

Safeguarding Children Unit  
Department of Education  
Sanctuary Buildings  
20 Great Smith Street  
London  
SW1P 3BT  
London

11 July 2012  
Our ref: 12/PD/PLM/064

Dear Sir / Madam

## **Consultation on statutory guidance in relation to supervision**

The Northern Ireland Office of the Commissioner for Children and Young People (NICCY) was created in accordance with 'The Commissioner for Children and Young People (Northern Ireland) Order' (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland. Vetting and barring regimes are a key part of arrangements to protect children and young people from abuse by seeking to ensure that adults who pose a risk to children are not placed in roles, paid or voluntary, which enable them to establish relationships of trust which may be exploited.

The UK Government as a signatory to the United Nations Convention on the Rights of the Child should ensure that the general principles of the Convention, including the child's best interests and right to life and fullest level of development, are reflected in the provisions of the guidance. It is also important that Government remains mindful of its particular obligation under article 19 of the Convention to take all legislative, administrative, social and educational measures to protect children and young people from all forms of violence, abuse, maltreatment or exploitation.

NICCY's enclosed May 2011 submission to the Public Bill Committee on the Protection of Freedoms Bill highlighted a number of areas where proposals would dilute protections afforded to children and young people. For example, the paper notes concern that the new arrangements remove activities, such as the provision of legal advice, from the scope and will in practice distinguish between paid and unpaid work with those in unpaid roles being subject to a lower standard of disclosure and barring.



Therefore while the development of statutory guidance is welcome, NICCY remains concerned that this will not provide effective safeguards against the limitations of the legislation. For instance, NICCY is not aware of evidence which demonstrates that children are less likely to be at risk from volunteers than paid staff. Consequently, the guidance must ensure the highest standard of practice in the recruitment and management of staff and volunteers who are placed in positions of trust with children and young people.

### Comments on the draft statutory guidance

The introductory sections of the document should set out that the starting point of the guidance is to protect the rights and best interests of children and young people. These sections should reflect a balanced tone and note the importance of guidance reflecting an evidence based approach to vetting and barring arrangements which draws on appropriate research and expertise.

The duty that supervision must be reasonable and take place on a regular basis should be accompanied by further detail and direction. The document should provide a robust definition of supervision, as advocated by organisations from the Sport and Recreation Alliance and Child Protection in Sport Unit and the NSPCC which state that supervision should be close and constant and regular and direct.<sup>1</sup>

In noting that the level of supervision may vary on a case by case basis, the guidance must acknowledge that the circumstances listed as influencing this, such as the age of children, do not in themselves simply provide a basis for lowering the protection offered. For example, NICCY had considerable concern at the original intention of the UK Government to exclude 16 and 17 year olds from the scope of arrangements who, as demonstrated in recent research and legal proceedings in connection with sexual exploitation, remain vulnerable to abuse.<sup>2</sup> The guidance should support organisations and employers to undertake structured and evidence based decision making in determining appropriate levels of supervision.

NICCY is not of the view that allowing but not requiring an enhanced check for supervised volunteers is appropriate and remains concerned that barred list checks for such positions will not be permitted. It is important to also draw attention to concerns that while, as highlighted in one of the consultation examples, barred lists checks will

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<sup>1</sup> <http://www.publications.parliament.uk/pa/cm201011/cmpublic/protection/memo/pf60.htm>

<sup>2</sup> [http://www.barnardos.org.uk/13932\\_not\\_a\\_world\\_away\\_full\\_report.pdf](http://www.barnardos.org.uk/13932_not_a_world_away_full_report.pdf)

<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmhaff/uc182-i/uc18201.htm>

be required for unsupervised volunteers in regulated activity, enhanced criminal records checks will not. In seeking to ensure that vetting and barring arrangements operate effectively it is important that all relevant information, including information available to the Criminal Records Bureau or AccessNI and the Independent Safeguarding Authority and new Disclosure and Barring Service, can be shared by all agencies. This includes ensuring that enhanced criminal records and barred list status checks are required for regulated activity.

As noted in the enclosed submission to the Northern Ireland Department of Justice, NICCY has called on Northern Ireland Ministers to make sure that, where it is necessary to effectively protect children, arrangements in Northern Ireland operate to a higher standard than those required in England and Wales. The information booklet for Northern Ireland "Changes to disclosure and barring: What you need to know" states that enhanced checks for work outside regulated activity "do not generally include" barred list information. NICCY requests clarification as to the circumstances where AccessNI may provide this information for roles outside regulated activity.

Please do not hesitate to contact my office if you would like any further information.

Yours sincerely

A handwritten signature in black ink, reading "Patricia Lewsley-Mooney". The signature is written in a cursive style with a large initial 'P'.

Patricia Lewsley-Mooney  
Commissioner for Children and Young People  
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