



Legal Needs of Children and Young People in Northern Ireland: Scoping Study

Report prepared for

Northern Ireland Legal Services Commission

**By
Professor Rosemary Kilpatrick
and Fiona Cronin**

Institute of Child Care Research, Queen's University Belfast

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Rosemary Kilpatrick and Fiona Cronin
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EXECUTIVE SUMMARY

1 Introduction

This report presents the main findings from a scoping study of legal services which meet the needs of children and young people in Northern Ireland. The study was undertaken on behalf of, and commissioned by, the Northern Ireland Legal Services Commission.

The overall aims of the research were twofold: (i) to provide a profile of current service provision in the voluntary, private and statutory sectors that meets the legal needs of children and young people in Northern Ireland and (ii) identify legal needs (salient and unmet) of children and young people in Northern Ireland from the perspective of service providers.

In order that the overarching aims of the research were met the Commission specified that the following questions should be addressed:

- i. What is the current level of service provision in Northern Ireland meeting the legal needs of children and young people?
- ii. Where are these services available and how are they provided and delivered?
- iii. What are the views of a sample of service providers on what are the salient legal needs of children and young people in Northern Ireland and gaps in current service provision?
- iv. What are the views of a sample of service providers as to how the Commission should effectively and appropriately inform itself about the legal needs of children and young people in Northern Ireland?
- v. What are the views of a sample of service providers on issues relating to the legal needs of children and young people which the Commission should be aware of in preparation for any future NI legal needs survey?

2 Methodology

There are two main phases to the research. Phase One was an on-line survey designed to address questions (i) and (ii) above and Phase Two was a series of focus groups and interviews which addressed questions (iii), (iv) and (v).

Common across the two phases were the definitions of met and unmet legal needs taken from Dignan (2004)¹, categories of service provision and types of service provided. The seven categories of service provision were: Education, Family and Children in Care, Youth Justice, Mental Health and Disability, Social Welfare, Immigration and Asylum and Rights and Equality issues. The type of service provided could be: Awareness Raising and Information, Advice, Advocacy and Legal Representation.

For the on-line survey the software package Questback was used. A distribution list of e-mail addresses for organisations and firms from the voluntary, statutory and private sectors that provided services for children and young people was compiled and the on-line survey circulated between 6th-30th June and then 15th-26th July 2010. The response rate was low especially for the private sector. This is most probably due to the fact that only a small proportion of the solicitors' firms and barristers to whom the survey was circulated actually provide legal services for children and young people and therefore decided not to respond to the survey.

Respondents were asked whether or not they provided services that met the legal needs of children and young people in any of the seven categories. If they did they were asked to identify the type of service and rank it in order of demand. Additionally, there was a series of questions which asked about the location of their services and how these were provided and delivered. Finally respondents were asked if they would be willing to take part in a follow-up focus group or one-to-one interview.

A list of those respondents who were willing to take part in the follow-up to the on-line survey was then compiled and a series of focus groups and interviews set up with participants representing all three sectors and Trust areas of Northern Ireland taking part. The schedules for the focus groups and interviews were designed to explore in depth the issues identified in the Commission's research brief.

Overall, despite the difficulties with the on-line survey and arranging focus groups and interviews over the summer period, the research has generated a wealth of information regarding the provisions of services that meet the legal needs of children and young people. Much of the data raises significant issues and has led to recommendations which are beyond the remit of the Commission. However, it is to be hoped that this report will highlight the level of unmet legal need for children and young people in Northern Ireland and possibly serve as an impetus for further action.

3. Phase One Findings

Of the 142 organisations that completed the on-line survey 43 (30%) indicated that they did not provide services that met the legal needs of children and young people in Northern Ireland. Of the remaining 99 organisations that did

¹ Dignan, T. (2006) *Northern Ireland Legal Needs Survey*. Belfast, NI Legal Services Commission

provide services there were 16 voluntary, 16 statutory and 67 private organisations (or individuals) which provided services from 142 offices.

Services were provided across Northern Ireland with respondents from the voluntary sector indicating that their provision was often regional and that they had several offices spread across Northern Ireland. Similarly, the Trusts and Education and Library Boards that responded had offices spread across their specified area. The private sector respondents tended to have 1-2 offices located in towns and cities across Northern Ireland, though the majority were in the Belfast area.

The private sector tended to provide services in their own offices and by office appointment while the voluntary and statutory sector were more likely to do home visits and provide services in the community. The voluntary sector made most use of the Internet as a means of providing their services. In contrast the private sector made little use of the Internet to provide services.

A general concern is raised later in the report about the lack of appropriate information available to children and young people and their families, and the inaccessibility of the legal profession. In light of this the private sector may want to consider ways of introducing more user-friendly information for children and young people. This could be made available by means of a website containing material relating to all aspects of children and young people's rights, particularly those that can be vindicated in domestic law.

In terms of category of service, Family and Children in Care and Youth Justice services are best provided for, particularly in relation to Advice, Legal Representation and Advocacy; the latter two are the services that are deemed as most in demand by the private sector.

Education, Rights and Equality and Mental Health and Disability services tended to lie midway in terms of provision and type of service provided. Education was seen as the most in demand by the statutory sector, though the statutory sector sample is slightly biased in this direction in the first place. Mental Health and Disability was ranked as amongst the top three in demand in the voluntary and private sectors.

Social Welfare and Immigration and Asylum services were the least well provided for and this applied to all types of services. Immigration and Asylum services were consistently the most poorly served and were only once ranked as most in demand by an organisation in the voluntary sector.

4. Phase Two Findings

4.1 Common Themes

Service providers' perceptions of children and young people's legal needs and the extent to which these needs were met were explored in depth in the focus groups and interviews. However, whether or not children and young people themselves would define the problems discussed as legal needs is a moot

point since it is unlikely that they will consider them within a legal framework in the first place; thus they will, by definition, be unmet legal needs.

One of the most consistently stated needs across all the focus groups and interviews was for greater awareness and knowledge about legal rights amongst children, young people and their parents/carers. Closely associated with this was the need for universal awareness raising of the UNCRC. Such an awareness raising exercise would inform children and young people of their legal rights and provide information as to where further advice, advocacy and legal representation could be sought if and/or when required.

Stated with similar regularity throughout Phase Two was the need to ensure that children and young people involved in the court process had the opportunity to have their own independent representation and their voices heard. The Guardian Ad Litem Agency was generally highly commended in this respect and it was suggested that the equivalent of this service should be considered for children and young people in the family and criminal courts and where appropriate in tribunals.

There was a common perception and much evidence (supported by the on-line survey) of unmet legal needs and gaps in provision for all children and young people. However, those who experience mental health problems and/or disabilities, who are immigrants or asylum seekers, who have problems with education and/or social welfare issues, or who are in the 16-18 age group were perceived to have a greater level of unmet need than those in care and youth justice systems.

While it was thought that the groups of children and young people in care and youth justice systems had greater access and awareness of services that meet their legal needs, this did not deny the fact that gaps were identified in addressing their legal rights.

4.2 Gaps according to Category

A summary of the perceived gaps by category of provision is provided here. Detail of specific unmet legal needs are identified Chapter 3 of the report.

Rights and Equity

- Generally, there was seen to be a large gap in awareness raising and training in children's rights and the UNCRC for professionals and other personnel working with, and providing services for, children and young people.
- A similar gap was identified in the area of raising awareness of children's rights and the UNCRC universally. This gap was expressly related to the lack of funding, resources and commitment from government.

- In terms of equality issues a highly worrying gap was the fact that the schools are not designated as public bodies in Section 75 and therefore noncompliant with the equality legislation.

Education

- There were gaps in the provision of awareness raising and information, advice, advocacy and legal representation regarding the legal needs of children and young people across all aspects of the education sector. This is perceived to have resulted in certain groups of children and young people being especially disadvantaged. Of particular concern was the lack of funding for special education tribunals and the lack of opportunity for the child to have independent voice in legal matters associated with education.

Family and Children in Care

- In relation to families and children living in the community there was seen to be a gap in universal awareness raising and advice resulting in unmet legal needs. A particular gap noted here was the shortage of support services and access to advice for vulnerable children in the community who may be being abused.
- There is a notable absence of independent representation and opportunity for the child's wishes and best interests to be fully considered in private court cases. Associated with this was a gap in the provision of contact centres.
- For children in residential care there were significant unmet legal needs in relation to access to Education and CAHMS combined with a need for further information and advice regarding their legal position for those leaving care.

Youth Justice

- At all stages of the youth justice process gaps were identified in children and young people's access to independent advice and advocacy services, leading on occasions to the young person's lack of awareness of his/her legal rights and unmet needs.
- It was argued that there is insufficient provision of early intervention and diversionary schemes based on the child's best interests. Such approaches would help avoid children's difficult behaviour being criminalised.
- If detained there are gaps in meeting various aspects of the child's legal rights including access to education, vocational training and mental health services.

Mental Health and Disability

- Mental health services for children and young people are under-resourced at all levels, with gaps in access to CAHMS and provision of appropriate accommodation for children and young people with mental health problems being of particular concern.
- For children with learning disabilities many gaps were identified, all of which created barriers to inclusion. These ranged from assessment, play and leisure through to education and age appropriate opportunities in further education and employment.

Immigration and Asylum

- There appears to be little service provision specifically designed to meet the legal needs of families, children and young people belonging to the Immigration and Asylum seeking community in Northern Ireland, resulting in a high level of unmet legal need.
- Children from the Asylum-seeking and Immigrant community are currently not included in the frameworks for assessment, care and protection of children in Northern Ireland and do not enjoy the same rights and protections as all other children in the jurisdiction thus resulting in large gaps in provision.

Social Welfare

- Provision of services in the area of Social Welfare for children and young people is limited to a few organisations yet children and young people, particularly once they are past the age of compulsory schooling, have a growing need to be aware of their legal rights in this area and to have their legal needs met particularly in the areas of benefits, allowances and housing.

4.3 Barriers to Accessing Service Provision

Several barriers to accessing legal services were identified; the most commonly referred to was the lack of awareness of legal rights. Even if children and young people were aware of a legal need and sought individual advocacy or advice it was suggested that the legal system was too distant from them. A further associated barrier was a perception that the legal profession tended to be removed from the life experiences of the children and young people that they were representing.

Court processes were seen as very much in the hands of the legal representatives and specific barriers associated with these processes were also raised including legal aid provision and delays

4.4 Future Research on Legal Needs of Children and Young People

Several suggestions were put forward as to how the Commission could best identify children and young people's legal needs in an appropriate and effective manner. These included accessing previous reports, working in partnership with voluntary agencies, building on existing social surveys and involving children and young people themselves. It may be that an amalgamation of the various proposals would best address the Commission's question.

In response to what issues should the Commission be aware of for any future Legal Needs Survey there was a variety of responses ranging from the very specific (tribunals and legal aid) through to the more general, including advocacy and raising awareness of legal needs.

5. Concluding Comments

If children and young people are not aware of their legal rights then their legal needs are, by definition, unmet. Therefore, it is argued that one of the first steps to ensuring that children and young people's legal needs are met is an awareness raising exercise.

This need for greater awareness and knowledge about legal rights amongst children, young people and their parents/carers was one of the most consistently stated needs which spanned all aspects of the study. Closely associated with this was the need for universal awareness of the UNCRC combined with the importance of children's voices being heard in decisions that affect them.

Despite the lack of any such comprehensive awareness raising exercise there were good examples of how the legal needs of children and young people have been met across Northern Ireland. The majority of these were found in the voluntary sector and based in models of good practice where there was a tiered approach. Partnership within and across sectors was identified as a key aspect of this work.

Associated with such success stories were professionals who were familiar with children and young people's legal needs and well versed in children's rights. The importance of ensuring that those working with children and young people had an understanding of their service users' needs and appropriate communication skills was highlighted throughout Phase Two of the study, as was the need for child-friendly information.

The research itself also stimulated innovative ideas as to how the legal needs of children and young people might be identified in the future alongside useful suggestions as to issues the Commission should be aware of for any future legal needs survey in Northern Ireland.

It is obvious that the current economic climate is not conducive to new initiatives. However, the Commission may wish to consider building on the

impetus that has been generated by this research and bring together a small working group. The purpose of such a group would be to explore how the ideas in the report might be further developed into a strategy designed to increase children and young people's awareness of their legal rights and their access to justice.