 on “*Situations of risk and humanitarian emergencies*”, Article 25 on “*Health*” and Article 26 on “*Habilitation and rehabilitation*”<sup>519</sup>. Further, even among those articles specified in the Strategy, there is an overall

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<sup>516</sup> Article 31(2), United Nations Convention on the Rights of Persons with Disabilities

<sup>517</sup> Article 31 (1), United Nations Convention on the Rights of Persons with Disabilities

<sup>518</sup> OFMdFM (2012): A Strategy to improve the lives of people with disabilities 2012-2015 (OFMdFM: Stormont).

<sup>519</sup> This list is not exhaustive – all missing articles are specified in the overall comments at the beginning of this document.

misalignment between the aims of the strategy, associated actions and indicators and the requirements of the UNCRPD.

- 18.3 Actions and indicators within the Strategy have been developed to fit round planned commitments and data availability rather than consideration being given to actions and indicators required to meet the requirements of the UNCRPD. There is also an absence of indicators to measure the implementation of actions, which along with outcomes, are required to measure effectiveness.
- 18.4 While the current document highlights the fundamental flaws in the proposed draft indicators, the timing of the consultation, at the end of the time period for the current Disability Strategy, also represents an opportunity. It is hoped that the current feedback on the current Strategy and associated indicators will provide a framework that will assist the Northern Ireland Executive in developing a new Disability Strategy that will fully address their commitments under the UNCRPD. In addition, the text of the UNCRPD and associated comments of the UN Committee on the CRPD, in itself, provides a clear articulated framework for the development of a Disability Strategy. It is hoped that the current feedback will encourage OFMdfM to consider actions and future indicators in light of the requirements of the UNCRPD, rather than on the basis of best fit. This may require changes to be made to what data is collected, the way in which is collected and subsequently disaggregated and presented.
- 18.5 It is hoped that the Northern Ireland Executive will consider the requirements of the UNCRPD along with the recommendations within the current document to assist them in the development of a new Disability Strategy whose aims, actions and indicators can effectively monitor the implementation of the UNCPD.