Response to the Northern Ireland Executive’s Draft Programme for Government 2011-2015

1. The Northern Ireland Human Rights Commission (the Commission), pursuant to Section 69 (1) of the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of Human Rights.\(^1\) In accordance with this function, the following statutory advice is submitted to the Office of the First Minister and Deputy First Minster (OFMDFM) on the draft Programme for Government (PfG).

2. The Commission welcomes the draft Programme for Government (PfG). There are many positive aspects of the PfG and in particular the prioritisation of the needs of deprived and marginalised communities in Northern Ireland, a focus on improving the experience of people in health and social care and the experiences of children in the education system. In addition, the commitment to a full 12-week consultation period and to further participation models are welcome.

3. The Commission offered its initial comments on the draft PfG to the Office of the First Minister and deputy First Minister (OFMDFM) in December 2011 (attached as Annex 1). In that submission the absence of a human rights based approach was noted and the need to address the particular problems faced by the Traveller community, victims of sexual violence and those living in poverty. It now takes this opportunity to elaborate on those initial comments in order to provide more detailed, practical advice on how Government can move forward in finalising

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\(^1\) Northern Ireland Act 1998, s.69 (1).
and delivering the PfG in line with a human rights based approach.

4. From the outset, it must be stated that following a human rights based approach not only ensures that legal requirements are met but also leads to better quality of outcomes. Furthermore, a human rights based approach is not any more resource intensive than the current machinery of Government demands. It provides a robust normative framework within which Government can devise and operationalise its policies for the betterment of society as a whole. The United Nations (UN) Office of the High Commissioner for Human Rights has developed a human rights-based approach for the realisation of individual rights as well as on generic programmes and initiatives. It is now used as a framework for programming globally and the need for such an approach in the United Kingdom (UK) has been highlighted previously. For example, the UN Committee on Economic, Social and Cultural Rights, in 2009, called on the UK to “develop human rights based poverty-reduction programmes, taking into consideration the Committee’s Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights of 2001”.²

5. It has largely been concluded that, where such an approach has not been followed, the process and outcomes are likely to be unsatisfactory in human rights terms: “A set of programme activities that only incidentally contributes to the realization of human rights does not necessarily constitute a human rights based approach to programming, where the aim of all activities is to contribute directly to the realization of one or several human rights”.³

6. A human rights based approach draws on the human rights as found in the treaties ratified by the UK in order to highlight the need for governance to respect the principles of participation, empowerment, non-discrimination, transparency and accountability and to always devote paramount attention to the most vulnerable in society.

² E/C.12/GBR/CO/5(CESCR), 2009.
³ The Human Rights Based Approach: Statement of Common Understanding, Developed at the Inter-Agency Workshop on a human rights-based approach in the context of UN reform, 3 to 5 May 2003.
Introduction

The normative framework - human rights

7. The Northern Ireland Executive in the context of devolved matters is the primary duty-bearer for the protection of rights enshrined in all the human rights treaties to which the UK is a party. The duty to implement policies and programmes that promote and protect the human rights of people in Northern Ireland rests with the Executive.

8. As stated in the Commission’s initial response (December 2011), the draft PfG fails to make an express link with the Executive’s human rights obligations. The Commission is of course aware of the many obligations on Government. A budget largely determined by Westminster, the economic downturn and increasing demand for public services all form the parameters within which the PfG must be devised and then delivered. Human rights law, however, should not be seen as another constraint but as an invaluable tool helping Government in its work. Human rights provide a normative framework that has been formulated with the intention of ensuring genuine benefits for all in any society, with an emphasis on meeting the needs of the most vulnerable and marginalised. Human rights law fully acknowledges the challenge governments face in times of economic crisis. Evolving jurisprudence of the treaty monitoring bodies is alive to the current economic downturn and realistic about what can be achieved in that context. Nonetheless, human rights law provides important guidance on how and what to prioritise and certain minimum standards that must be met whatever the circumstances.

9. The purpose of this submission is to outline the general principles that need to be followed in a human rights based approach.

10. The Commission recalls the human rights treaties that the government is duty bound to comply with. These treaties along with associated General Comments and Concluding Observations should provide a foundation of the PfG. The PfG must not make commitments or omissions that risk contravening these treaties. The PfG should be a programme of how Government proposes to fulfil the requirements of these treaties. The treaties are:

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The European Social Charter
The Council of Europe’s Framework Convention for the Protection of National Minorities (FCNM)
The European Charter for Regional or Minority Languages
The International Covenant on Civil and Political Rights (ICCPR)
The International Covenant on Economic, Social and Cultural Rights (ICESCR)
The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
The United Nations Convention of the Elimination of Discrimination Against Women (UNCEDAW)
The United Nations Convention on the Rights of the Child (UNCRC)
The United Nations Convention Against Torture (UNCAT)
The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

11. At present, every chapter of the PfG (“Our Commitments”, “Where We Are”, “Our Approach” and “Priorities”), is of direct relevance to Government’s human rights obligations as enshrined in the treaties. However, with two exceptions (UNCRC and UNCRPD) there is no reference to the Executive’s human rights obligations at the Council of Europe and UN levels.

12. The underlying assumption in the PfG is that access to education, health care and an adequate standard of living are part of a package of measures that will lead to better quality of life in all spheres. In human rights terms that is recognition of the indivisibility of economic, social and cultural rights with civil and political rights. This recognition is welcome and should be stated explicitly.

13. Furthermore, the chapter on “Commitments”, prioritising the needs of the most vulnerable, improving the provision of health and social care, and concentration on educational achievement all appear to acknowledge the fundamental importance of protecting socio-economic rights. This is to be welcomed and it should be made more explicit.

14. The chapter “Where We Are” is welcomed because it constitutes a worthy effort to capture what has been achieved to date. It is regrettable this has not, however,
been captured within a human rights framework. For example, the manner in which economic, social and cultural rights has been progressively realised is given no consideration. Such systemic indicators, if included, would help clarify the achievements made to date and assist the Executive in identifying necessary steps required so as to sustain future progress in delivering on human rights obligations.

“Our approach” and our “priorities”

15. The chapters “Our Approach” and “Priorities” engage many of Governments human rights obligations. These are addressed below.

16. **Priority 1: Growing a sustainable economy and investing in the future** – A sustainable economy with stable and increased revenues for Government is vital to protect and promote human rights for all. Placing the economy at the heart of the PfG is welcomed provided of course that revenues are utilised in the first instance to address the needs of the most vulnerable and marginalised and in promoting rights protections across society. That purpose should be expressly stated. In this regard, it is regrettable for example, that the current draft Integrated Impact Assessment for the draft Economic Strategy which attaches to the PfG concludes that it does “not engage any Convention rights”. An analysis of the Convention and related jurisprudence reveals that this is clearly not the case and indeed that the Convention rights are not the only rights that the Executive is obligated to uphold.

17. **Priority 2: Creating opportunities, tackling disadvantage and improving health and wellbeing** – again the approach is to be welcomed. The emphasis on improvement of health and wellbeing transmits directly to the duty to progressively realise socioeconomic rights. The commitment to tackle disadvantage speaks to a core principle of human rights in which the needs of the most marginalised should be prioritised.

18. **Priority 3: Protecting our people, the environment and creating safer communities** – this approach is linked to the priorities around environmental and criminal justice measures including improving access to justice and

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reducing the level of offending. Again this ‘approach’ and correlating ‘priorities’ relate specifically to the right to life (Article 2 ECHR, Article 6 ICCPR), the right to be free from inhuman and degrading treatment (Article 3 ECHR, Article 7 ICCPR, UNCAT) and the right to an adequate standard of living (Article 11 ICESCR). Similarly, fundamental human rights monitoring bodies also recognise the impact of the physical environment on people’s lives and the need to protect this.\(^5\) It is unfortunate that these links are not made in the PfG as they would lay the foundation for human rights compliant outcomes.

19. It is important that the Executive avoids language that alienates or appears to exclude certain groups. The reference to “our people” is one such example in which that risk arises. The Commission stresses that the reference to “our people” must include everyone within Northern Ireland, regardless of ethnicity, religion or immigration status. The Executive has duties to all individuals within its jurisdiction even when immigration status is not secure, including for example, victims of human trafficking who are particularly vulnerable and in need of special protection. This should be made clear in the PfG and indeed all Departmental policies and programmes where relevant.

20. **Priority 4: Building a strong and shared community** – Northern Ireland is comprised of many different communities – religiously, ethnically and culturally. There is little in the draft PfG that appears to celebrate that diversity and richness but much that appears to call for uniformity. Given Northern Ireland’s troubled and deeply divided past that may be understandable; however, the relevant human rights treaty obligations must be respected. It is important that the need to unite two communities does not alienate those who identify with neither. For example, the PfG fails to display how it will meet its legal commitments under ICERD and FCNM, and indeed overlooks many minority communities here, old and new, notwithstanding the distinct needs of smaller communities that have been at best neglected and at worst actively disenfranchised over the years. Indeed, certain groups have the right to special measures when their rights have been neglected or abused in the past. This is made clear in the ICERD (Article 1(4)), the UNCEDAW (Article 4) and the UNCRPD (Article 5 (4)).

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\(^5\) See for example: General Comment No 14 of the Committee on Economic, Social and Cultural Rights and General Assembly Resolution 45/94.
21. **Priority 5: Delivering high quality and efficient public services** – under this heading the draft PfG reads “citizens have, whether in times of recession or not, the right to expect excellent public services and value for money. As an Executive, we are acutely aware of the need to deliver, and this is why we have identified this as a priority”. This is one of the few places where the language of rights is used. Here, human rights law would go some way in informing Government of how excellence in public services can be measured. Where the delivery and experience of public services meets the standards of human rights treaties and jurisprudence they are of an acceptable standard. Efficiency and quality must be measured against human rights standards and any proposals that seek to reduce or may result in a reduction of the revenue available to spend on key sectors such as healthcare or education must not constitute retrogression of human rights protection. The International Committee on Economic, Social and Cultural Rights has stated: “a general decline of living and household conditions, directly attributable to policy and legislative decisions by State Parties, and in the absence of accompanying compensatory measures, would be inconsistent with the obligations under the Covenant”.6

22. The need for explicit mention of human rights cannot be overstated. Without it there is a risk that the PfG outcomes may fall short of the standards in the treaties. Government is clearly identified within the treaties as the duty-bearer and the population as rights-holders rather than passive recipients of goods and services.

23. Rights-holders themselves must be involved in the delivery of the PfG. Under Article 25 ICCPR everyone has the right and opportunity without unreasonable restrictions “to take part in the conduct of public affairs, directly or through freely chosen representatives”. The UN Human Rights Committee has further elaborated: “the conduct of public affairs [...] is a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels”.7 Similarly, Article 12(1) of the UNCRC

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6 Committee on Economic, Social and Cultural Rights, General Comment No. 3 E/1992/23.  
7 General comment No. 25 (1996) on the right to participate in public affairs, voting rights and the right of equal access to public service (art. 25), para 5.
states that “States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child”.

**Crosscutting issues**

24. There are a number of crosscutting issues with regard to many of the PfG “Priority” areas that are integral to a human rights based approach. These are addressed in more detail below.

**Participation and empowerment**

25. As stated above, participation is a human right in itself as well as a means to achieving desirable outcomes. In allowing a full 12-week consultation period for this draft PfG, Government has already gone some way in meeting one of the requirements of a human rights based approach – participation with rights-holders. Government could do more in its efforts to ensure participation. Inviting written submissions is important but some of society’s most vulnerable cannot participate in this manner. High levels of illiteracy, for example, amongst the Traveller community mean that they are unlikely to be able to participate. Similarly, those for whom English is a second language will also be unable to put their views in writing and children are also disadvantaged in this regard. In future, the Commission would therefore advise the Executive to engage in proactive outreach work that involves officials having a physical presence in different locations, presenting the draft PfG in appropriate formats and seeking views accordingly. For this PfG period, the integrity of the consultation will be evidenced by the extent to which consultee views are reflected in the final draft.

26. Participation is not only relevant in the formulation stage. In a human rights based approach people must be recognised as “key actors in their own development, rather than passive recipients of commodities and services”. Thus rights-holders are to be involved in the delivery of policies and programmes of the PfG.

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27. The Commission has submitted advices to Government on the Social Investment Fund and, notwithstanding some concerns, it is on the whole a positive model in which those to be affected by the delivery of the programme are to be involved from its outset to its conclusion. Other panels/advisory groups are also referred to in the draft PfG. For example, under Priority 2 an advisory group on the UK Government’s Welfare Reform Programme and, under Priority 4, an advisory group to advance shared education are mentioned. Government’s commitment to seeking advice in this manner is to be commended.

28. It is important that these advisory groups are composed of, and reflect the views of, those to be directly affected by the proposals. In particular, those sectors of society that, where evidence suggests, are at risk of suffering adverse impacts, whether that be through the proposals being implemented or failing to be so. These are just two examples in which the Executive already appears to be committed to active participation models. There are other areas where that is not clear in the draft PfG. In particular under Priority 3, the commitment to reform and modernise the delivery of Health and Social care is not accompanied with any assurance that further consultation and participation will be sought and facilitated. The report “Transforming Your Care” which outlines specific and far-reaching measures for reform of health and social care has since been published. In a statement to the Health Committee of 1 February the Minister for Health, Social Services and Public Safety said that he is “committed to ensuring an open and transparent process as we move forward”. He also stated that “designing and delivering a new model for health and social care services, one that is built around patient needs, will require engagement with patients and front line providers”. This development is positive and needs to be followed through to the extent that the engagement reaches out to the most vulnerable in the health and social care setting which in many instances will be those with mental health problems. The PfG should reflect the Health Minister’s statement and commitment.

29. The Commission is not suggesting that every action or Executive decision requires participation to the same level as, for example, the advisory groups highlighted above. However, careful thought needs to be given to identifying who the relevant rights-holders are for any intended policy and how their views can be sought and received by
Government. For participation to be more than a gesture it will require capacity building, and appropriate systems and structures to be put in place. These should be clearly devised and set out in the PfG against the relevant policy and within the delivery framework set out under Priority 5. It is unsatisfactory for them to be devised on an ad-hoc basis with the onus on rights-holders to navigate the structures and forums through which their views can be voiced. Government must be the proactive party.

**Non-discrimination**

30. The prohibited grounds for discrimination are enshrined in both domestic law (the Northern Ireland Act 1998 and the Human Rights Act 1998) and in the international treaties outlined above. In the protection of rights, non-discrimination requires that the needs of the most vulnerable and marginalised are prioritised. Human rights allow, indeed require that duty bearers distinguish on the basis of need. The commitment in the draft PfG to extend age discrimination legislation to the delivery of goods and services is a positive step as is the commitment to addressing the needs of deprived communities in the areas of housing, health and education. The international treaty monitoring bodies have consistently expressed concern over certain groups believed to be deprived and called on the UK to address their needs. These have included the Traveller community, asylum seekers and ethnic minorities.\(^9\) Regrettably these groups are not identified in the draft PfG as requiring particular attention. This omission fails to honour the recommendations of the treaty monitoring bodies and should be rectified in the final PfG.

31. The treaty monitoring bodies are clear that the groups requiring prioritisation as well as appropriate corrective measures must be identified through the collection and analysis of disaggregated data.\(^10\) This data should both inform and help justify Executive policies that are targeted at the needs of particular protected groups. Government policies must be based on reliable data that acts as an evidence base for why certain groups are prioritised, what their needs are and what measures are required. Without

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that data the risk is that not only the policies themselves will be unsatisfactory but that accusations will be made of unfair treatment against other groups. In this respect then, while Equality Impact Assessments are a positive step in meeting equality obligations they are not entirely sufficient. Government must go further in identifying and addressing the needs of the protected groups and proactively identifying other groups that require special measures. It must be able to identify multiple discriminations where they occur and respond accordingly. This can only be achieved through the appropriate data collating and analysis techniques. That data and the conclusions drawn from it must in turn be made publicly available.

**Transparency**

32. The draft PfG as it is currently drafted is an important initial step in meeting the transparency requirement of a human rights-based approach. It serves as a useful tool in helping individuals ascertain the intentions and plans of their Government. However, more needs to be done to ensure that rights holders have all the information they need to participate in the devising and delivery of the PfG. The right of access to information is in fact an essential element of the right to freedom of expression as enshrined in Article 19 ICCPR and Article 10 ECHR. The right to information is explicit in Article 9 UNCRPD. General Comment No. 34 of the UN Human Rights Committee further elucidates on the transparency element of a human rights-based approach: “To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information”. At this juncture it is important for Government to recognise and overcome the barriers to transparency. It is not sufficient that all information will be disclosed should someone specifically request it through, for example, a Freedom of Information request. Government must be proactive in ensuring that information is available at the outset and that its availability is known. It must also be available in accessible formats.

**Accountability**
33. The enactment of the Human Rights Act 1998 has meant that many of the rights enshrined in the ECHR are enforceable in the UK's domestic courts. There must also be mechanisms in place that ensure accountability for the full range of human rights which the UK is duty bound to uphold. Government must be transparent about its intentions and the possible impediments to the realisation of rights protections.

34. Annex 1 of the draft PfG outlines the arrangements and delivery framework. It is problematic that this is comprised of Government Ministers and civil servants only. There is no forum for genuine engagement with civil society at the delivery stage and certainly no forum for accountability when targets are not met. This needs to be rectified as the PfG is being finalised. Rights-holders must be integrated into the PfG at all stages from devising to delivery.

35. In addition, there must be accessible mechanisms in place at the local level. Such forums need to be established that take advice, not only from ‘experts’ in a field but from those whom policies and legislation are seeking to help. When the intentions of those policies are not realised or where there are unintended consequences, rights-holders should be empowered to communicate that information and corrective measures should be taken with programmes and policies adjusted accordingly.

36. Furthermore, the Executive should strengthen its involvement in the treaty monitoring process and commit to raise awareness and empower civil society to do so also. The Executive should commit in the PfG to ensure accurate, appropriate and timely inputs to state party reports. It should also commit to involve civil society in the drafting process and educate groups and individuals on how they can relay information to the treaty monitoring bodies themselves. Such a process will help ensure that the Executive is held to account by those bodies, is made aware of where it falls short of its commitments and advised on how to meet its obligations. In terms of redress there are a number of Optional Protocols which the UK ought to ratify and which give the right of individual petition to the monitoring bodies.\(^{12}\) OFMdFM should indicate in the PfG its intention to encourage UK ratification of these Optional Protocols.

\(^{12}\) These are: Optional Protocol to the ICCPR; Optional Protocol to ICESCR (which has yet to enter into force).
Final observations

37. The PfG will be the Government’s programme for the next four years, and the draft provides commentary on a range of proposed initiatives. As the national human rights institution for Northern Ireland this Commission has a distinct role to play and will continue to advise Government as is required by statute and international best practice. For example, along with this submission, the Commission will continue to advise on such legislation as the Welfare Reform Bill when it is introduced. It also refers the Executive to the work of the UN in relation to education; in particular the Special Rapporteur on the Right to Education and the Concluding Observations of the UN Committee on Economic, Social and Cultural Rights. The Commission will, in due course comment on the human rights implications of the “Transforming Your Care” report and will present the findings of its investigation into the human rights of older people in nursing care to the Minister for Health in March 2012. The recommendations in that report will have direct bearing on “Transforming Your Care” and this Commission stands ready to advise Government further in light of its findings.

38. In addition, there are important commitments that are missing from the draft PfG with regard to which the Commission has previously advised the Executive. For example, not listed in “Commitments” is the proposal to introduce legislation following on from the recommendations of the Bamford Review. Legislation on mental capacity is much needed in Northern Ireland and the Commission’s view is that there should be a single piece of legislation that covers capacity and mental health matters relating to the criminal justice system. In finalising the PfG, OFMdFM is advised to include a firm commitment to introducing this legislation. The Commission will of course advise further once the Bill is made public.

January 2012

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Annex 1

Comments on the draft Programme for Government 2011-15

The Northern Ireland Human Rights Commission welcomes the publication of the draft Programme for Government (PfG). The Commission recognises that achieving the Executive’s agreement to this second PfG is a confirmation of the progress that continues to be made within our political institutions. Such leadership is vital for the protection of human rights.

The Commission appreciates the difficulties faced in framing the PfG against a background of austerity measures. The First Minister and deputy First Minister have correctly acknowledged the impact that this is having on daily lives. A reduction in social security benefits, coupled with public expenditure cuts to health, education and housing will have adverse consequences for those people most dependent on our public services.

At the same time much of the PfG, if implemented, will contribute to the protection of the human rights of people in Northern Ireland. Supporting the promotion of 25,000 new jobs and our investment infrastructure, improvements to and an increase of 8,000 in social housing stock, the continued assurance of no additional water charges: these are just a few of the commitments made that are to be commended.

In the Commission’s view, government policies that will reduce funding for public services must be subjected to a rigorous assessment so as to determine their compatibility with the UK’s international human rights obligations.

The current economic situation reinforces the need to fully incorporate social and economic rights into the framework of existing protections. The Commission again calls on all political parties to work together and agree a Bill of Rights for Northern Ireland that integrates economic, social and cultural rights.

How to place human rights at the centre of the PfG

The emphasis given by the PfG to the principle of equality is to be commended. It recalls the opening words of the Universal Declaration of Human Rights, ‘All human beings are born free and equal in dignity and rights’. It also recalls the obligation on the
Executive to honour the full commitment to equality that is set out in the human rights treaties that have been accepted by the UK. The PfG mentions at present only two of these treaties, the United Nations (UN) Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities. There is no reference to the European Convention on Human Rights, the European Social Charter, the two UN Covenants on Human Rights or any of the European and UN specialised instruments. This is an oversight that needs to be addressed. Simply listing treaties or referring to them in only one priority area, as is now the case is not good enough. Human rights serve as a legally binding framework that should underlie the entire PfG.

**Identifying the most vulnerable and disadvantaged**

The application of treaty commitments is greatly assisted by the relevant findings of the international expert monitoring bodies, as they review and comment upon human rights protections across the UK. It is this work that the Executive should have turned to when attempting to identify the vulnerable and disadvantaged people referred to in the PfG introduction.

Many of those facing hardships belong to groups, the plight of which has been highlighted repeatedly by the expert bodies, but still they receive no specific mentioned in the PfG. Take just two examples, the first group vulnerable and the second disadvantaged:

1. **Victims of crime**
   
The PfG commits to ‘improving access to justice’ and ‘reducing the level of serious crime.’ It also commit to tackle crime against older and vulnerable people by more effective and appropriate sentences and other measures.

   These commitments are welcomed and go some way to identify how the Minister for Justice will focus resources on those identified as most in need of protection. A human rights analysis, however, indicates that there is also a serious need to provide in particular enhanced services to support the victims of sexual violence. Northern Ireland still does not have a centralised sexual assault referral centre. Nor do we have such specialist domestic violence courts as exists elsewhere in the UK. Victims of trafficking, including those forced into prostitution, do not receive the levels of protection and care that are needed. Taking account of victims’ rights the Executive should commit to a comprehensive approach to tackling sexual violence. But this is missing from the PfG.
2. The Travelling community

The PfG commits to ‘improving literacy and numerous levels among all schools leavers, with additional resources targeted at areas of educational underachievement’. It also commits to ‘increase the proportion of young people from disadvantaged backgrounds who achieve at least 5 GCSE’s at A*-C or equivalent in Maths and English’.

These commitments are welcome, but they say little about where the increasingly scarce resources available to the Minister for Education might be best directed. A human rights analysis indicates that the high levels of illiteracy found within the travelling community should make this group a priority concern. Taking account of the right to education, the Executive should have included the delivery of a promised action plan for Traveller education as an urgent objective. But this pledge is absent from the PfG.

Dealing with issues of general concern

Among the groups of vulnerable and disadvantaged people acknowledged in the PfG are those living in poverty, with a particular emphasis given to children and the rural poor. This is a good starting point, but the proposals to tackle poverty need to be reinforced as issue of general concern. Combating poverty should be a core aim of the PfG and not just a set of issues to be address by departments taking individual actions. Collective government means that all economic proposals should be set against the objective of reducing poverty across Northern Ireland. This is a human rights treaty obligation which binds the Executive and must be recognised as such in the PfG.

In addition to tackling poverty, a PfG that is fully committed to human rights needs the Executive to make a public commitment to address the legacy of the Northern Ireland conflict in a comprehensive and integrated fashion. In the language of human rights, a commitment to ‘transitional justice’ must be made in the PfG. Some specific initiatives, such as finalising ‘the Cohesion, Sharing and Integration Strategy’ or actively seeking ‘local agreement to reduce the number of peace walls’ have been included and are welcome. But other important actions are missing, like the envisaged service for victims and survivors. The Executive should demonstrate its human rights credentials by committing to put in place a wide-ranging consultative process on transitional justice, in full compliance with the applicable international standards of good practice, and to be implemented within the lifetime of the PfG.
Participation

In order to comply with the UK’s binding human rights obligations, the PfG needs to do more than just deliver human rights-compatible outputs. Respect for human rights also concerns the very processes by which the PfG is further developed and implemented. A consultation, such as the present one, is an important way to ensure that the people have their say. But it is equally important to listen and act upon the responses by reflecting them in the final draft.

No less significant than the consultation is a guarantee for those who will be affected by the decisions contained in the PfG, that their voices will be heard in the subsequent design and delivery. The Commission is concerned that no reference is made to there being a role for affected communities within the PfG’s statement of ‘programme arrangements and delivery framework’. For example, with regard to the commitment to deliver 8,000 social and affordable homes, a human rights approach would ensure that those most in need are first identified and that a respectful dialogue takes place to allocate this scarce resource and construct the accommodation that take account of their particular needs.

In conclusion, while the Commission welcomes the fact that an equality impact assessment of the PfG is underway, we also advise the Executive that this process is a much too narrow basis upon which to determine if the PfG adheres to international treaty obligations. For that purpose, a human rights audit should be undertaken at key moments in the design and implementation of the PfG. The Commission stands ready to advise the Executive on the operation of such an audit. The Commission also reiterates its commitment to supporting the State, through its specific mandate, in delivering human rights for the people of Northern Ireland on the basis of the international human rights standards to which the UK has committed itself.