



NORTHERN
I R E L A N D
HUMAN
RIGHTS
COMMISSION

**Northern Ireland Human Rights Commission
Submission to the United Nations
Committee Against Torture
Parallel Report on the 5th Periodic Report
of the United Kingdom under the Convention Against Torture and Other Cruel, Inhuman
or Degrading Treatment or Punishment**

Northern Ireland Human Rights Commission
Temple Court, 39 North Street
Belfast BT1 1NA
Tel: (028) 9024 3987
Fax: (028) 9024 7844
Textphone: (028) 9024 9066
SMS Text: 07786 202075
Email: information@nihrc.org
Online: nihrc.org twitter.com/nihrc
facebook.com/nihrc youtube.com/nihrc

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1. Introduction

- 1.1. The Northern Ireland Human Rights Commission (the Commission) is a statutory public body established in 1999 to promote and protect human rights. In accordance with the Paris Principles¹ the Commission reviews the adequacy and effectiveness of measures undertaken by the UK Government to promote and protect human rights, specifically within Northern Ireland (NI). The Commission is one of the three A status National Human Rights Institutions in the UK.
- 1.2. As part of the Commission's engagement with the United Nations' and Council of Europe's treaty monitoring processes, it presents this parallel report to the Committee Against Torture (the Committee). In this report the Commission provides updated information regarding six key issues.
- 1.3. First: conditions in Northern Ireland's prisons. The prison system in Northern Ireland is in the process of reform, in this regard the Commission notes the need for changes to policies and procedures to lead to positive outcomes for prisoners.
- 1.4. Second: the absence of a statutory definition of restraint, setting out circumstances in which restraint may and may not be used, has led to inconsistent policies and practices and violations of the rights of vulnerable individuals.
- 1.5. Third: a number of issues arise with respect to immigration and detention in Northern Ireland, including the system to establish whether immigrants detained bear signs of torture.
- 1.6. Fourth: the need for a comprehensive framework of transitional justice and the need to address human rights abuses committed in the past and to provide redress and reparation to victims of the conflict in Northern Ireland.
- 1.7. Fifth: the need to ensure effective redress and reparations for victims of historical abuse and mistreatment. Specifically the issue of victims who fall outside the remit of the current inquiry into institutional abuse of children in Northern Ireland, for example individuals over 18 who were detained in Magdalene Laundries or similar institutions.
- 1.8. Sixth: the continued use of counter terrorism powers, highlighting the need to ensure persons are subject to counter terrorism powers only when absolutely necessary.

¹ <http://www2.ohchr.org/english/law/parisprinciples.htm>.

2. Right of Individual Petition

- 2.1. Recalling paragraph 42 of the List of Issues², the Commission notes that the UK Government in its State Report has retained its position regarding the right of individual petition under Article 22.³

The Commission advises that the Committee should recommend that the UK Government issue the required declaration under Article 22 to provide for the right of individual petition.

3. Constitutional Framework for Implementation

Human Rights Act 1998

- 3.1. Noting paragraphs 1 and 2 of the List of Issues the Commission recalls that the Human Rights Act 1998 gives further domestic effect in the United Kingdom to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). These protections include Article 3, which prohibits torture, inhuman or degrading treatment or punishment. The Commission draws the Committee's attention to the ongoing debate in the UK regarding the future of the Human Rights Act 1998, including the report of the Commission on a Bill of Rights.⁴ The Commission's view on this matter, shared with the Scottish Human Rights Commission, is that the *"Human Rights Act 1998 should be ring fenced and built upon as part of further progress in the promotion and protection of human rights within and across all jurisdictions including devolved, excepted and reserved areas."*⁵
- 3.2. In addition, the two institutions also agreed that any process towards establishing a UK Bill of Rights, or other similar statute, *"for the UK or any of its constituent parts, which seeks to repeal the UK Human Rights Act 1998 in part or whole would be retrogressive in terms of the promotion and protection of human rights."* They have stated their opposition to any such process and have judged that their positions are *"consistent with the responsibilities and mandates of both national human rights institutions"*.⁶

² Committee Against Torture, List of issues in connection with the consideration of the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, adopted by the Committee at its forty-ninth session (29 October-23 November 2012), CAT/C/GBR/Q/5, 17 January 2013 (hereinafter, List of Issues). Available at: <http://www2.ohchr.org/english/bodies/cat/cats50.htm>.

³ Committee Against Torture, Fifth Periodic Report by the Government of the United Kingdom of Great Britain and Northern Ireland, CAT/C/GBR/5, 21 May 2012 (hereinafter, UK Fifth CAT Report), paras. 6-11. Available at: <http://www2.ohchr.org/english/bodies/cat/cats50.htm>.

⁴ Commission on a Bill of Rights, 'A UK Bill of Rights? The Choice Before Us', December 2012.

⁵ NIHRC, Submission to the Commission on a Bill of Rights Discussion Paper: Do you think we need a UK Bill of Rights?, November 2011, para. 8 (internal citations omitted).

⁶ *Ibid*, para. 9.

The Commission advises that the Committee should recommend to the UK Government that it maintain the protections, enforcement and implementation mechanisms provided for in the Human Rights Act 1998. Furthermore, there should be no regression in the level of constitutional protections afforded to the prohibition of torture, cruel, inhuman or degrading treatment.

Bill of Rights for Northern Ireland

3.3. Noting paragraph 3 of the List of Issues, the Commission advises that pursuant to its mandate under the Belfast (Good Friday) Agreement 1998, advice on a Bill of Rights for Northern Ireland was provided to the UK Government in 2008.⁷ In 2003 the UK Government committed to “*bringing forward legislation at Westminster where required to give effect to rights supplementary to the ECHR to reflect the particular circumstances of Northern Ireland.*”⁸ The Commission has continued to provide advice on a Bill of Rights for Northern Ireland,⁹ however there has been little political progress towards enacting legislation. The Commission recalls that the UK Commission on A Bill of Rights in its concluding report recommended to the UK Government that its Report should not “*be interpreted or used in such a way as to interfere in, or delay, the separate Northern Ireland Bill of Rights process.*”¹⁰

The Commission advises that the Committee should recommend that the UK Government ensure that a Bill of Rights for Northern Ireland is progressed as a priority matter.

4. The State Party Report

4.1. With regard to the State Party report,¹¹ the Commission notes that information provided by the UK Government is incomplete in certain areas. In particular the Commission advises that no information has been provided regarding the jurisdiction of Northern Ireland in the following areas:

- Article 4: Criminalisation of Torture; Police Personnel.¹²
- Article 10: Education and training of police, military, doctors and other personnel to prevent torture and other forms of ill-treatment; training for third-party contractors working with immigration detainees in Northern Ireland.¹³

⁷ NIHRC, ‘A Bill of Rights for Northern Ireland: Advice to the Secretary of State for Northern Ireland’, 10 December 2008.

⁸ *Joint Declaration by the British and Irish Governments*, (2003) Annex 3, para. 2.

⁹ See for example, NIHRC, ‘Is that Right? Fact and Fiction on a Bill of Rights’, 2012.

¹⁰ Commission on a Bill of Rights, ‘A UK Bill of Rights? The Choice Before Us’, December 2012, at 12.4.

¹¹ UK Fifth CAT Report, available at: <http://www2.ohchr.org/english/bodies/cat/cats50.htm>.

¹² *Ibid*, pp. 41-43.

¹³ *Ibid*, p. 51.

- Article 10: Education and training of police, military, doctors and other personnel to prevent torture and other forms of ill-treatment; information is provided regarding the Crown Prosecution Service but not regarding the relevant body in Northern Ireland, the Public Prosecution Service.¹⁴
- Article 16: Other acts of cruel, inhuman or degrading treatment or punishment not amounting to torture; Offender Health including Mental Health Services,¹⁵ and Safeguarding and behaviour management.¹⁶

The Commission advises that the Committee should request that the UK Government provide an updated report including complete information regarding the jurisdiction of Northern Ireland.

5. Prisons

5.1. A Review of the Northern Ireland Prison Service reported in 2011.¹⁷ The Review found that to address the underlying problems and bring about sustainable improvement requires the 'overhauling' of the entire prison system.¹⁸ The recommendations of the Review Report have largely been accepted by the Minister of Justice for Northern Ireland who has established an Oversight body to oversee their implementation.¹⁹

5.2. The recommendations of the Review and their effective implementation will have consequences for ensuring that prisoners are detained in conditions which are not inhuman or degrading. In this submission the Commission raises six issues of particular concern with respect to prisons in Northern Ireland:

- Overcrowding
- Women prisoners
- Prisoners at risk of suicide
- Medication in prisons
- Bullying and violence
- Solitary confinement.

¹⁴ *Ibid*, p. 52.

¹⁵ *Ibid*, pp. 90-91.

¹⁶ *Ibid*, pp. 95-96.

¹⁷ Prison Review Team, Review of the Northern Ireland Prison Service: Conditions, management and oversight of all prisons, October 2011. (Hereinafter, Review of the NI Prison Service). Available at: <http://www.prisonreviewni.gov.uk/final-prison-review-oct11.pdf>

¹⁸ *Ibid*, p. 36.

¹⁹ NI Assembly Committee for Justice Briefing 'Review of the Northern Ireland Prison Service Corporate Governance Arrangements', 29 March 2012, available at: <http://www.niassembly.gov.uk/Assembly-Business/Official-Report/Committee-Minutes-of-Evidence/Session-2011-2012/March-2012/Review-of-the-Northern-Ireland-Prison-Service-Corporate-Governance-Arrangements/#sthash.u7rVUZ6Z.dpuf>.

Overcrowding

5.3. The issue of prison overcrowding is raised at paragraph 35 of the List of Issues and the UK Government has provided information on plans for increasing the capacity of the prison estate in Northern Ireland at paragraph 85 of its report to the Committee. The Commission notes the rise in the prison population of Northern Ireland.²⁰ The Northern Ireland Prison Review Team's Report states that:

*"the population rise reflects a continuing failure to get to grips with long-standing population drivers, such as the number of remand prisoners and fine defaulters."*²¹

5.4. On average 598 prisoners were held on remand in prisons throughout Northern Ireland in 2011/12.²² A significant factor influencing the high number of remand prisoners is the level of avoidable delay in the Northern Ireland criminal justice system.²³

5.5. There were 632 receptions into custody in Northern Ireland for non-payment of a fine in the first quarter of 2012.²⁴ The Commission has consistently highlighted the need to address the high number of persons committed to prison for failure to pay fines.²⁵ The Department of Justice has piloted the use of supervised activity orders as an alternative to imprisonment for fine default under two pilot schemes.²⁶

The Commission advises that the Committee should recommend to the UK Government that the Northern Ireland Executive (NI Executive);

- (a) identify the factors influencing the high number of remand prisoners in Northern Ireland;**
- (b) implement a fully developed programme of measures to address delay in the criminal justice system; and**

²⁰ Review of the NI Prison Service, cited at fn 17, p. 29 reporting a 13% year on year increase.

²¹ *Ibid*, p. 6.

²² Northern Ireland Prison Service 'Annual Report and Accounts 2011/12', March 2012, p. 111, available at: <http://www.dojni.gov.uk/nips-annual-report-and-accounts-2011-12>.

²³ See, Criminal Justice Inspection Northern Ireland, 'Avoidable Delay: A Progress Report', January 2012.

²⁴ Northern Ireland Assembly Minister of Justice David Ford MLA Question Time, 1 May 2012, available at: <http://www.niassembly.gov.uk/Documents/Official-Reports/Plenary/2012/20120501.pdf>.

²⁵ See for example, NIHRC, Advice to the Office of the First Minister and Deputy First Minister on the recommendations made to the UK during the second cycle of the Universal Periodic Review, August 2012.

²⁶ 'Justice Minister David Ford has today launched a pilot scheme providing a better way to deal with fine default', 4 January 2012, available at: <http://www.dojni.gov.uk/ford-launches-pilot-scheme-to-tackle-fine-default>. 'Ford launches second pilot scheme to tackle fine default Justice Minister David Ford has today launched a second pilot scheme to provide a better way to deal with fine default', 15 October 2012, available at: http://www.northernireland.gov.uk/print/news-doj-15102012-ford-launches-second?WT.mc_id=rss-news. The statute providing for supervised activity orders has been in place since 2008 and yet five years later it has not been fully implemented with respect to fine defaulters. (The Supervised Activity Order (SAO) was created by Article 45 and Schedule 3 of the Criminal Justice (Northern Ireland) Order 2008).

(c) fully introduce non-custodial penalties for those who default on fines across the jurisdiction of Northern Ireland.

Women Prisoners

5.6. Recalling paragraph 33 of the List of Issues the Commission notes the conditions in which women prisoners are held in Northern Ireland. The Prison Review Team recommended the construction of a new small custodial facility for women built, staffed and run around a therapeutic model.²⁷ The Review Team concluded:

*“that the current custodial environment for women, in Ash House, is wholly unsuitable: because [of] its design, its mixed population of short sentenced, remanded, mentally ill and long-sentenced women, and its co-location with young adults”.*²⁸

5.7. The Report of the Office of the Northern Ireland Prisoner Ombudsman (ONIPO) into the death by suicide of Frances McKeown provides evidence of the current custodial environment for women in Northern Ireland. In this report the ONIPO stated:

*“Although Frances had a known history of psychiatric hospitalisation, was on psychotropic drugs and self harmed and threatened suicide whilst in prison, it was more than six months before she saw a psychiatrist. When Frances eventually saw a psychiatrist, her assessment was limited because her GP and hospital records were not available to the psychiatrist.”*²⁹

5.8. On 19th March 2013 the Minister for Justice, David Ford MLA committed to establishing a new separate custodial facility for women offenders.³⁰ This has been an outstanding matter for many years, the Commission first highlighted the need for a discrete women’s custodial facility in its 2005 report *‘The Hurt Inside: The imprisonment of women and girls in Northern Ireland’*.³¹ The Department of Justice is currently developing a business case and considering options for the location of the new facility.

²⁷ Review of the NI Prison Service, cited at fn 17, recommendation 35 discussed at pp. 68-69.

²⁸ *Ibid*, p. 69.

²⁹ Prison Ombudsman, ‘Summary and Issues of Concern relating to the report by the Prisoner Ombudsman into the circumstances surrounding the death of Frances McKeown’, 22 November 2012, (hereinafter, ‘Summary and Issues of Concern relating to the death of Frances McKeown’), p. 24, Issue of Concern 9, available at: http://www.niprisonerombudsman.com/publications/dic/Summary_andIssuesofConcern.pdf.

³⁰ Minister of Justice David Ford MLA Statement to the Assembly ‘Northern Ireland Prison Service Estate Strategy’ Tuesday 19th March 2013

³¹ NIHRC ‘The Hurt Inside: The imprisonment of women and girls in Northern Ireland’ (NIHRC Belfast: 2005). See also: NIHRC, ‘Response to DoJNI Prison Estate Policy Consultation’, December 2012, para 33.

The Commission advises the Committee to recommend to the UK Government that the NI Executive commence construction of a new small custodial facility for women prisoners at the earliest possible opportunity. The Commission advises that the new custodial facility should be entirely self contained making provision for all services and facilities including health, exercise and visitation.

Prisoners at Risk of Suicide

- 5.9. As identified at paragraph 549 of the report of the UK Government, the NI Prison Service has adopted the Supporting Prisoners At Risk (SPAR) procedures to manage, monitor and support prisoners considered at risk of suicide.
- 5.10. In April 2010 the Prison Review Team carried out a random inspection of current and recently closed SPAR forms at Her Majesty's Prison (HMP) Maghaberry, the largest prison in Northern Ireland. Following this exercise the Prison Review Team reported that they were not confident that the SPAR procedures were being properly implemented, or that the causes of vulnerability amongst inmates were understood and engaged with.³²
- 5.11. The reports of the ONIPO into deaths in custody have also revealed failings in both support and understanding of those at risk.³³ The ONIPO in its report into the death by suicide of Samuel Carson noted that with respect to Mr. Carson: "*SPAR Case Conferences did not adequately consider the need for mental health reviews*".³⁴
- 5.12. In addition in its report into the death by suicide of Frances McKeown the ONIPO raised concerns with respect to compliance with SPAR procedures. The ONIPO found that:

"Some observation logs, which had been quality checked by management, were not being completed as required by the care plan and, in particular, observations were not carried out at the required intervals. No evidence was seen to indicate that, where this occurred, the shortfalls were discussed and addressed. This has previously been

³² Review of the NI Prison Service, cited at fn 17, p. 36.

³³ *Ibid*, p. 36. In its 2011/12 Annual Report the ONIPO identified "Adherence to SPAR booklet protocol" as a significant issues arising from the death in custody investigation reports in that year. The Prisoner Ombudsman for Northern Ireland 'Annual Report, April 2011-March 2012', p. 17.

³⁴ The Prisoner Ombudsman for Northern Ireland, '*Summary and Issues of Concerns of the investigation by the Prisoner Ombudsman into circumstances surrounding the death in Hydebank Wood Prison and Young Offenders Centre of Samuel Carson*', (hereinafter, '*Summary and Issues of Concern surrounding the death of Samuel Carson*'), 8 November 2012, p. 35, Issue of Concern 14, available at: http://www.niprisonerombudsman.com/publications/dic/WEB_VERSION_-_Summary_and_Issues_of_Concern.PDF.

*raised by the Prisoner Ombudsman in connection with a number of other Death in Custody investigations.”*³⁵

5.13. The Commission notes positive developments to address the issue of prisoners at risk of suicide, such as the establishment of the Ministerial Forum on Safer Custody.³⁶ The Prison Review Team recommended that ONIPO be invited to carry out random reviews of SPAR documentation, and that the results of its findings should be reflected in training for managers and staff.³⁷ The ONIPO has reported that issues of concern which it has raised in its investigations into deaths have been given a high level of priority by the Prison Service.

The Commission advises that the Committee should recommend to the UK Government that the NI Executive provide information on measures it has taken to ensure that the SPAR procedures are meeting their goal of monitoring and supporting prisoners at risk of suicide.

Medication in Prisons

5.14. The ONIPO has identified the management of prescribed medication and supervision of self medication arrangements as issues of concern arising from the results of its investigations into deaths in custody.³⁸ The Prison Review Team identified inconsistencies in prescribing policies with delays in obtaining prescriptions and inappropriate approaches to detoxification.³⁹ The Prison Review Team found that inconsistencies in prescribing policies have resulted in significant levels of anxiety and increased vulnerability amongst inmates.⁴⁰

5.15. The ONIPO has also identified the availability and trading of illicit substances and prescribed drugs as issues of concern.⁴¹

The Commission advises that the Committee should recommend to the UK Government that the NI Executive review prescription management policies for inmates and provide information to the Committee on measures taken to end the trade in both illicit substances and prescribed drugs in prisons throughout Northern Ireland.

³⁵ Summary and Issues of Concern relating to the death of Frances McKeown, cited at fn 29, p. 23, Issues of Concern 1.

³⁶ Criminal Justice Inspection Northern Ireland, 'Vulnerable Prisoners; An inspection of the treatment of vulnerable prisoners by the Northern Ireland Prison Service', December 2009, p. 22. Available at: <http://www.cjini.org/CJNI/files/22/22219098-1d58-4924-887f-66f4f3db7e13.pdf>.

³⁷ Review of the NI Prison Service, cited at fn 17. Recommendation 9, p. 37.

³⁸ The Prisoner Ombudsman for Northern Ireland, 'Annual Report, April 2011-March 2012', p. 17.

³⁹ Review of the NI Prison Service, cited at fn 17, p. 40.

⁴⁰ *Ibid.*

⁴¹ The Prisoner Ombudsman for Northern Ireland, 'Annual Report, April 2011-March 2012', p. 17.

Bullying and Violence in Prisons

5.16. Recalling paragraph 35 of the List of Issues, the Commission draws to the Committee's attention the bullying of inmates in Northern Ireland's prisons. In March 2012 the UK's National Preventative Mechanism (NPM), designated in accordance with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)⁴² carried out an inspection of HMP Maghaberry.⁴³ The NPM surveyed inmates of HMP Maghaberry and found that they were more likely to say that they felt unsafe than in comparator prisons.⁴⁴ The NPM concluded that:

*"there had been no effective strategy to address bullying over recent years. The existing strategy had been relaunched and very few prisoners had been managed under the strategy. There was very limited collection or analysis of data on violence. Managers believed most incidents of bullying were related to the acquisition of prescribed medicines."*⁴⁵

5.17. The ONIPO raised a number of specific concerns regarding the Northern Ireland Prison Service's approach to bullying in its report into the death by suicide of Samuel Carson. The ONIPO found that:

*"Numerous allegations of bullying and noted instances of bullying were not, contrary to the Prison Service Anti-Bullying Policy, referred for investigation; a Security Information Report (SIR) was not completed and required referrals were not made to the anti-bullying co-ordinator."*⁴⁶

5.18. In addition the ONIPO raised concerns regarding the lack of measures taken to protect Mr. Carson from physical violence from other inmates. The ONIPO found that:

"On 7 March 2011, Samuel was kicked and punched by two inmates whom he had previously named as bullying him, after he was

⁴² The UK ratified OPCAT in December 2003 and designated its NPM in March 2009. The UK's NPM is currently made up of 18 visiting or inspecting bodies who visit places of detention such as prisons, police custody, immigration detention centres, children's secure accommodation and mental health institutions. The NPM is coordinated by HM Inspectorate of Prisons.

⁴³ National Preventative Mechanism, 'Report on an announced inspection of Maghaberry Prison 19 – 23 March 2012', December 2012. The members of the NPM who carried out the inspection included: Criminal Justice Inspection Northern Ireland, Her Majesty's Inspectorate of Prisons, Education and Training Inspectorate and Regulation and Quality Improvement Authority.

⁴⁴ *Ibid*, p. 4.

⁴⁵ *Ibid*, p. 38.

⁴⁶ Summary and Issues of Concern surrounding the death of Samuel Carson, cited at fn 34, pp. 34 -35, Issues of Concern.

*returned to the landing where the two inmates were located. He was taken to hospital when he started to cough up blood.*⁴⁷

The ONIPO noted that those investigations that had taken place were ineffective and that Mr. Carson had not been appropriately separated from other inmates who both bullied and assaulted him.⁴⁸

The Commission advises that the Committee should recommend to the UK Government that the NI Executive review its current Anti Bullying Policy in prisons. The NI Executive must ensure that policies and procedures to protect prisoners at risk of bullying and intimidation from other inmates are effectively implemented and that staff are appropriately trained in their operation.

Solitary Confinement

5.19. The Commission advises that Rule 32 of the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 provides for restriction of association. Prisoners being held under Rule 32 at HMP Maghaberry are accommodated on the Care and Supervision Unit (CSU). The CSU regime has been criticised as a poor environment for prisoners remaining segregated for long periods. Furthermore concerns have been raised that segregation may exacerbate existing psychological conditions.⁴⁹

The Commission advises the Committee to recommend to the UK Government that the NI Executive discontinue holding prisoners in isolation where this may impact on their psychological wellbeing.

6. Restraint

6.1. Recalling paragraph 37 of the List of Issues the Commission advises that there is currently no statutory definition of restraint in Northern Ireland.⁵⁰ The NI Executive has for some time been developing a statutory definition of restraint.⁵¹ However this definition will relate only to circumstances in which an individual lacks capacity.

6.2. In 2012 the Commission reported on an investigation into the human rights of older people resident in nursing homes throughout Northern

⁴⁷ *Ibid*, p. 35.

⁴⁸ *Ibid*.

⁴⁹ Criminal Justice Inspection Northern Ireland, Report of an announced inspection Maghaberry Prison, December 2012, para 1.111.

⁵⁰ This is in contrast to England and Wales where Section 6(4) of the Mental Capacity Act 2005 states that restraint occurs if a person uses force or the threat of force to make another individual do something that they are resisting or if they restrict a person's liberty whether or not they resist.

⁵¹ This will be included in the Mental Capacity (Health, Finance and Welfare) Bill.

Ireland.⁵² The Report concluded that the absence of a statutory definition of restraint had contributed to a lack of coherent guidance around the use of restraint in these facilities.⁵³ By way of example, in a number of nursing homes nursing staff were found to be using chemical sedation without an appreciation that this was a form of restraint, and without properly reviewing its practice.

6.3. The NPM for the United Kingdom raised concerns regarding the use of restraint in health and social care settings in Northern Ireland in its 2011/12 annual report.⁵⁴ The NPM reported that inspections by the Regulation and Quality Improvement Authority (RQIA) found inappropriate use of rapid tranquilisation, bedrails, lap straps on specialist seating, arm splints and specialist sleepwear.⁵⁵ The RQIA found that staff used restraint without adequate training and that policies were inadequate, out of date or simply absent.⁵⁶

The Commission advises that the Committee should recommend to the UK Government that the NI Executive bring forward a statutory definition of restraint, drawing on international human rights standards, as a matter of priority. Formal guidance on the use of restraint in all relevant contexts should then be reviewed and updated and training provided.

7. Immigration

7.1. In the UK, immigration is a reserved matter, therefore responsibility lies with the UK Border Agency (UKBA) of the Home Office and not the Northern Ireland Executive. The Commission notes the recent announcement that the UKBA will be abolished and its responsibilities will be held directly by the Home Office.

The Commission advises that the Committee should recommend that the UK Government ensure that any recommendations made apply equally after the new arrangements are in place.

7.2. The Commission published a report in 2009 entitled *Our Hidden Borders; the UK Border Agency's Powers of Detention*, outlining concerns regarding

⁵² NIHR, In Defence of Dignity: The Human Rights of Older People in Nursing Homes, Belfast, 2012.

⁵³ *Ibid.*, p. 61. The Report made a number of recommendations with respect to the standards governing nursing homes in Northern Ireland, these have been positively received by the Minister for Health in Northern Ireland and relevant regulations are currently being updated.

⁵⁴ National Preventative Mechanism, 'Monitoring places of detention' Third Annual Report of the United Kingdom's National Preventive Mechanism 2011–12, pp. 22-23.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

immigration detention in Northern Ireland.⁵⁷ One of the central recommendations of this report was that

*“Detention of both asylum seekers and perceived immigration offenders should be used only as a last resort and when to do otherwise would prove a threat to the public. The over-arching preference should be for temporary release...”*⁵⁸

7.3. In this submission the Commission raises five issues of particular concern in this area:

- Detention of immigration detainees in police custody.
- Detention of mentally ill immigration detainees
- Detention of victims of torture and ill-treatment
- Identification of victims of human trafficking
- Inspection and oversight of Larne House Short Term Holding Facility

Detention of Immigration Detainees in Police Custody

7.4. In 2009, the Council of Europe’s European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stated that

*“police stations are, by their very nature, not suitable for holding immigration detainees. As a matter of principle, irregular migrants should not be treated in the same way as persons detained in relation to a criminal offence or held on public order grounds. In addition... conditions of detention in police stations in Northern Ireland are not adequate for prolonged periods of custody.”*⁵⁹

7.5. In July 2011 the UKBA opened a dedicated short-term holding facility for immigration detainees in Northern Ireland at Larne House; in spite of some operational concerns this development is welcomed by the Commission. The Commission recalls that the Human Rights Committee’s Concluding Observations on the UK in 2008 contained a recommendation that appropriate detention facilities should be provided in Northern Ireland for individuals facing deportation.⁶⁰

7.6. However, despite the opening of Larne House in the period since the Human Rights Committee’s observations in 2008 and the CPT’s report in 2009, the Human Rights Annual Report 2012 of the Northern Ireland

⁵⁷ NIHRC, *Our Hidden Borders; The UK Border Agency’s Powers of Detention*, April 2009.

⁵⁸ *Ibid*, p. 88.

⁵⁹ Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 November to 1 December 2008, Strasbourg, 8 December 2009, para. 137.

⁶⁰ CCPR/C/GBR/CO/6, para. 21, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/433/42/PDF/G0843342.pdf?OpenElement>.

Policing Board found that immigration detainees continue to be detained in police custody, in some cases for periods of up to 6 ½ days.⁶¹

The Commission advises that the Committee should recommend that the UK Government ensure that immigration detainees are not held in police custody. If criminal charges are brought against an immigration detainee domestic law regarding permissible periods of detention and due process should be applied stringently.

Detention of Victims of Torture

7.7. Recalling Issue 17 of the List of Issues, the Commission notes that the system to establish whether immigrants detained at Larne House bear signs of torture does not provide a role for a medical practitioner and relies extensively on self-identification of torture survivors.

7.8. The Commission advises the Committee that although immigration detainees may be held in Northern Ireland for a significant time period - in police custody at times up to 6 ½ days, and subsequently at Larne House for periods up to 7 days – these detainees are not afforded the protections provided under Rule 35 of the Detention Centre Rules.⁶² The Detention Centre Rules do not apply to short term holding facilities, including Larne House. The Commission notes that UKBA Short Term Holding Facility Rules remain in draft form and in the meantime there is a gap in protection for immigrants held in these facilities.

The Commission advises that the Committee should recommend that the UK Government ensure that a system is implemented with immediate effect to identify whether immigrants detained in Short Term Holding Facilities bear signs of torture and that such a system is provided for in the Short Term Holding Facility Rules when they are published.

Identification of Victims of Human Trafficking

7.9. The Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) noted that concerns "*have been expressed that persons held at Larne may include trafficking victims who are not identified because of the speed and secrecy with which operations take place.*"⁶³ In this regard GRETA stressed "*the importance of not relying exclusively on self-*

⁶¹ Northern Ireland Policing Board, Human Rights Annual Report 2012: Monitoring the compliance of the Police Service of Northern Ireland with the Human Rights Act 1998, (Hereinafter Northern Ireland Policing Board, Human Rights Annual Report 2012) p. 132.

⁶² The UKBA has informed the Commission that at Larne House "*The Detention Centre Rules do not apply.*" Email correspondence between UKBA and NIHRC dated 26 March 2013.

⁶³ Group of Experts on Action against Trafficking in Human Beings, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, Strasbourg, 12 September 2012, para. 229.

identification and developing a proactive detection of potential victims of trafficking.”⁶⁴

The Commission advises that the Committee should recommend that the UK Government ensure that immigration officials working in Northern Ireland, at Larne House, at Drumkeen House, and in an escort capacity, be trained to identify potential victims of human trafficking.

Inspection and oversight of Larne House Short Term Holding Facility

7.10. In 2011, following an unannounced inspection of Larne House, Her Majesty’s Inspectorate of Prisons noted that “UKBA monitoring of the facility was irregular at one visit every two to four weeks”⁶⁵ and recommended that “UKBA should attend the facility regularly”.⁶⁶ The Commission notes that the service improvement plan produced in response to this inspection report indicates that the number of visits has not increased; UKBA contract monitors visit the facility on a monthly basis and UKBA staff from Drumkeen House visit when necessary to liaise with detainees.⁶⁷

7.11. A pilot project of custody visitors from the Policing Board’s Independent Custody Visiting Scheme operated between November 2011 and March 2012, however this arrangement has not been made permanent. In 2012 the Northern Ireland Policing Board expressed concern at the “*lack of arrangements in place to ensure that the facility [Larne House] was visited on a routine basis by lay visitors.*”⁶⁸

7.12. The Commission notes that the Independent Monitoring Board (IMB) at Glasgow, Scotland has been given oversight responsibility for Larne House. The Commission recalls that an IMB for Northern Ireland operates as part of the UK National Preventive Mechanism under OPCAT.⁶⁹ The Commission notes that a lack of oversight of a detention site can lead to an increased likelihood of ill-treatment in contravention of the Convention taking place.

The Commission advises that the Committee should seek further information regarding the effectiveness of the inspection and oversight regime at the Larne House Short Term Holding Facility and the UKBA’s other Short Term Holding Facility in Northern Ireland at Drumkeen House.

⁶⁴ *Ibid.*

⁶⁵ Report on an unannounced inspection of the short-term holding facility at: Larne House, 1-2 November 2011 by HM Chief Inspector of Prisons, at para. 1.45.

⁶⁶ *Ibid* at para. 1.46.

⁶⁷ Service Improvement Plan, Larne House STHF, Northern Ireland – Unannounced Inspection, p. 1.

⁶⁸ Northern Ireland Policing Board, Human Rights Annual Report 2012, cited at fn 60, p. 133.

⁶⁹ <http://www.imb-ni.org.uk/>

8. Transitional Justice

Enforced Disappearances

8.1. In Northern Ireland enforced disappearances by non-state actors during the conflict remain an outstanding issue. In 1999, the Independent Commission for the Location of Victims' Remains (ICLVR) was established by an intergovernmental agreement between the Government of the United Kingdom and the Government of Ireland.⁷⁰ According to the ICLVR, to date nine bodies have been recovered.⁷¹ It is essential that efforts to locate victims' remains and to investigate the disappearances continue.

The Commission advises that the Committee should recommend that the UK Government provide an update on the work of the ICLVR and that the Government ensure that it continues to be provided with adequate support.

Redress and Reparations

8.2. The Commission notes that concerns have been raised regarding the adequacy of redress and reparation for victims of the conflict in Northern Ireland, which includes victims of torture and ill-treatment by state and non-state actors.

8.3. A 2012 Report by the Commission for Victims and Survivors in Northern Ireland noted a number of issues regarding compensation for victims including that *"[m]any families who were bereaved during the Conflict received no payment in relation to the emotional impact the family endured and many families did not receive any compensation whatsoever."*⁷²

8.4. This Report went on to explain that a *"2002 Scheme introduced a tariff scheme for addressing general damages. Part of the tariff was a sliding scale whereby a victim/survivor received 100% compensation for their most serious injury, 30% for the second most serious, reducing down to 10%. This would therefore see people who had suffered serious multiple injuries experiencing a significant reduction in the compensation applicable to certain injuries even if the impact of these injuries did not overlap."*⁷³

8.5. Regarding redress the Commission for Victims and Survivors' Report recognized that *"as they move on, victims need to see the justice system doing what it can to right historical failings regarding the investigation or non-investigation of serious crime."* However the Commission stated that

⁷⁰ <http://www.iclvr.ie/>

⁷¹ *Ibid.*

⁷² Commission for Victims and Survivors, Comprehensive Needs Assessment, February 2012, para. 3.2.14, available at: <http://www.cvsni.org/images/stories/publications/CNA/pdfs/cvsni-cna-final-web-opt.pdf>.

⁷³ *Ibid.*, para. 3.2.15.

*"since historical investigations are limited solely to killings, the much greater number of crimes relating to the Troubles is set to remain unsolved and largely unexplained. Thus, the seriously injured and the traumatized are unlikely to achieve anything more from the justice system."*⁷⁴

The Commission advises that the Committee should recommend that the UK Government and the NI Executive reassess the adequacy of redress and reparation for victims of torture and ill-treatment by state and non-state actors during the NI conflict.

Investigations into Conflict Related Deaths

8.6. Noting recommendation 5(k) of the Committee's 2004 Concluding Observations, the Commission advises that a significant number of death investigations related to the conflict in Northern Ireland have taken place. These investigations are part of a "package of measures" developed by the Northern Ireland Office and the Northern Ireland Department of Justice. The measures include investigations by the Police Service of Northern Ireland's (PSNI) Historical Enquiries Team (HET) and the Office of the Police Ombudsman for Northern Ireland (OPONI). In addition, a number of public inquiries into conflict related deaths, as well as inquests by the Northern Ireland Coroner, have been held.

8.7. The Commission advised the Human Rights Council in its Universal Periodic Review submission to the UK's examination in 2012 that it *"continues to have concerns surrounding investigations into deaths that occurred during the conflict period in NI."*⁷⁵ Concerns have arisen regarding each of the processes that make up the package of measures.

8.8. A 2012 report identified apparent inconsistencies in the investigation processes of the HET where State agencies, in this case the military, are involved, as compared with non-state or paramilitary suspects.⁷⁶ In response Her Majesty's Inspectorate of Constabulary (HMIC) was asked to conduct a review of the HET's practices in relation to cases involving the military.⁷⁷

⁷⁴ *Ibid*, para. 4.2.2-4.2.3.

⁷⁵ NIHRC, Submission by the Northern Ireland Human Rights Commission (NIHRC) to the UN Human Rights Council's Universal Periodic Review of the United Kingdom (UK), November 2011 (hereinafter UPR submission 2011), para. 18.

⁷⁶ Lundy, Research Brief: Assessment of HET Review Processes and Procedures in Royal Military Police Investigation Cases, April 2012, available at: <http://eprints.ulster.ac.uk/21809/>

⁷⁷ Secretariat of the Committee of Ministers of the Council of Europe, Communication from NGOs (Committee on the Administration of Justice (CAJ) (22/11/12) and response from the authorities (11/12/12) in the McKerr group of cases against the United Kingdom (Application No. 28883/96), 19 December 2012, Para. 2 response from authorities, available at:

<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2210920&SecMode=1&DocId=1965424&Usage=2>. This review is ongoing.

- 8.9. A 2011 review of OPONI, which investigates historical cases in which the actions of a police officer may have led to a death, identified significant flaws in the investigation of historic cases.⁷⁸ As a result historical case investigations were suspended for more than a year. These investigations were recommenced in February 2013.
- 8.10. Following a number of legal challenges, the U.K. Supreme Court in 2011 ruled that inquests are required to comply with the standards laid down in case law applying Article 2 of the European Convention on Human Rights.⁷⁹ However, 21 inquests to be conducted into conflict related deaths were suspended by the Coroner in 2012. While the suspension was lifted in February 2013, the suffering of the families of victims is prolonged by the ongoing delays of the inquests into these deaths.
- 8.11. Noting paragraph 20 of the List of Issues, the Commission recalls that it has in the past expressed concern about the independence of any inquiry conducted under the Inquiries Act 2005 due to the control government ministers can exercise at every stage.⁸⁰ Regarding future inquiries into conflict related deaths David Cameron has stated that "*there will be no more open-ended and costly inquiries into the past*".⁸¹ The State Party's report to the Committee indicated that it was continuing to consider the issue of holding an inquiry into the death of Patrick Finucane. The Commission advises that the decision was taken that an inquiry would not be held into Mr. Finucane's death and instead a review of documentation relating to the circumstances of his death was undertaken, with a final report produced in December 2012.
- 8.12. Challenges to each of the elements of the package of measures, examples of which are outlined at paragraphs 8.7 to 8.11, illustrate the need for continued oversight and for a comprehensive approach to dealing with the past. The Commission has previously advised that the "*failure to put in place a comprehensive framework for transitional justice in NI raises issues under the UK's international human rights treaty obligations*".⁸² The Commission highlights that failures in the process of conducting investigations in historical cases exacerbate the suffering of relatives.

The Commission advises that the Committee should recommend that the UK Government ensure that the state mechanisms established to investigate conflict related deaths comply with CAT, including conducting prompt, comprehensive and independent investigations to

⁷⁸ Criminal Justice Inspection Northern Ireland, CJINI, 'An inspection into the independence of the Office of the Police Ombudsman for Northern Ireland', 2011.

⁷⁹ *In Re McCaughey and Anor., Re Application for Judicial Review* [2011] UKSC 20 (18 May 2011).

⁸⁰ See for example, UPR submission 2011, cited at fn 75, para. 18.

⁸¹ Prime Minister David Cameron, House of Commons Hansard Debates, 15 Jun 2010, Column 741.

⁸² UPR submission 2011, cited at fn 75, para. 4.

establish the truth and identify, prosecute and punish perpetrators. This should include those mechanisms that fall within the competency of the NI Executive.

Paramilitary-Style attacks and Deaths related to the Security Situation

8.13. The Commission draws the Committee's attention to the ongoing problem of paramilitary-style attacks and deaths related to the security situation in Northern Ireland. There has been a reduction in the number of such attacks in recent years, however, this issue remains a serious concern.

PSNI statistics regarding Paramilitary-Style attacks from 2004 to 2011 record the following:

2004: 112 shootings and 115 assaults.
2005: 85 shootings and 89 assaults.
2006: 36 shootings and 49 assaults.
2007: 6 shootings and 46 assaults.
2008: 16 shootings and 40 assaults.
2009: 41 shootings and 81 assaults.
2010: 37 shootings and 57 assaults.
2011: 30 shootings and 46 assaults.⁸³

PSNI statistics from 2004 to 2011 record the following deaths related to the security situation:

2004: 0 Police, 0 Army, 5 Civilian
2005: 0 Police, 0 Army, 5 Civilian
2006: 0 Police, 0 Army, 3 Civilian
2007: 0 Police, 0 Army, 3 Civilian
2008: 0 Police, 0 Army, 1 Civilian
2009: 1 Police, 2 Army, 2 Civilian
2010: 0 Police, 0 Army, 2 Civilian
2011: 1 Police, 0 Army, 0 Civilian.⁸⁴

The Commission advises that the Committee should request that the UK Government provide details on efforts to address these attacks, including prevention efforts, as well as compensation and rehabilitation provided to victims.

9. Historical Abuse

9.1. The Commission welcomes the establishment during the reporting period of the Historical Institutional Abuse Inquiry, which will investigate the

⁸³ http://www.psnipolice.uk/ps_attacks_cy.pdf

⁸⁴ http://www.psnipolice.uk/deaths_cy.pdf

experiences of abuse of children in residential institutions (other than schools) in Northern Ireland between 1922 and 1995.⁸⁵

The Commission advises that the Committee should recommend that the UK Government remind the NI Executive of its obligation to institute prompt, independent and thorough investigations into all cases of abuse found by the Inquiry, to ensure that all victims of abuse obtain redress and have an enforceable right to compensation, including the means for as full rehabilitation as possible and, if appropriate, to prosecute and punish perpetrators.

9.2. The Commission is concerned that the rights of the members of several groups who were the victims of cruel, inhuman and degrading treatment, will not be addressed through this Inquiry.⁸⁶

9.3. Such excluded groups include women over 18 who were detained in Magdalene Laundries and equivalent institutions in Northern Ireland. Children who were detained in such institutions will be entitled to recourse to the Historical Institutional Abuse Inquiry but those who entered when they were over 18, would fall outside the remit of the Inquiry under its current terms of reference. Furthermore, while the experiences up to the age of 18 of individuals who entered such institutions as children would be examined by the Inquiry, the experiences of such individuals who remained past the age of 18 would not be addressed. As the Committee may be aware, the Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries in Ireland identified that the oldest entrant to those institutions was 89 years old.⁸⁷

9.4. Furthermore, victims of child abuse who were abused outside the context of residential institutions, for example clerical abuse survivors, also fall outside the remit of the current inquiry. The ill-treatment suffered by these children is not under systemic investigation in Northern Ireland. In this regard the Commission recalls the Committee's statement that

*"the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State's indifference or inaction provides a form of encouragement and/or de facto permission."*⁸⁸

⁸⁵ <http://www.hiainquiry.org/index/documentation/terms-of-reference.htm>

⁸⁶ The Commission notes that the Committee for the Office of the First Minister and deputy First Minister is actively considering this issue and whether to propose alternative approaches to address it.

⁸⁷ Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries, p. XIII, February 2013, available at: <http://www.justice.ie/en/JELR/Pages/MagdalenRpt2013>.

⁸⁸ Committee Against Torture, General Comment No. 2, Implementation of article 2 by States parties, CAT/C/GC/2, 24 January 2008, para. 18.

In regard to victims falling outside the remit of the Historical Institutional Abuse Inquiry, the Commission advises that the Committee should recommend that the UK Government ensure that the NI Executive institute prompt, independent and thorough investigations and in appropriate cases, prosecute and punish perpetrators and ensure that victims obtain redress and have an enforceable right to compensation including the means for as full rehabilitation as possible.

10. Counter Terrorism

Arrest

10.1. The Terrorism Act 2000 at section 41 empowers a police officer to arrest without warrant a person whom he reasonably suspects to be a terrorist. Referring to section 41 the UK’s Independent Reviewer of Terrorism Legislation in his report of 2012 stated: *"It is a notably wide power of arrest, in particular because the arresting officer need have no specific offence in mind."*⁸⁹

10.2. The Independent Reviewer noted that 195 people were arrested under section 41 in Northern Ireland in 2010/11. The Reviewer reported that the number of persons arrested under the 2000 Act who were subsequently charged was significantly lower than the comparable statistics for Great Britain; these are provided below.⁹⁰

2010/11	Great Britain	Northern Ireland
Detained under s41	50	195
Of which charged with an offence	22 (44%)	41 (21%)
Charged with a terrorism related offence	13 (26%)	19 (10%)

10.3. The Northern Ireland Policing Board (NIPB) raised this issue in its 2011 Annual Report on Human Rights, the NIPB recommended that the:

"PSNI should review its policy and practice in respect of arrests under section 41 of the Terrorism Act 2000 to ensure that police officers do not revert to section 41 in cases where it is anticipated that the

⁸⁹ David Anderson Q.C. Independent Reviewer of Terrorism Legislation ‘Report of the Independent Reviewer of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006’, available at: <http://terrorismlegislationreviewer.independent.gov.uk/publications/report-terrorism-acts-2011?view=Binary>, para 7.26.

⁹⁰ *Ibid*, pp. 67-69.

*suspect is more likely to be charged under non-terrorism legislation.*⁹¹

10.4. In its 2012 Human Rights Annual Report, published in February 2013 the NIPB reported that whilst the aforementioned recommendation was accepted by the PSNI and a review had been carried out, the results were not made available in time for inclusion in the 2012 Report.⁹²

The Commission advises the Committee to recommend that the UK Government share the findings of the review carried out by the PSNI with the Committee and demonstrate to the Committee that section 41 arrest powers are used in Northern Ireland only when necessary.

Pre-Charge Detention

10.5. Recalling paragraph 8 of the list of issues the Commission advises that the current maximum period of pre-charge detention for terrorist suspects is 14 days, set by Schedule 8 of the Terrorism Act 2000, as amended by the Protection of Freedoms Act 2012.

10.6. The current maximum period of pre-charge detention for terrorist suspects in the United Kingdom is significantly longer than other democratic jurisdictions throughout Europe and the Commonwealth.⁹³

The Commission advises the Committee to recommend that the UK Government regularly review the necessity of the current maximum period of pre-charge detention for terrorist suspect.

10.7. The Commission advises that the Terrorism Act 2000 does not make provision for persons arrested under its section 41 to be released on bail. Referring to persons arrested under the 2000 Act, the Northern Ireland Court of Appeal stated:

"There is no provision for conditional release on bail within the statutory scheme. The respondent submitted that persons arrested under this legislation would be likely to interfere with evidence or witnesses, fail to attend trial, obstruct the course of justice or commit offences while on bail. We do not consider that such generalisations are appropriate. Persons arrested under this legislation may be peripheral to any alleged serious terrorist activity or may be

⁹¹ Northern Ireland Policing Board, 'Human Rights Annual Report 2011, Northern Ireland Policing Board, February 2012, p. Recommendation 15, pp.104-105.

⁹² Northern Ireland Policing Board, Human Rights Annual Report 2012, cited at fn 61, p. 135.

⁹³ Liberty, 'Terrorism pre-charge detention comparative law study', July 2010, available at: <http://www.liberty-human-rights.org.uk/policy/reports/comparative-law-study-2010-pre-charge-detention.pdf>

It should be noted that strict comparisons of maximum pre-charge detention periods between jurisdictions are difficult due to the differing criminal justice systems.

*vulnerable. For a variety of reasons the continuation of questioning or the pending results of an examination or analysis of relevant evidence may not make it necessary to continue the detention of a person arrested. In some cases the imposition of conditions might deal with any relevant and sufficient reasons which would otherwise justify detention. We have set out the background to the applications in this case and this issue did not arise but if a person detained could be released on conditions which would deal with any relevant and sufficient reasons for his detention it may well be that his continued detention would not be judged necessary.*⁹⁴

10.8. The Joint Committee on Human Rights of the Westminster Houses of Parliament has on a number of occasions raised this issue, most recently in its 2010 report on Counter Terrorism Policy and Human Rights, in which it stated that:

*"We remain of the view expressed in our earlier reports that bail ought in principle to be available in relation to terrorism offences. Whether it is granted in any particular case, of course, will be a matter for a court to determine. The range of terrorism offences is now so broad that many people arrested under the Terrorism Act are arrested on suspicion of some involvement at the periphery of terrorist-related activity.*⁹⁵

10.9. Similarly, the Independent Reviewer in the aforementioned 2012 report, recommended that consideration be given to allowing persons arrested under section 41 of the 2000 Act to apply to a court for bail.⁹⁶

The Commission advises the Committee to recommend that the UK Government give consideration to amending the Terrorism Act 2000 to allow for persons arrested under section 41 to apply to a court for bail.

⁹⁴ *In the matter of an application for judicial review by Colin Duffy and others* (No. 2) [2011] NIQB 16 (24 Feb 2011), para 31.

⁹⁵ Counter-Terrorism Policy and Human Rights: Bringing Human Rights Back In HL Paper 86 HC 111, March 2010, para 88.

⁹⁶ David Anderson Q.C. Independent Reviewer of Terrorism Legislation 'Report of the Independent Reviewer of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006', available at: <http://terrorismlegislationreviewer.independent.gov.uk/publications/report-terrorism-acts-2011?view=Binary>, pp. 88-89.