



Response to DHSS&PS

Consultation on

**Draft Leaving and After Care Regulations
and Guidance**

Introduction

Children in Northern Ireland (CiNI) is the regional umbrella body for the voluntary child care sector in Northern Ireland.

CiNI has over 90 member organisations to whom it provides representation and support in their work to enhance the lives of children and young people in Northern Ireland. A significant number of these organisations work directly with children and young people moving through the care system.

Looked After Children Sub-Group

To support member organisations who work with children and young people moving through the care process CiNI facilitates a **Looked After Children Sub-Group**, which enables these organisations to develop positive working relationships through a mutually supportive forum. Through the Sub-Group member organisations are given the opportunity to consider the pertinent issues which affect all children and young people who have been or are currently in care. This also includes enabling members to co-ordinate and agree responses to legislative and policy development.

Children in Northern Ireland welcomes the opportunity to comment on the Draft Leaving and After Care Regulations and Guidance. In preparing this response CiNI has sought the views and comments of its Looked After Sub-Group. This is CiNI's first formal response on the development of the Children (Leaving Care) Act (NI) 2002 and we would therefore like to welcome the positive thrust of the legislation to improve the life chances of young people who are looked after by HSS Trusts as they make the transition to independent living.

CiNI endorses and supports the comments and recommendations made by member organisations to this consultation including VOYPIC, NCH NI, Belfast Central Mission and the Children's Law Centre. CiNI recognises the knowledge and expertise these organisations have in delivering frontline services to care experienced young people, and as advocates for the rights of these young people.

Below are some specific comments on particular sections of the Regulations and Guidance, as well as overall general comments. Where we have not commented on particular chapters this signifies that these raise no immediate concerns for us.

Involving care experienced young people and provision of independent advocacy

CiNI believes the Regulations and Guidance need to be much clearer and stronger on the right of care experienced young people to be involved in decisions that affect them in line with Article 12 of the United Nations Convention on the Rights of the Child. They must be given every opportunity possible to have their say in decision making processes that will shape their future, including needs assessment, preparation, implementation, and review of the pathway plan, selection of personal advisers, and funding priorities linked to pathway planning.

CiNI also believes that the Regulations and Guidance must require responsible HSS Trusts to develop, publish and make available child friendly information on the legislation to ensure that care experienced young people are made fully aware of their rights under

the legislation. This will help ensure these young people can fully avail of the support and services available to them.

The Regulations and Guidance must place an obligation on responsible HSS Trusts to inform care experienced young people of the availability of independent advocacy services. These services must be available to support young people at various stages of the leaving and after care process including needs assessment, writing and review of pathway plans and, where necessary, the complaints process. Regulation 11 on the functions of Personal Advisers should be amended to include responsibility for arranging independent advocacy where appropriate.

CiNI notes that Northern Ireland legislation is out of step with that in England and Wales with regard to the recognition given to the role of independent advocacy services. Article 119 of the Adoption and Children Act 2002, which covers England and Wales, amends section 26 of the Children Act 1989 to provide a statutory basis for advocacy services for young people. CiNI supports the recommendation of its member organisations that a similar amendment to Article 45 of the Children (NI) Order 1995 be enacted.

Chapter 2: The Legal Framework

CiNI shares the concerns expressed by member organisations regarding those young people who fall outside the qualifying criteria for support under the legislation. The qualifying criteria must be flexible enough to meet the exceptional circumstances of individual young people and must not be set in such a way as to arbitrarily exclude certain young people, for example, unaccompanied children and asylum seeking children.

Chapter 3: Preparation for Leaving Care

CiNI welcomes the focus given to preparation for leaving care, particularly given that practitioners have raised concerns regarding the degree to which young people are currently prepared for leaving care. It is imperative that young people are not discharged from care until they are fully prepared for the transition. It is hoped that the introduction of personal advisers and pathway planning will ensure that preparation for leaving care is given the priority and support it requires.

Chapter 4: Assessment of Need

In outlining the timetable for consultation the consultation document states that the Regulations will come into operation in April 2005. CiNI welcomes the development of a regional assessment model for use in Northern Ireland and would be keen that this is developed as quickly as possible given that the consultation document appears to suggest that such a model could inform the needs assessment required as a basis for the pathway plan (4.14)

CiNI welcomes the concept of the 'written statement' which will 'set out in general terms how the needs of eligible and relevant children are to be assessed'. However we would advocate that to assist individual Trusts develop written statements, guidance should be set at a regional level on the preparation of written statements, setting out certain minimum standards for these statements, this would ensure consistency in written

statements across Trust boundaries, and ultimately assist in assuring the quality of assessments. Ultimately there should be a single written statement for all Trusts drawn on the regional assessment model.

The written statement should be developed in consultation with key stakeholders and approved and signed off by senior management within the Trust.

CiNI supports the recommendations of member organisations in regard to the considerations which must be taken account of when carrying out an assessment:

- Regulation 6 (4) is amended to include the child's age, culture, disability, gender, language, race, religion and sexual orientation. This is in line with HSS Trusts responsibility to promote equality of opportunity across these areas under Section 75 of the Northern Ireland Act 1998.
- Regulation 6 (4) b should be amended to read 'the child's educational needs, including any special educational needs'
- Regulation 6 (4) (f) should be amended to read 'and suitable accommodation'.

Chapter 5: Pathway Plans

Concerns have been raised regarding the status of the pathway plan and whether or not this is likely to change with the introduction of the Children and Adoption Act next year. CiNI would request clarification on this issue.

The Guidance states that the pathway plan must be recorded in writing, but there is no indication as to who must take responsibility for the task, nor are any timescales set for completion of this process.

At this point in the guidance there is no indication as to who is responsible for implementation and monitoring of the pathway plan, this is only clarified at a later point in paragraph 6.9 in relation to the functions of personal advisers. CiNI believes this must also be clarified within the discussion on pathway plans i.e. chapter 5.

The Content of the Pathway Plan

CiNI believes that the pathway plan should be a 'living' plan and notes that it will contain the responsible HSS Trust's proposals for meeting identified need and a timetable for required actions, as well as contingency plans. We would urge that the pathway plan also be used to record milestones/successes, as well as those times when the pathway plan has not been successful, detailing reasons etc. It would therefore serve as a full record to aid the process of monitoring and review.

Education and Training

Schedule 1 of the Regulations state that the pathway plan must contain 'a detailed plan for the education or training of the child or young person.' This is a crucial element of the Pathway Plan bearing in mind the poor educational outcomes of looked after children. For those children who may have a Statement of Special Educational Need this will be particularly important given that the statement ceases to operate post 16. The pathway plan should give careful consideration to ensuring that appropriate transition arrangements are made and the young person's special educational needs continue to be assessed and met in partnership with further education providers. There is a

suggestion that personal advisers 'may also need to liaise with' FE colleges, however we would suggest that this should be a more formal relationship, in recognition of the highly significant role of education and training in the development of the young person.

CiNI would recommend that the pathway plan include information on any needs the young person may have in relation to age, culture, disability, gender, language, race, religion and sexual orientation. CiNI would also recommend that the pathway plan provides access to some form of peer mentoring or befriending support to combat any sense of isolation or loneliness which young care leavers may experience.

Where a child cannot or will not discuss matters related to the review of the pathway plan face to face, the Trust is charged with finding an acceptable alternative way of reviewing the plan with them and suggests alternatives including telephone, letter, text message or email. CiNI would suggest that some form of independent advocacy be considered as the preferred alternative, this would be particularly relevant for a young person with additional support needs (5.30).

Copies of the review outcome are to be circulated to both the responsible HSS Trust and the young person. CiNI would suggest that following a review an updated version of the Pathway Plan is prepared and circulated to the child and all those who may have a stake in implementing the section of the plan which has been amended (5.31).

Overall, it is difficult to draw from this chapter a clear sense of where responsibility lies for the pathway planning process, in terms of the level within HSS Trusts that pathway plans will be approved and signed off and, the quality standards which they must attain. CiNI would advocate that the Regulations and Guidance must present clear lines of accountability for the pathway planning process.

Chapter 6: Personal Advisers

CiNI welcomes the recognition given to the role of the personal adviser through its introduction as a statutory requirement.

However there are concerns regarding the development of this role drawing on the experience from England and Wales following the implementation of the Children (Leaving Care) Act 2000, where there are indications that Aftercare Social Workers have taken on the role. Of more concern it was commented in a recent article (18-31 August 04) in the UK wide *Children Now* magazine entitled '*A tough transition to adulthood*' that 'a lot of children don't have named Personal Advisers'.

CiNI notes that while the skills mix necessary to take on the role of Personal Adviser is present in some leaving and after care teams, it is not well developed across all teams and supports the calls of member organisations for a significant investment in training to ensure Personal Advisers are fully equipped with relevant skills and knowledge to take on the role, so that young people receive the high quality support service they are entitled to. We urge against blurring of the roles of personal advisers and leaving/after care staff, these must be maintained as separate and distinct roles. CiNI would support calls for greater clarity within the Guidance and Regulations on the role of personal advisers, with separate guidance on core skills and competencies of personal advisers.

CiNI would highlight that if resources are not made available for training it will be essential to recruit qualified social workers who will be able to engage meaningfully in the implementation stage of the legislation. This view would be strongly endorsed by the Aftercare Teams here and in England. CiNI would envisage a role in the future for non-social work staff as Personal Advisors, for example, from a youth & community work background.

While the personal adviser provides in many ways a holistic support service to the young person, we also agree strongly that it is important that the personal adviser must not become the sole support for the young person, and therefore it is important that 'the personal adviser should aim to build a network of support for the young person' (6.6).

Appointment of Personal Advisers

CiNI recognises that the appointment of personal advisers will introduce an entirely new staffing line into HSS Trust structures, and will be a resource intensive process in terms of recruitment, training, support and supervision and urges transparency in the resourcing of this new element of service provision for young people leaving care.

Practitioners also want to see the Regulations and Guidance provide for safeguards to ensure that young people can exercise appropriate choice of personal adviser.

CiNI supports the recommendation of members that Personal Advisers receive training on relevant international and domestic human rights standards, as well as training on working in partnership with young people, and advocating on behalf of young people.

Chapter 7: Accommodation and Personal Support for Relevant Children

CiNI recognises that 'suitable accommodation' for relevant children is essential and notes the shortage of such accommodation. CiNI welcomes the establishment of formal relationships with housing providers (7.4) and the development of a multi-agency accommodation strategy (7.10) particularly with regard to eliminating the need for unsuitable accommodation, and would welcome further information on planning and timescales associated with the strategy. Practitioners have also raised the question of how accommodation and support resources are to be commissioned and paid for and have underlined the need for equitable access to support across HSS Trusts. *Children Now* (18-31 August 04) in its article '*A tough transition to adulthood*' notes the observation that in England and Wales the experience to date would indicate that care leavers are at the bottom of the pile in many housing departments. CiNI would urge that the Regulations and Guidance give priority to assessing and meeting the accommodation needs of vulnerable young care leavers.

Chapter 8: Financial Arrangements

CiNI recognises that within HSS Trusts there will need to be significant planning and preparation for the new financial arrangements of the Children (Leaving Care) Act (NI) 2002. CiNI notes the concerns of the Practitioners' Group regarding the current lack of awareness of/preparation for new arrangements within HSS Trust finance departments. CiNI would urge that this issue is addressed immediately to ensure a smooth transition to the new arrangements so that young people have security and hardship is not caused. CiNI would also urge that there is consistency across HSS Trusts in the management and administration of their financial systems.

Chapter 9: Care Leavers Aged 18-21

General Assistance

Former relevant children who will not have been accessing the normal welfare benefit system while going through the pathway planning process will need support in terms of raising their awareness of and ability to access mainstream supports, including welfare benefits post the pathway planning process.

Chapter 11: Young People with Disabilities

CiNI would again reiterate that the special educational needs of the young person must be assessed and addressed within the pathway planning process, so that these needs are fully met and there is a smooth transition from children's to adult services including further and higher education.

General Comments:

The Guidance fails to provide a transparent sense of lines of accountability with regard to the pathway planning process and role of personal advisers. CiNI believes that the Guidance must be clearer, particularly in terms of responsibility within HSS Trusts for line management/supervision of personal advisers and approval for/signing off of pathway plans and quality standards of pathway plans.

Clearly one of the central concerns with regard to the implementation of the legislation is the availability of adequate resources to ensure full and proper implementation of all elements of the new arrangements. CiNI would urge the Department to demonstrate its commitment to the legislation by pledging the necessary resources and ensuring transparent equitable allocations.