



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Submission to Policing Plan 2020-2025
Consultation**

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Summary of Recommendations

The Northern Ireland Human Rights Commission recommends that:

- 1.8 the views expressed during the Local Policing Review are incorporated within the Policing Plan 2020-2025.**
- 2.3 specific mention is made of human rights standards, in particular the:**
 - **European Convention on Human Rights;**
 - **UN International Covenant on Civil and Political Rights;**
 - **UN Convention on the Elimination of All Forms of Racial Discrimination;**
 - **UN Convention on the Rights of the Child;**
 - **UN Convention against Torture;**
 - **UN Convention on the Elimination of All Forms of Discrimination against Women; and**
 - **UN Convention on the Rights of Persons with Disabilities.**
- 2.2 the Policing Plan embeds the principles of participation, accountability, non-discrimination, empowerment and legality (PANEL Principles), which guide what a human rights based approach means in practice. This includes specifically stating that the Policing Plan is guided by the PANEL principles.**
- 3.2 the Policing Plan sets out an action plan for tackling hate crime, domestic abuse and violence, and human trafficking issues, including under-reporting of these issues. The NIHRC stresses that taking a proactive approach to these issues within the Policing Plan will ensure a more effective delivery of the three proposed outcomes of having a safer community, confidence in policing and achieving engaged and supportive communities.**
- 3.6 the UN CAT Committee's recommendations on hate crime are embedded within the Policing Plan's approach to tackling hate crime in NI.**

- 3.13 Police Service NI's existing and future mechanisms for tackling domestic and sexual violence and abuse are effectively implemented in a human rights compliant and gender-sensitive manner within NI, including embedding the recommendations of the UN CAT Committee and UN CEDAW Committee.**
- 3.16 the Policing Plan includes actions aimed at ensuring knowledge and awareness of human trafficking within the Police Service NI, including embedding the UN CAT Committee's recommendations.**
- 3.24 the Policing Plan includes an effective action plan aimed at implementing the UN CAT Committee's recommendations on tackling paramilitarism.**
- 3.32 the Policing Plan includes actions to ensure that all use of stop and search has a statutory footing, is non-discriminatory, sensitive to gender identity and proportionate. The NIHRC also recommends that the Policing Plan includes a commitment to regularly collect, analyse and publish data relating to the use of stop and search checks, including on children as recommended by the international monitoring bodies.**
- 3.34 the Policing Plan addresses the issue of children going missing from care.**

1.0 Introduction

1.1 The Northern Ireland Human Rights Commission (NIHRC) pursuant to Section 69(1) of the Northern Ireland (NI) Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights. In accordance with this function, the following advice is submitted to the Police Service NI and NI Policing Board in response to their consultation on the Policing Plan 2020-2025.

1.2 The NIHRC bases its advice on the full range of internationally accepted human rights standards, including the European Convention on Human Rights, as incorporated by the Human Rights Act 1998 and the treaty obligations of the Council of Europe (CoE) and United Nations (UN) systems.¹ The relevant regional and international treaties in this context include:

- European Convention on Human Rights 1950 (ECHR);²
- UN Convention on the Elimination of Racial Discrimination 1965 (UN CERD);³
- UN Convention on the Elimination of All Forms of Discrimination against Women 1979 (UN CEDAW);⁴
- UN Convention on the Rights of the Child 1989 (UN CRC);⁵
- UN Convention on the Rights of Persons with Disabilities 2006 (UN CRPD).⁶

1.3 In addition to these treaty standards, there exists a body of 'soft law' developed by the human rights bodies of the CoE and UN. These declarations and principles are non-binding, but provide further guidance in respect of specific areas. The relevant standards in this context include:

- UN Committee on Economic, Social and Cultural Rights (UN ICESCR Committee) General Comment No 13;⁷

¹ The NI Executive is subject to the obligations contained within the specified regional and international treaties by virtue of the UK Government's ratification. In addition, the NI Act 1998, Section 26(1) provides that "if the Secretary of State considers that any action proposed to be taken by a Minister or NI department would be incompatible with any international obligations... she may by order direct that the proposed action shall be taken". The NIHRC further recalls that the NI Act 1998, Section 24(1)(a) states that "a Minister or NI department has no power to make, confirm or approve any subordinate legislation, or to do any act, so far as the legislation or act... is incompatible with any of the Convention rights".

² Ratified by the UK in 1951.

³ Ratified by the UK in 1969.

⁴ Ratified by the UK in 1986.

⁵ Ratified by the UK in 1991.

⁶ Ratified by the UK in 2009.

⁷ E/C.12/1999/10, 'UN ICESCR Committee General Comment No 13: The Right to Education', 8 December 1999.

- UN Committee on the Rights of the Child (UN CRC Committee) General Comment No 1;⁸
- UN CRC Committee General Comment No 5;⁹
- UN CRC Committee General Comment No 7;¹⁰
- UN CRC Committee General Comment No 9;¹¹
- UN Committee on the Elimination of Racial Discrimination (UN CERD Committee) General Comment No 32;¹²
- CoE Committee of Ministers Recommendation on Participation of Children and Young People;¹³
- UN CRC Committee General Comment No 14;¹⁴
- UN CRC Committee 2016 Concluding Observations on the UK;¹⁵
- UN ICESCR Committee 2016 Concluding Observations on the UK;¹⁶
- UN CERD Committee 2016 Concluding Observations on the UK;¹⁷
- UN Committee on the Rights of Persons with Disabilities (UN CRPD Committee) General Comment No 4;¹⁸
- UN CRC Committee General Comment No 20;¹⁹
- UN ICESCR Committee Statement on the Duties of States towards Refugees and Migrants;²⁰
- UN CRPD Committee 2017 Concluding Observations on the UK;²¹
- UN Committee on the Elimination of Discrimination against Women (UN CEDAW Committee) 2019 Concluding Observations on the UK;²² and

⁸ CRC/GC/2001/1, 'UN CRC Committee General Comment No 1: The Aims of Education', 17 April 2001.

⁹ CRC/GC/2003/5, 'UN CRC Committee General Comment No 5: General measures of Implementation of the Convention on the Rights of the Child', 27 November 2003.

¹⁰ CRC/C/GC/7/Rev.1, 'UN CRC Committee General Comment No 7: Implementing Child Rights in Early Childhood', 20 September 2006.

¹¹ CRC/C/GC/9, 'UN CRC Committee General Comment No 9: The Rights of Children with Disabilities', 27 February 2007.

¹² CERD/C/GC/32, 'UN CERD Committee General Recommendation No 32: The Meaning and Scope of Special Measures', 24 September 2009.

¹³ CM/Rec(2012)2, 'Recommendation of the Committee of Ministers to Member States on the Participation of Children and Young People Under the Age of 18', 28 March 2012.

¹⁴ CRC/C/GC/14, 'UN CRC Committee General Comment No 14: The Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration', 29 May 2013.

¹⁵ CRC/C/GBR/CO/5, 'UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 3 June 2016.

¹⁶ E/C.12/GBR/CO/6, 'UN ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016.

¹⁷ CERD/C/GBR/CO/21-23, 'UN CERD Committee Concluding observations on the Twenty-first to Twenty-third Periodic Reports of UK of Great Britain and NI', 26 August 2016.

¹⁸ CRPD/C/GC/4, 'UN CRPD Committee General Comment No 4: The Right to Inclusive Education', 25 November 2016.

¹⁹ CRC/C/GC/20, 'UN CRC Committee General Comment No 20: The Implementation of the Rights of the Child through Adolescence', 6 December 2016.

²⁰ E/C.12/2017/1, 'UN ICESCR Committee Statement on the Duties of States towards Refugees and Migrants under the International Covenant on Economic, Social and Cultural Rights', 13 March 2017.

²¹ CRPD/C/GBR/CO/1, 'UN CRPD Committee Concluding Observations on the Initial Report of the UK of Great Britain and NI', 29 August 2017.

²² CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI', 14 March 2019, at para 30(c).

- UN Committee against Torture (UN CAT Committee) 2019 Concluding Observations on the UK.²³

- 1.4 The NIHRC welcomes the NI Policing Board and Police Service NI's joint public consultation to help in the development of the Policing Plan 2020-2025 to deliver and improve policing. The NIHRC acknowledges the importance of the NI Policing Board's role in ensuring effective and efficient policing in NI and the Police Code of Ethics in setting out the professional standards and practice for officers to uphold their rights and duties under the Human Rights Act 1998.
- 1.5 This response is designed to provide useful, practical feedback as the Policing Board and Police Service NI develop the Policing Plan. We particularly welcome the intention to place policing within a human rights framework. The document as drafted, however, provides little by way of detail as to how such a framework applies. This letter elaborates on what a human rights based approach requires and highlights additional human rights issues that could be considered within the plan.
- 1.6 The NIHRC is supportive of the proposed vision and objectives of the Policing Plan 2020-2025, namely, 1) a safer community; 2) confidence in policing; 3) engaged and supportive communities.
- 1.7 In 2018, a Local Policing Review was conducted. The feedback received reinforced the importance of policing in the community and the provision of a service that is effective and consistent in service delivery.
- 1.8 The NIHRC recommends that the views expressed within the Local Policing Review are incorporated within the Policing Plan 2020-2025.**

2.0 Human rights based approach

- 2.1 The consultation document recognises that "having a rights based policing service is a key element in both delivering and building public confidence in the service provided by the PSNI" and that "the approach of the

²³ CAT/C/GBR/CO/6, 'UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 7 June 2019, at para 57.

[Policing] Board and the PSNI to embedding human rights principles into day to day policing in NI ensures the rights of the public and the rights of police officers are protected”.²⁴

2.3 The NIHRC is encouraged by and supportive of the Policing Plan’s adoption of a rights based approach. To strengthen this approach, the NIHRC recommends that specific mention is made of human rights standards, in particular the:

- **European Convention on Human Rights;**
- **UN International Covenant on Civil and Political Rights;**
- **UN Convention on the Elimination of All Forms of Racial Discrimination;**
- **UN Convention on the Rights of the Child;**
- **UN Convention against Torture;**
- **UN Convention on the Elimination of All Forms of Discrimination against Women; and**
- **UN Convention on the Rights of Persons with Disabilities.**

2.2 The NIHRC further recommends that the Policing Plan embeds the principles of participation, accountability, non-discrimination, empowerment and legality (PANEL Principles), which guide what a human rights based approach means in practice. This includes specifically stating that the Policing Plan is guided by the PANEL principles.

2.3 The PANEL principles can be summarised as follows:

- **Participation** is the process where persons affected by particular policies have a genuine opportunity to input into the development of relevant legislation, policies, strategies and action plans. Effective participation requires genuine opportunities to be offered at every stage of the process - design, development, implementation, monitoring and evaluation. It also requires consideration to be given to accessibility and to reasonable accommodation, which should be established by consulting with those you are seeking to engage with.

²⁴ Police Service NI and NI Policing Board, ‘Policing Plan Consultation 2020-2025’ (NIPB, 2019), at 7.

- **Accountability** requires monitoring the impact of policy measures on people’s rights and offering effective remedy when issues arise.
- **Non-discrimination** requires that any policies or practices do not discriminate, particularly on the grounds of “sex, race, colour, language, religion, political or other opinion, or social origin, association with a national minority, birth or other status”.²⁵ It also requires that equal opportunities are genuinely available to all. This can require special measures to ensure this is possible, such as taking into account language barriers, physical or mental needs, or caring responsibilities. Disaggregation of data is a helpful tool in identifying discrimination.²⁶ Best practice indicates that, at minimum, this data should be disaggregated by “sex, age, ethnicity, migration or displacement status, disability, religion, civil status, income, sexual orientation and gender identity”.²⁷
- **Empowerment** is ensuring everyone understands their rights and is fully supported to be able to effectively participate in the relevant processes.
- **Legality** requires that all laws and policies are grounded in international, regional and domestic law.

3.0 Additional matters

3.1 The consultation document acknowledges that there are certain crimes that are less likely to be reported to the Police Service NI, such as hate crime, domestic and sexual violence and abuse, and human trafficking and modern slavery. However, the Policing Plan does not provide detail on how these issues will be addressed.²⁸

²⁵ Article 14, European Convention on Human Rights 1950.

²⁶ CRC/GC/2003/5, ‘UN CRC Committee General Comment No 5: General Measures of Implementation of the Convention on the Rights of the Child’, 27 November 2003, at para 12.

²⁷ UN Office of the Human Rights Commissioner for Human Rights, ‘A Human-rights Based Approach to Data’ (UN OHCHR, 2018), at para 7.

²⁸ Police Service NI and NI Policing Board, ‘Policing Plan Consultation 2020-2025’ (NIPB, 2019).

3.2 The NIHRC recommends that the Policing Plan sets out an action plan for tackling hate crime, domestic abuse and violence, and human trafficking issues, including under-reporting of these issues. The NIHRC stresses that taking a proactive approach to these issues within the Policing Plan will ensure a more effective delivery of the three proposed outcomes of having a safer community, confidence in policing and achieving engaged and supportive communities.

Hate Crime

3.3 Hate crime is referenced within the consultation document as an underreported crime.²⁹ Of the hate crimes recorded, comparing 2017/18 and 2018/19 statistics, the number increased across racism (15 per cent increase), homophobia (23 per cent increase), sectarianism (8 per cent increase), and disability (10 per cent), with the exception of faith/religion (43 per cent decrease) and transphobic (29 per cent decrease).³⁰ There have been issues raised with how hate crimes that are reported are dealt with.

3.4 In June 2017, the NI Policing Board published its Human Rights Thematic Review on Policing Race Hate Crime.³¹ The Review examined to what extent the Police Service NI were complying with the Human Rights Act 1998 when dealing with and for those from minority racial groups. It focused on how the Police Service NI identify, record and investigate race hate crime; how victims are encouraged to report incidents; and how they are supported. After examining current police policy, the Review found the “application of policy in practice occasionally falls below that dictated by policy”.³²

3.5 Hate crime can lead to, inter alia, individuals being subjected to torture, inhuman and degrading treatment³³ and individuals being denied their

²⁹ Ibid.

³⁰ In 2018/19, a total of 1,613 hate crimes were recorded. See Police Service NI, ‘Trends in Hate Motivated Incidents and Crimes Recorded by the Police in NI 2004/05 to 2018/19’ (PSNI, 2019), at Table 1.1.

³¹ NI Policing Board, ‘Human Rights Thematic Review: Policing Race Hate Crime’ (NIPB, 2017).

³² Ibid.

³³ Article 3, European Convention on Human Rights 1950; UN Convention on Torture 1987; Article 37, UN Convention on Rights of the Child; Article 15, UN Convention on the Rights of Persons with Disabilities 2006.

right to housing,³⁴ health,³⁵ education,³⁶ work³⁷ and culture.³⁸ Different types of hate crime can occur, including discrimination on the basis of disability, race, ethnicity, religion, gender identity, sexual orientation. These different types require special consideration of their impact and the support required. This is reflected in the 2019 UN Committee against Torture's (UN CAT Committee) concluding observations on the UK, when the Committee recommended that "the State party should strengthen its efforts to investigate alleged hate crimes and prosecute perpetrators, including by improving hate crimes training for the police and improving their initial handling of hate crimes reports".³⁹

3.6 The NIHRC recommends that the UN CAT Committee's recommendations on hate crime are embedded within the Policing Plan's approach to tackling hate crime in NI..

Domestic and sexual violence and abuse

3.7 Domestic abuse is referenced in the Policing Plan as an underreported crime. Of the crimes recorded, statistics collated by the Police Service NI in 2018/19, domestic abuse incidents and crimes in NI represented the highest 12-month period recorded since such statistics were first collated.⁴⁰

³⁴ Article 11, UN International Covenant Economic Social and Cultural Rights 1966; Article 5(3)(iii), UN Convention on the Elimination of all Forms of Racial Discrimination 1965; Article 14(h), UN Convention on the Elimination of all Forms of Discrimination against Women 1979; Article 27(3), UN Convention on the Rights of the Child 1989.

³⁵ Article 12, UN International Covenant Economic Social and Cultural Rights 1966; Article 5(e)(iv), UN Convention on the Elimination of All Forms of Racial Discrimination 1965; Article 12, UN Convention on the Elimination of All Forms of Discrimination against Women 1979; Article 24, UN Convention on the Rights of the Child; Article 25, UN Convention on the Rights of Persons with Disabilities 2006.

³⁶ Protocol No 1, Article 1, European Convention on Human Rights; Article 5(e)(v), UN Convention on the Elimination of All Forms of Racial Discrimination 1965; Article 13, UN International Covenant Economic Social and Cultural Rights 1966; Article 10, UN Convention on the Elimination of All Forms of Discrimination against Women 1979; Article 28, UN Convention on the Rights of the Child 1989; Article 24, UN Convention on the Rights of Persons with Disabilities 2006.

³⁷ Article 6, UN International Covenant Economic Social and Cultural Rights 1966; Article 5(e)(i), UN Convention on the Elimination of All Forms of Racial Discrimination 1965; Article 11, UN Convention on the Elimination of All Forms of Discrimination against Women 1979; Article 27, UN Convention on the Rights of Persons with Disabilities 2006.

³⁸ Article 15, UN International Covenant Economic Social and Cultural Rights 1966; Article 5(e)(vi), UN Convention on the Elimination of All Forms of Discrimination against Women 1979; Article 30, UN Convention on the Rights of the Child 1989; Article 30, UN Convention on the Rights of Persons with Disabilities 2006.

³⁹ CAT/C/GBR/CO/6, 'Committee against Torture Concluding observations on the sixth periodic report of the UK of Great Britain and NI', 7 June 2019, at para. 62.

⁴⁰ There were 31,682 domestic abuse incidents recorded in 2018/19 (an increase of 51 per cent since 2004/05). There were 16,182 domestic abuse crimes recorded in 2018/19 (an increase of 68 per cent since 2004/05). During 2018/19, 69 per cent of all domestic abuse crime victims were women and 31 per cent were male. During this same period, there has been increasing proportions of 0-19 year old (22 per cent) and 50 years and older (18 per cent) experiencing domestic abuse, particularly in relation to victims under the age of 15 (14 per cent). Of all offenders dealt with by police during 2018/19 in connection with domestic abuse crimes that resulted in an outcome, 86 per cent were male and 12 per cent were women. The majority of offenders (94 per cent) were aged 18 and over. See Police Service NI, 'Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in NI 2004/05 and 2018/19: Annual Bulletin', (DoJ, 2019).

- 3.8 While the NIHRC recognises measures introduced by the Department of Justice, including the Domestic Violence Disclosure Scheme and pilot Domestic Violence Perpetrators Programme, there are also a number of gaps within the existing legal framework for ensuring effective protection against domestic and sexual violence and abuse. There have been attempts to address these gaps within the proposed Domestic Abuse Bill, which aims to introduce the crime of coercive control in NI, however it is unclear if this Bill will progress with the new UK Parliament. Furthermore, the introduction of Domestic Violence Protection Notices and Orders to NI are being held up by suspension of the devolved institutions.
- 3.9 The NIHRC recognises the value of having non-molestation orders and civil injunctions in place. Nonetheless, we have been made aware that when reporting breaches to the Police Service NI victims felt that not enough was being done and arrests were not being made, which hindered their confidence in reporting to the police. The Police Ombudsman for NI's statistics on complaints and allegations received show that domestic violence related complaints, though small in number, have significantly increased. In April to September 2018, 18 complaints with domestic violence as an underlying factor were received, this increased to 27 in April to September 2019.⁴¹ In 2018/19, the Police Ombudsman also recommended that the Service Procedure relating to police response to stalking and harassment is reviewed and updated, to which a response is awaited.⁴²
- 3.10 In June 2019, the UN CAT Committee recommended that the UK encourage "the reporting of domestic violence cases, inter alia by informing women of their rights and the existing legal avenues through which they can receive protection".⁴³ The UN CAT Committee further recommended "that all domestic violence cases, in all United Kingdom (UK) territories and dependencies, are thoroughly investigated, that perpetrators are prosecuted and, if they are convicted, are punished with appropriate sanctions".⁴⁴ Furthermore, "that victims have access to

⁴¹ Police Ombudsman NI, 'Complaints and Allegations Received by the Police Ombudsman for NI Quarterly Statistical Update to 30th September 2019' (PONI, 2019).

⁴² Police Ombudsman NI, 'Annual Statistical Bulletin of the Police Ombudsman for NI, 2018/19' (PONI, 2019), at 24.

⁴³ CAT/C/GBR/CO/6, 'UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 7 June 2019, at para 57.

⁴⁴ Ibid.

effective remedies and means of protection, including strong police protection”.⁴⁵

3.11 In June 2019, the UN Committee on Elimination and Discrimination against Women (UN CEDAW Committee) recommended taking action to “ensure that asylum-seeking women, migrants and women with insecure immigration status are able to seek effective protection and support services without fear of having their immigration status reported to authorities”.⁴⁶ This includes ensuring domestic violence concessions for non-EU women are accessed promptly. Furthermore, the UK should ensure that its laws and policies effectively protect women with disabilities from all forms of gender-based violence, and in particular violence perpetrated by their caregivers.⁴⁷

3.12 In July 2018, the NIHRC highlighted to the UN CEDAW Committee’s Pre-Sessional Working Group that the relevant authorities, particularly the police, should be adequately trained to ensure victim support for domestic violence is effective.⁴⁸ This would ensure community confidence in policing and address the issue of underreporting by making victims feel confident in reporting such crimes.

3.13 The NIHRC recommends that Police Service NI’s existing and future mechanisms for tackling domestic and sexual violence and abuse are effectively implemented in a human rights compliant and gender-sensitive manner within NI, including embedding the recommendations of the UN CAT Committee and UN CEDAW Committee.

Human trafficking and modern slavery

3.14 The Policing Plan states human trafficking is an under reported crime. It also acknowledges the need of victims to feel confident in reporting such crimes and that the police response is effective.⁴⁹ This stance reflects the UN CAT Committee’s 2019 recommendation that the UK “enhance its efforts to investigate claims of human trafficking and prosecute

⁴⁵ Ibid.

⁴⁶ CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI', 14 March 2019, at para 30(c).

⁴⁷ Ibid.

⁴⁸ NI Human Rights Commission, 'Submission to the UN CEDAW Committee: Parallel Report to the Eighth Periodic Report Submitted by the UK of Great Britain and NI' (NIHRC, 2018), at 10-11.

⁴⁹ Police Service NI and NI Policing Board, 'Policing Plan Consultation 2020-2025' (NIPB, 2019).

perpetrators and ensure that victims of trafficking obtain compensation, including by considering creating a civil remedy for victims of trafficking".⁵⁰ Furthermore, that the UK:

ensure access to sufficient protection and support for all victims of trafficking and, in particular, ensure that the State party's establishment of a child trafficking protection fund results in an improvement in the availability of specialist care and support for child victims of trafficking.⁵¹

3.15 Additionally, the UN CAT Committee recommended that the UK:

improve the training of law enforcement officers, prison personnel and other first responders by including statutory training on the identification of potential victims of human trafficking and modern slavery, and continue developing specialized training programmes for support workers and those providing foster care.⁵²

3.16 The NIHRC recommends that the Policing Plan includes actions aimed at ensuring knowledge and awareness of human trafficking within the Police Service NI, including embedding the UN CAT Committee's recommendations.

Tackling paramilitarism

3.17 Outcome Two of the Policing Plan recognises that "in order to have a strong, resilient and peaceful society, we have a key role in removing serious and organised crime groups (paramilitaries) from our communities."⁵³ Tackling paramilitarism has been a persistent human rights issue that the NIHRC has raised alongside a number of international human rights bodies.

3.18 In 2016, the UN Committee on the Rights of the Child (UN CRC Committee) noted that "in NI, children face violence, including shootings, carried out by non-State actors involved in paramilitary-style attacks, as

⁵⁰ CAT/C/GBR/CO/6, 'UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 7 June 2019, at para 59(a).

⁵¹ Ibid, at para 59(b).

⁵² Ibid, at para 59(c).

⁵³ Police Service NI and NI Policing Board, 'Policing Plan Consultation 2020-2025' (PBNI, 2019), at 10.

well as recruitment by such non-State actors”.⁵⁴ The UN CRC Committee recommended that the UK take immediate and effective measures to protect children from violence by non-State actors involved in paramilitary-style attacks as well as from recruitment by such actors into violent activities, including through measures relating to transitional and criminal justice.⁵⁵

3.19 The NIHRC recognises that the Police Service NI has made significant progress in tackling paramilitaries. The NI Executive and UK Government each committed £25 million between 2016 and 2021 to tackle paramilitarism.⁵⁶ A dedicated Paramilitary Crime Task Force has been established between the Police Service NI, the National Crime Agency and Her Majesty’s Revenue and Customs to focus on the criminality of paramilitary groups.⁵⁷ In the period 2017/18, the task force conducted 193 searches and made 47 arrests, of which 44 people were charged or reported to the Public Prosecution Service.⁵⁸

3.20 However, the issue of violence by paramilitaries still persists. In the period of 1 October 2018 to 30 September 2019, the Police Service NI recorded 64 casualties of paramilitary style assaults, an increase on the previous year and six of these casualties were children.⁵⁹ There were also 38 shooting incidents, including both paramilitary and security force incidents; 15 bombing incidents and 17 casualties from paramilitary style shooting during the year.⁶⁰

3.21 In June 2019, the UN CAT Committee:

reiterated its concern about reports that paramilitary groups continue to function as alternative authorities in certain areas of NI, inflicting punishments resulting in severe pain and suffering against people alleged to have committed criminal offences. The Committee notes with particular concern the delegation’s

⁵⁴ CRC/C/GBR/CO/5, ‘UN CRC Committee Concluding observations on the Fifth Periodic Report of the UK of Great Britain and NI’, 12 July 2016.

⁵⁵ Ibid.

⁵⁶ NI Executive, ‘Tackling Paramilitary Activity, Criminality and Organised Crime - Executive Action Plan’ (NI Executive, 2016).

⁵⁷ NI Human Rights Commission, ‘The 2018 Annual Statement Human Rights in NI’ (NIHRC, 2018).

⁵⁸ Department of Justice, ‘Tackling Paramilitary Programme Newsletter: Issue 1’ (DoJ, 2018), at 8.

⁵⁹ Police Service NI, ‘Police Recorded Security Situation Statistics Annual Report Covering the Period 1 October 2017 – 30 September 2018’ (PSNI, 2018).

⁶⁰ Police Service NI, ‘Police Recorded Security Situation Statistics Annual Report Covering the Period 1 October 2017 – 30 September 2018’ (PSNI, 2018).

statement that the Government is aware of eight assaults on children under the age of 18, including two in which children were shot, committed by members of paramilitary groups between February 2017 and February 2019. While taking note of the State party's efforts to identify and provide support to young people at risk of involvement in paramilitarism, the Committee is also concerned about reports that these groups continue to recruit children (Article 16).⁶¹

3.22 The UN CAT Committee recommended that the UK should:

strengthen its efforts to promptly and effectively investigate cases of paramilitary violence in NI, including against children, ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and ensure that victims have access to effective protection and can obtain redress.⁶²

3.23 The UN CAT Committee further recommended that the UK should "intensify its efforts to prevent the recruitment of children by paramilitary groups in NI."⁶³

3.24 The NIHRC recommends that the Policing Plan includes an effective action plan aimed at implementing the UN CAT Committee's recommendations on tackling paramilitarism.

Stop and Search

3.25 Issues arising from stop and search have not been included within the Policing Plan. However, certain aspects of the use of stop and search by the Police Service NI is a cause for concern and, as reported by research conducted by Ark Young Life and Times Survey found, has a damaging impact on policing-community relations.⁶⁴

3.26 There is particular cause for concern in relation to stop and search powers being used against children and young people. Between 2011 and 2019, 35,000 children have been subject to stop and search by the Police Service

⁶¹ CAT/C/GBR/CO/6, 'UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 7 June 2019, at para 42.

⁶² Ibid, at para 43.

⁶³ Ibid.

⁶⁴ John Topping and Dirk Schubotz, 'The 'usual suspects'? Young People's Experiences of Police Stop and Search Powers in NI' (Ark Young Life and Times Survey 2018), at 6.

NI, with an arrest rate of 7 per cent in NI, compared with 17 per cent in England and Wales.⁶⁵

- 3.27 In 2016, the UN CRC Committee recommended that the UK prohibit the use of non-statutory stop and search checks against children. Also that the UK “ensure that the statutory use of the stop and search checks is proportionate, taking into consideration the age and maturity of the child, and non-discriminatory”. Furthermore, that the UK “regularly collect, analyse and publish data relating to the use of stop and search checks on children, disaggregated by age, sex, disability, geographic location, ethnic origin and socioeconomic background.”⁶⁶
- 3.28 In 2015, the UN Human Rights Committee called for implementation: as a matter of priority that the Police Service NI follow the recommendation of the Policing Board to the Police Service of NI concerning the inclusion in the Police Service NI’s recording form of community background of persons stopped and searched under the Justice and Security (NI) Act 2007.⁶⁷
- 3.29 In 2019, this was echoed by the UN CAT Committee.⁶⁸
- 3.30 In 2019, the Independent Reviewer of the Justice and Security Act reported that “young people were stopped and searched under the Justice and Security Act in disproportionately high numbers; vulnerable and marginalised children were being targeted and the children felt the police were often patronising, rude and disrespectful during the encounter.”⁶⁹ The Independent Reviewer highlighted from his findings that “young people feeling criminalised by being stopped and searched could reinforce distinctively anti-police beliefs, ideologies and identities”.⁷⁰ The Independent reviewer also referenced academic research conducted in 2018 about police use of stop and search of children under criminal justice

⁶⁵ ‘Police stop and search 35,000 NI kids in eight years’, *Belfast Telegraph*, 4 September 2019.

⁶⁶ CRC/C/GBR/CO/5, ‘UN CRC Committee Concluding observations on the Fifth Periodic Report of the UK of Great Britain and NI’, 12 July 2016.

⁶⁷ CCPR/C/GBR/CO/7, ‘Human Rights Committee Concluding observations on the Seventh Periodic Report of the UK of Great Britain and NI’, 17 August 2015.

⁶⁸ CAT/C/GBR/CO/6, ‘UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 7 June 2019, at para 11(b).

⁶⁹ David Seymour, ‘Report of the Independent Reviewer Justice and Security (NI) Act 2007 Eleventh Report: 1st August 2017 – 31st July 2018’ (UK Government, 2019).

⁷⁰ *Ibid.*

act powers for example, Police and Criminal Evidence Act 1984 and the Misuse of Drugs Act 1971.⁷¹ This research found that “the use of stop and search was used at a higher rate and with poorer outcomes than the rest of the UK... the rate of stop and search in NI was now over twice the total rate in England and Wales and 50 per cent greater than in Scotland.”⁷²

3.31 The NIHRC is aware that the Police Service NI has not developed a service procedure in relation to stop and search of transgender persons.⁷³ Officers and staff must ensure that they deal with an individual who comes in contact with the police in the gender in which they present and must understand the processes for determining gender, particularly for search/detention. The detainee should be asked which gender of officer/staff they want to be searched by.

3.32 Reflecting the recommendations of the UN treaty bodies, the NIHRC recommends that the Policing Plan includes actions to ensure that all use of stop and search has a statutory footing, is non-discriminatory, sensitive to gender identity and proportionate. The NIHRC also recommends that the Policing Plan includes a commitment to regularly collect, analyse and publish data relating to the use of stop and search checks, including on children as recommended by the international monitoring bodies.

Children Missing from Care

3.33 From April 2017 to March 2018, the Police Service NI received 2,871 missing person’s reports from children’s homes, relating to 197 children.⁷⁴ During 2016/17, 21 children were reported missing more than 50 times and two were reported missing 95 or more times.⁷⁵ The Police Service NI has expressed concerns regarding a ‘revolving door’ effect where a young person is returned to residential care, after which they subsequently abscond again. It has been noted that there is a ‘particular link’ between children going missing from care and child sexual exploitation.

⁷¹ John Topping and Dirk Schubotz, ‘The ‘usual suspects’? Young People’s Experiences of Police Stop and Search Powers in NI’ (Ark Young Life and Times Survey 2018), at 6.

⁷² Ibid.

⁷³ Trans Ally Session, NI Human Rights Festival, 12 December 2019.

⁷⁴ Statistics provided by Police Service NI to NI Human Rights Commission.

⁷⁵ Ibid.

3.34 The NIHRC recommends that the Policing Plan addresses the issue of children going missing from care.

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