



Keeping Children Safe: Designated Officer Training

Relevant legislation – Northern Ireland

The Orders and Acts outlined here do not constitute an exhaustive list and are intended as an introduction to some of the legislation you may encounter. They can be accessed via www.hmsso.gov.uk

The Children (Northern Ireland) Order 1995

The 1995 Children Order is based very closely on the Children Act 1989, which came into effect in England and Wales in October 1991; both pieces of legislation bring the relevant parts of the UK closer to the objectives in the UN Convention on the Rights of the Child. The Order came into force on the 4th November 1996 and is about the care and upbringing of children. It is concerned with families and care of children, Trust support for children and their families, foster homes, childminding, day care and supervision.

The Family Homes and Domestic Violence (Northern Ireland) Order 1998

This amended the Children Order. It enables a Court, under certain circumstances, to order the removal of a suspected abuser from the family home, rather than the removal of a child. It introduced Occupation Orders, which stipulate who should occupy the family home, and Non-Molestation Orders.

The Data Protection Act 1998

This Act, amongst other things, gives individuals access to their own personal information. It applies to computerised personal data and personal data held in structured manual files. It applies to anything at all done to personal data ("processing"), including collection, use, disclosure, destruction and merely holding personal data. The Act gives significant rights to individuals in respect of personal data held about them by data controllers.

The Freedom of Information Act 2000

This came fully into effect on 1 January 2005. Under the Act, anyone may request information from a public authority in Northern Ireland. The Act confers two statutory rights on applicants: to be told whether or not the public authority holds that information; and if so, to have that information communicated to them.

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Freedom of Assembly and Association

Everyone has the right to freedom of peaceful assembly and to freedom of association with others. The right does not prevent the army or the police from taking reasonable action to prevent disorder and crime or to protect the rights and freedoms of other people.

Article 12

Right to Marry

Men and women of marriageable age have the right to marry and have a family, according to national laws.

Article 14

Prohibition of Discrimination

Everyone is entitled to enjoy the convention rights without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. This right can only be argued with one of the other rights, it cannot be used on its own, e.g. someone could argue that they had been discriminated against in relation to their right to family life on grounds of their religion.

Protocol One, Article 2

The Right to Education

A Protocol is simply something which is "added on". The right to education is added on to the convention, but it still gives you the same rights.

The ECHR says:

No person shall be denied the right to education. It also says that the religious and philosophical beliefs of parents must be respected in schools. Children and young people have a right to an effective education. This is a very relevant article for children and young people who are excluded from school or who have special education needs at school.

If you would like further information about your human rights, you can contact the Children's Law Centre.



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The Sexual Offences Act 2003

This legislation came into force on 1 May 2004. It sought to strengthen provisions which protect children who are in relationships of trust with adults, e.g. children in the care of social services, in educational establishments or in Hospitals. Part 1 identifies some new offences, such as meeting a child following sexual grooming (e.g. on the internet). Part 2 deals mainly with notification arrangements.

The Act repealed the 1997 Sex Offenders Act, which first established the Sex Offenders Register. Social Services are involved in the PPANI (Public Protection Arrangements for Northern Ireland) process which seeks to manage offenders, in the community, whose names are on the Register. Probation and Police generally have the lead role. The PPANI process is also becoming increasingly involved in the management of offenders who have committed acts of violence against children.

The United Nations Convention on the Rights of the Child (UNCRC)*

The UNCRC was adopted by the United Nations on 20 November 1989, and the UK ratified it in 1991. It identifies that children need special care and protection and that the family is the main form of protection for children. It emphasises the need for legal protection for the child before and after birth and the importance of respecting the cultural value of a child's community.

(Note: the UNCRC is not incorporated into UK law in the way that the European Convention on Human Rights is, but Judges are increasingly referring to its Articles when making decisions in relation to children.) Elements of the UNCRC are included in the Children Order, and the draft Bill of Rights for Northern Ireland incorporates other elements.

***Note:** this is an International Treaty, rather than being a piece of legislation.

Safeguarding Vulnerable Groups (NI) Order 2007 (as amended by the Protection of Freedoms Act 2012)

The Safeguarding Vulnerable Groups (NI) Order came into effect on 12 October 2009 to enhance the arrangements for safeguarding children. The legislation replaced the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (POCVA) and requires employers to prevent Barred individuals engaging in 'regulated activity' with children and young people.

The Order has been amended by the Protection of Freedoms Act 2012 and since September 2012 there are new disclosure and barring arrangements in Northern Ireland. The changes introduced include:



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The Disability Discrimination Act 1995

Unlawful discrimination occurs when, without good reason, a disabled person is treated less favourably than someone else because of their disability. The full introduction of the Act means that organisations must take reasonable steps to change practices, policies and procedures which make it impossible or unreasonably difficult for disabled people to use a service; and to provide auxiliary aids for services by a reasonable alternative method which would enable disabled people to use a service and overcome physical barriers. (It is also worth noting that children with disabilities are automatically defined as "in need" under the Children Order.)

Northern Ireland Act 1998

Section 75 of the Act requires public authorities in carrying out their functions relating to Northern Ireland, to have due regard to the need to *promote equality of opportunity* –

- a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- b) between men and women generally;
- c) between persons with a disability and persons without; and
- d) between persons with dependants and persons without.

Without prejudice to these obligations, a public authority is also required to have regard to the desirability of *promoting good relations* between persons of different religious belief, political opinion or racial group.

The Human Rights Act 1998

This came fully into force on 2 October 2000. The Act incorporates the rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) into domestic law. All public authorities in the UK are required to act compatibly with ECHR. The Articles of ECHR which are most generally relevant are:

- Article 3 – Prohibition of torture, inhuman and degrading treatment;
- Article 6 – Right to a fair trial [also applies to formal meetings, e.g. Case Conferences and Looked After Children (LAC) Reviews]
- Article 8 – Right to respect for private and family life.



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1. new definitions of regulated activity with children and adults;
2. controlled activity, registration and monitoring have been repealed (these aspects had never been fully implemented and are now abolished);
3. the functions of the Independent Safeguarding Authority (ISA) and the Criminal Records Bureau (CRB) will merge to establish one new agency – the Disclosure and Barring Service (DBS); and
4. statutory guidance on supervision of activity with children. The guidance is available from www.volunteernow.co.uk/fs/doc/publications/statutory-guidance-regulated-activity-children.PDF.

What will not change?

- There is no change to the requirement for organisations to make a check against the relevant Barred List before employing/offering a volunteering role in regulated activity.
- There is no change to the requirement to refer to the DBS, any individual who has harmed, or who poses a risk of harm to vulnerable groups and who has been (or would have been had they not left) removed from regulated activity.
- There is no change to the AccessNI service in Northern Ireland or its functions in providing disclosure certificates.

For posts within the new definition of regulated activity relating to children employers must request an Enhanced Disclosure with Barred List Check.

The Sexual Offences (NI) Order 2008

The Order closely follows the law in England and Wales set out in the Sexual Offences Act 2003.

It provides a comprehensive new legislative framework for sexual offences. These include offences against adults (including people with mental disorders), offences against children, and familial sexual offences.

Specifically, from February 2009, the Order reduced the age of consent in Northern Ireland to 16, to be in line with England and Wales.

The Northern Ireland Office has produced a helpful set of leaflets and guidance notes which are available at: www.nio.gov.uk/sexualoffences

