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RE: Response to draft proposals set out on the Foster Placement and Fostering Agencies Regulations (Northern Ireland) 2014

NICCY welcomes the opportunity to respond to the current consultation on the draft proposals set out on the Foster Placement and Fostering Agencies Regulations (Northern Ireland) 2014. As Commissioner it is my principal aim, as set out in legislation, to safeguard and promote the rights and best interests of all children and young people across Northern Ireland. I am particularly aware of my duties with respect to children and young people in care who represent some of the most vulnerable and disadvantaged in society. My comments largely concentrate on human rights and in particular the UNCRC which has been referred to in the consultation document. All services, policies and procedures that are delivered for children and young people must be developed with these principles as their basis and it is my duty as the Commissioner for Children and Young People to safeguard and promote these rights and best interests.

A recent RQIA report stated that foster care is the single largest provider of care for children, accounting for 75% of placements (RQIA, 2013); this figure is only set to increase with the strategic policy intention to reduce the number of residential homes further. Given that the existing regulations date back to 1996 we very much welcome this review. We are also aware that there are a number of other related policy developments in this area; this includes the introduction of an Adoption and Children Bill which will, among other things, put fostering panels on a statutory basis and introduce a review mechanism for foster carers who are not approved or who are deregistered. We also note the development of a special guardianship order and we have engaged with the Office for Social Services regarding the development of a strategic statement for looked-after children that will set the strategic priorities for the next three to five years.

We welcome all policy and procedural developments to modernise the services for Looked After Children to ensure they are fit for purpose with respect to 'child protection' and 'child rights'. The main proposed change to the regulations will permit independent fostering agencies to approve foster carers once they have been assessed. Any measure which will reduce duplication of systems, increase numbers of suitable foster carers and speed up the process of placing children is welcomed. However, it is also of utmost importance that the safeguarding of children and young people and the monitoring and regulation of procedures surrounding their placement are robust. We understand that the independent

fostering agencies will fall within the scope of inspection and regulation by the Regulation and Quality Improvement Authority (RQIA) on behalf of the DHSSPS. Whilst it is appropriate and proper that this happen it does not dilute the duties on the HSCB and the Trusts. I remain concerned about strain on resources in relation to aspects of children's services and I seek assurances that in this instance, adequate resources will be provided to RQIA to ensure proper protection of children in foster placements.

NICCY welcomes the recently published review of statutory fostering services conducted by them; it provides specific recommendations for the Trusts, HSC Board and the DHSSPS which require progression and monitoring. In particular, the recommendations from the RQIA report provides an important evidence base from which to develop the minimum fostering service standards and we are pleased that the Minister has acknowledged that the review has identified key issues that need to be addressed (Private Members Motion on the Fostering Regulations, 24 March 2014).

The RQIA report reflects on the views of young people themselves in addition to foster carers and professionals in their lives. It is important that children and young people's experiences shape and inform policy and procedures which will affect them.

With respect to child rights, it is vital that all policy and standards developed for this vulnerable group of young people take a human rights based approach and in particular are cognisant of all the articles within the United National Convention on the Rights of the Child (UNCRC), which set out the unique rights for children and to which the State Party made commitment. Of particular note are the general principles of the UNCRC which includes a child's rights to survival and development (Article 6) and to not to be discriminated against (Article 2), for all actions to be taken in the best interests of the child (Article 3) and for a child or young person to have a right to say what they think in all matters concerning them and that what they have to say be taken seriously (Article 12). Placement stability is critically important for vulnerable young people and the reasons for placement break-ups can be complex and varied. However, one of the factors contributing to the success of placements is where these core principles are reflected in practice, in particular, where a child is given space to meaningfully participate in the decision making process.

Care experienced children and young people are more likely than the general population to face difficulties and challenges with regards to achieving health and education targets (RQIA, 2013; NICCY, 2008). Therefore alternative support and care will be required for these specific rights to be realised; Article 28, refers to every child's right to an education delivered on the basis of equality of opportunity and Article 24, that every child has the right to the best possible health.

The UNCRC includes a number of specific commitments made by Government which are relevant to fostered children and like all other articles should be interpreted in light of the four general principles.

Article 20: A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. It goes on to say that when considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 9: State Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if this is contrary to the child's best interests.

Article 25: States Parties recognise the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

The issues of children living without parental care were raised in the 2008 Concluding Observations of the Committee on the Rights of the Child (paragraph 44-45), some of the issues raised echo with the issues found within the RQIA review. For example, investment in the staff and facilities to support children deprived of parental care, the need to improve children's access to complaint mechanisms and the monitoring and review of placements.

As Commissioner for Children and Young People I welcome and support the steps being taken to transform foster care into a modern, highly skilled, child-centred service which has respect for children's and young people's rights at its core. I will continue to monitor the progression of the regulations and the recommendations from the 2013 RQIA review more generally through my scheduled meetings and correspondence with the Health Minister, Officials from the Department and Health and Social Care Board along with representatives from the Children's Sector. Please do not hesitate to get in contact with my office if you require any further information on this response.

Yours Sincerely



Patricia Lewsley Mooney
Commissioner for Children and Young People

References

CRC (2008) Consideration of reports submitted by states parties
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RQIA (2013) Review of Statutory Fostering Services: Overview Report, RQIA.