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Our ref: 12/PD/PL/005

Dear Ms McIntosh

Consultation on the Children (NI) Order 1995 Representation and Complaints Regional Policy and Procedures

NICCY is supportive of developments to ensure that robust, consistent and accessible representation and complaints procedures operate across Northern Ireland and we welcome the opportunity to provide comment on the above consultation. This response is not intended to be comprehensive but instead highlights a number of key issues in relation to the draft policy and procedures.

The policy should make reference to the United Nations Convention on the Rights of the Child and in particular article 12 which provides children with the right to express their views in all matters concerning them and to have these given due weight in accordance with the child's age and maturity. The Convention pays special regard to children having the opportunity to be heard in any judicial or administrative proceedings either directly, or through a representative or appropriate body. In addition to this, article 13 outlines children's right to freedom of expression which includes their right to seek, receive and impart information.

NICCY is keen to hear how the Health and Social Care Board and Trusts are consulting with children and young people in relation to the draft policy and procedures. We also expect that the Board and Trusts will ensure that child friendly and accessible versions of the policy and procedures, and all associated materials, will be made available to children, young people and their representatives. In section 1.4, we welcome reference to the role of others significantly involved in a child's life.



We support the policy objective of developing an accessible and effective means of making complaints and acknowledge that where appropriate matters have been effectively resolved at an early stage they do not require referral to the formal procedures. NICCY welcomes the statement noting the importance of statutory authorities receiving suggestions and feedback, as well as representations and complaints, in relation to children's social care.

We acknowledge the importance of ensuring throughout the process that a complaint reflects the views of the child and that they wish those acting on their behalf to do so, and note this assurance must be sought in a manner which reflects the needs of the individual child. The policy commitment of facilitating access to the complaints process must be accompanied by the adequate resourcing of support to children and those acting on their behalf. Examples of this include taking account of the communication needs of children with disabilities or where English is an additional language and the support needs of vulnerable groups such as those in care, in contact with justice agencies and separated children.

In relation to section 6.2, where an investigation is not being progressed due to court proceedings it is important that children and those acting on their behalf have a clear understanding of the reasons for this. The impact of any delay in investigating and responding to their complaint should be monitored. In section 7.7, we note that the Investigating Officer's assessment of the child's support needs, including the need for access to an advocate, must be appropriately resourced to facilitate children's engagement with the complaints process.

NICCY considers that where complaints are of a very serious nature, as referenced in section 8.1, these should be automatically referred to Stage 1 formal investigation rather than the Designated Officer consulting with Trust Officer and / or Responsible Operational Manager to decide on the need for progression. While section 8.6 lists matters which will result in immediate referral to other procedures, we are concerned that complaints of a very serious nature may be raised outside of these categories and should be acted upon urgently. This should also be the case in instances where there are links with other agencies as highlighted in section 14.

NICCY is aware that concern has been expressed in relation to current difficulties in the Independent Person and Investigating Officer properly investigating and reporting within the designated timeframe. It is important that the Board and Trusts monitor the impact of such difficulties on children and identify and mitigate factors which negatively affect this process.

It would be helpful for the document to clarify that a record of problem solving activity and outcomes will be provided to the child and those acting on their behalf as well as being provided to relevant social care staff.

While NICCY appreciates the need to maintain the integrity of a complaint we are concerned that the requirement in section 10.2 for cases to be referred back to the initial problem solving stage where new issues arise or there is a change in scope may impact negatively upon the child and act as a disincentive to engagement with the complaints process.

We note that where the policy and procedures refer to the role of the NI Commissioner for Complaints (the Ombudsman) if the child is not satisfied with the outcome of the complaint process there is no reference to NICCY. We draw attention to our statutory remit to assist with complaints to relevant authorities and to bring, assist or intervene in legal proceedings as set out in the 'The Commissioner for Children and Young People (Northern Ireland) Order' (2003). We request that the policy and associated information provided to children and young people reflects NICCY's statutory role.

In relation to arrangements connected with the Panel stage of the process we would again highlight the need to ensure that all aspects of this process are child centred and that support provided to facilitate children and young people's engagement reflects this. In considering section 13, where a complaint concerns an organisation which a Trust has a contract with it is essential that the Trust and Board ensure that children and their representatives have access to complaints processes and supports which are comparable to that those provided by this policy.

We welcome the draft policy's commitment to learning from complaints and representations and note that children and those acting on their behalf should receive feedback on how learning has been implemented and contributed to service improvement and better outcomes for children and families.

Please do not hesitate to contact me if you require any further information.

Yours sincerely



Patricia Lewsley-Mooney
Commissioner