



## **United Nation Convention on the Rights of Persons with Disabilities**

### **Convention on the Rights of Persons with Disabilities (CRPD) Joint Committee**

#### **Independent Mechanism for Northern Ireland: Roles & Responsibilities within the Framework of Article 33**

#### **Purpose**

Article 33.2 of the United Nation Convention on the Rights of Persons with Disabilities states that, “States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention.”

This paper outlines the Independent Mechanism for Northern Ireland’s understanding of a framework, and its position within it.

The paper also outlines the Independent Mechanism for Northern Ireland’s roles & responsibilities to *promote, protect and monitor implementation* of the Convention in Northern Ireland, to then frame proposals for future action for agreement by the Convention on the Rights of Persons with Disabilities (CRPD) Joint Committee.

#### **Introduction**

The UN Convention on the Rights of Persons with Disabilities is the first human rights treaty that establishes human rights for persons with disabilities and the obligations on States to respect, promote, protect and ensure these rights. The Convention includes implementation and monitoring mechanisms largely unprecedented in other human rights treaties.

On 8 June 2009, the UK Government ratified the Convention, and on 7 August it ratified the Optional Protocol setting up a mechanism for individual and group complaints. Within UK Government, the Office for Disability Issues (ODI) is the focal point for co-ordinating implementation of, and reporting on, the Convention. Each individual department is responsible for taking forward action to implement the Convention in areas where they have policy responsibility.

In respect of devolved issues within their respective jurisdictions, each of the UK's devolved governments shall co-ordinate their own work on the Convention. The Office of the First and deputy First Minister (OFMdFM) is designated as the focal point in Northern Ireland, and is responsible for co-ordinating work on the Convention in respect of devolved issues.

Under Article 33.2 of the Convention, the UK government has designated the four equality and human rights commissions to make up the UK's Independent Mechanism. In Northern Ireland, the Independent Mechanism is represented by the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission (Independent Mechanism for Northern Ireland).

### **Independent Mechanism for Northern Ireland within the Framework of Article 33.2**

In accordance with Article 33.2<sup>i</sup>, the Independent Mechanism for Northern Ireland understands that the State Party has responsibility for maintaining, strengthening, designating or establishing the framework. In doing so, it is the State Party's responsibility to determine its breadth and inclusivity.

For clarity, the Independent Mechanism for Northern Ireland positions itself as an "*independent*" element within the framework for Northern Ireland.

In accordance with Article 33.1<sup>ii</sup>, the Independent Mechanism for Northern Ireland understands that it is the responsibility of the State Party, through its designation of one or more focal points and / or establishment or designation of a coordination mechanism within government, to implement the Convention. It is the State Party's responsibility to facilitate related action in different sectors and at different levels when implementing the Convention.

In accordance with Article 4.3<sup>iii</sup>, the Independent Mechanism for Northern Ireland understands that it is the responsibility of the State Party, when developing and implementing legislation and policies to implement the Convention, and in other decision-making processes concerning issues relating to persons with disabilities, to closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organisations.

As an “*independent*” element within the framework, the Independent Mechanism for Northern Ireland shall not be considered as an organisation to decide upon legislation and policies, or to engage in other decision-making processes, for the State Party’s implementation of the Convention, but to help facilitate implementation through its assessment of the State Party’s actions and its actions to encourage full implementation of the Convention’s provisions.

Furthermore, the Independent Mechanism for Northern Ireland understands that it is the State Party’s responsibility to determine and ensure it engages effectively with persons with disabilities, their representatives and civil society in respect of its implementation of the Convention.

However, in carrying out its independent functions, the Independent Mechanism for Northern Ireland is required to *promote, protect and monitor* the *implementation* of the Convention in Northern Ireland. In doing so, the Independent Mechanism will be monitoring the State’s compliance with Article 4.3 and Article 33.3<sup>iv</sup>.

### **The Roles & Responsibilities of the Independent Mechanism for Northern Ireland**

The Convention is not prescriptive in the functions which the various elements of the framework should carry out, although there are a number of sources of guidance<sup>v,vi,vii</sup> which have assisted the Independent Mechanism for Northern Ireland in determining the type of activities it should undertake.

In regard to *promotion* of the Convention, the Independent Mechanism will take forward work to promote the State Party’s responsibility to implement the Convention. In promoting the State Party’s responsibility to implement the Convention, the

Independent Mechanism may be required to promote the Convention itself alongside the responsibilities placed upon government. It is not the Independent Mechanism for Northern Ireland's responsibility to promote the Convention on behalf of the State Party, or to publicise the State Party's implementation of the Convention. The Independent Mechanism will provide, collectively or through the work of each Commission, commentary and advice on draft legislation, policy and practice, and on measures that ought to be taken to secure the human rights of disabled people. Any commentary or advice emanating from the Independent Mechanism for Northern Ireland's monitoring of the Convention under Article 33.2 will be enhanced through its engagement with disabled people, their representatives and civil society.

In taking forward work under *protection*, and where appropriate, the Independent Mechanism for Northern Ireland will receive and examine individual and group complaints, assist cases through legal or other processes, conduct inquiries or investigations, and issue reports in accordance with the statutory remits of the Equality Commission for Northern Ireland and/or the Northern Ireland Human Rights Commission.

As the Convention is an instrument of international, rather than domestic law, the Independent Mechanism for Northern Ireland's work in *monitoring* the State Party's implementation will be the consideration of the extent to which domestic law, policy and practice is compliant with the Convention through comments upon the State Party's report and / or the submission of its own Parallel Report to the United Nations Committee on the Rights of Persons with Disabilities. The Independent Mechanism for Northern Ireland can call upon a range of tools to monitor and make assessment of the State Party's implementation of the Convention and focus on specific issues as it sees fit, in conjunction with its and the State Party's responsibilities to engage with civil society, including disabled people, in accordance with Article 33.3.

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<sup>i</sup> Article 33.2 states that, "States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention."

<sup>ii</sup> Article 33.1 states that, "States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the

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establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.”

<sup>iii</sup> Article 4.3 states that “In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.”

<sup>iv</sup> “Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.”

<sup>v</sup> Thematic Study by the Office of the United Nations High Commissioner for Human Rights on the structure and role of national mechanisms for the implementation and monitoring of the Convention on the Rights of Persons with Disabilities – December 2009

<sup>vi</sup> Human Rights Council resolution 10/7: Human Rights of Persons with Disabilities: National Frameworks for the Promotion and Protection of the Human Rights of Persons with Disabilities

<sup>vii</sup> Dr Bronagh Byrne: School of Education, Queens University, Belfast: Submission to the OHCHR thematic study – Human Rights Council Resolution 10/7 (2009)