



**Response to the Consultation on Child Protection
Policy for the Northern Ireland Prison Service**

*'The only way to stop child protection being a problem in here is
not send anyone here 'til they're 18.'*

Young Person, Hydebank Wood Prison and Young Offenders Centre

June 2007

Introduction

1. Include Youth promotes best practice with young people in need or at risk. We achieve this through the development and promotion of resources, the provision of training, information and support of practitioners and organisations. We also undertake activities aimed at influencing public policy and public awareness - locally and nationally.
2. Include Youth promotes the development of positive choices and opportunities for vulnerable and challenging young people in the community, residential care or custody. Include Youth promotes the use of community alternatives to care and custody for children and young people.
3. Amongst the young people at risk with whom, and on whose behalf, Include Youth works are young people from socially disadvantaged areas, those with a learning disability, those with special needs, those who have been truanting, suspended or expelled from school, those from a care background, those who have had a negative parenting experience, young people who have committed or are at risk of committing crime, misusing drugs or alcohol, undertaking unsafe sexual behaviour or other harmful activities, or of being harmed themselves.
4. Include Youth runs the Young Voices project, which is a participation project for young people who have been involved or are at risk of becoming involved in the criminal justice system, with the aim of supporting these young people to become involved in decision-making processes which impact upon their lives. Currently the Young Voices project supports young people in two groups – one drawing its members from the Greater Belfast area, and the second based in the Juvenile Justice Centre, Bangor.
5. In addition, Include Youth runs the YOYO Practitioners Forum, which draws together professionals from a range of statutory, voluntary and community organisations working directly with young people in need or at risk, and meets on a quarterly basis.

General Comments

6. Include Youth very much welcomes the publication of the draft Prison Service Child Protection Policy, and is pleased to have the opportunity to make this submission to the Northern Ireland Prison Service. This is an extremely important and long-awaited initiative which has the potential to have an enormous positive impact on the lives of children and young people. It is therefore essential that we get it right, and Include Youth is committed to working in partnership with all stakeholders to ensure that the right of all children in Northern Ireland to be safe and protected from harm is promoted and safeguarded.
7. In the course of preparing our response to the consultation, we held a number of consultation sessions with young people from our Young Voices project, including six sessions in Hydebank Prison and YOC – three involving young females and three involving young males. We have highlighted their comments throughout this

response. We hope that you find the submissions from Include Youth helpful in your deliberations.

8. We have outlined below a number of issues arising in respect of the NIPS Child Protection Policy generally, and later we address matters relating to each of the three specific policies under discussion.

Presentation of the Policy

9. Having read the three policies relating to Hydebank Wood Prison and Young Offenders Centre; Children Visiting Prison Establishments in Northern Ireland; and Managing Visits to, and Communications with, those Prisoners who present a risk to children, Include Youth believes that presentation of the NIPS policy is somewhat confusing and unwieldy.
10. We strongly recommend that NIPS produce an overarching Child Protection policy which establishes a clear set of Aims, Objectives, General Principles, Legislative Context, Equality and Children's / Human Rights Context, agreed Definition of Child Abuse, Procedures etc. that govern *all* aspects of child protection work within the Prison Service. In particular it must expressly state that the Child Protection Policy is the mechanism by which NIPS will fulfil its responsibilities and obligations under the ACPC - Regional Policy and Procedures. This overarching NIPS Child Protection Policy should also contain a number of individual sections which set out the operational context in which the Policy will operate in respect of children and young people who are detained at Hydebank Wood Prison and YOC and those who Visit or Communicate with prisoners detained throughout Prison Service establishments.
11. In addition, for ease of reference, we suggest that the final policy document should be annotated with numbers rather than bullet points.

Inherent vulnerability

12. Include Youth recommends that children who are detained must be held in a caring environment and manner which is consistent with the promotion and safeguarding of their rights, well-being and protection, and one which operates in the best interests of the child. We strongly contend that detaining children in prison conditions does not fulfil this obligation. However, in light of the fact that currently children continue to be detained at Hydebank Wood Prison and YOC, we welcome the development of this NIPS Child Protection Policy.
13. We are pleased to note NIPS' acknowledgement early in the document that 'the policy recognises the inherent vulnerability of young people held in Hydebank Wood Prison and Young Offenders Centre, and that previously, some will have been victims of abuse and exploitation.' (paragraph 1.1) In this context it is imperative that all necessary steps are taken to protect these very vulnerable children and young people. Although the draft policy on Hydebank Wood Prison and YOC states that 'a child is a person under the age of 18 years', Include Youth believes that NIPS Child Protection policy must also take cognisance of the fact that

particular child protection procedures and services continue to apply to young people aged 18-21 with a disability or those who have been looked after by social services, in accordance with Children (Northern Ireland) Order 1995 and the Children (Leaving Care) Act (Northern Ireland) 2002.

14. In the context of the current consultation on the Child Protection Policy, it is essential that NIPS ensures that the ‘inherently vulnerable’ children and young people who are detained in their charge are fully informed of their rights and the protections they are entitled to, of how to assert these rights and protections afforded them, and of how to invoke procedures in the event of any infringement.

15. It is our experience at Include Youth that very often young people involved with the criminal justice system do not make complaints.

- *‘Cos they work for the government and we’re criminals – they’re hardly gonna believe us over the cops.’*
- *‘People are happy enough to complain like, but it’s just not worthwhile, it wont make a difference.’*
- *‘There’s no point complaining. You’re in jail – if you complain, what’s going to happen?’*
- *‘We’re prisoners and they’re the law – at least they are in here.’*

16. This may be for a variety of reasons, including the fact that often they do not contextualise what has happened to them in a rights framework, and even if they do so, they may have little confidence either in themselves or in the systems administering the procedures, to persuade them to take the hugely brave step of making a complaint. In addition, they may also have had direct experience in the past of being let down by adults, professionals, systems, and therefore do not feel confident in placing their trust in such systems.

17. As the following statements from young people who participated in the consultation sessions facilitated by Include Youth’s Young Voices project demonstrate, there exists a significant degree of fear, mistrust and lack of confidence in the ability of the NIPS Child Protection policy to be effective. In order to overcome these clear issues of trust, young people require assurance that the implementation of the policy will be thorough and robust.

- *‘I wouldn’t complain – I wouldn’t get believed and they’d give me hell. I just want to keep my head down now and get on with it.’*
- *‘You don’t complain no matter what though – you can’t win. It’s been going on for years, its not going to stop just cos a couple of juveniles say something.’*
- *‘Even if you made a complaint, it’s not going to do anything. It’d just make it worse, the way you were treated.’*
- *‘People just know that that’s the way it is but, you never complain.’*
- *‘You forget about it, you get over it. It’s your own fault anyway – if you give them a hard time, they give you it back and they’re always going to win – you know that, so you just keep your head down.’*
- *‘You just can’t win in here – you have to watch yourself, or you can get a seriously hard time.’*
- *‘It may sound bad to you, but it’s not bad to us. Its ok, you learn to deal with it.’*

18. It is essential that NIPS take all necessary steps to ensure that children and young people in its care have confidence in the Child Protection Policy and Procedures. We welcome production of the draft policy as an important first step in this process, however, full and rigorous implementation of the policy is essential not only to ensure that children and young people are protected from harm, but also to build confidence among children, parents, and staff in the systems put in place.

Children's Rights

19. Include Youth notes that all three draft policies make reference to the Children Order and the United Nations Convention on the Rights of the Child, each with slightly different form of words. We note that the Hydebank Wood Policy has been screened from a Human Rights perspective. We further note that reference is made to article 8 of the European Convention on Human Rights in both Policies regarding Hydebank Wood and Visits (1.15 and 4.4 respectively).
20. Whilst we welcome reference to these international instruments, we believe that one overarching NIPS draft Child Protection Policy should contain a section which expressly sets it within the framework of the international standards, including the UNCRC (in particular articles 2, 3, 6, 12, 19 and 40) and the UN Rules for the Protection of Juveniles Deprived of their Liberty 1990 (UN Rules), and should take account of relevant recommendations from the UN Committee on the Rights of the Child.

Best interests of the Child

21. We welcome the fact that the NIPS states that the child's welfare must always be paramount (1.13, Hydebank Wood policy). However, we believe that this standard should be the more rights based concept of the child's 'best interests', which is in compliance with international child's rights standards. We would point out that there are references made throughout the document to the 'needs', 'rights', 'welfare' and 'interests' of the child. Indeed the 'best interests of the child' standard is cited as priority at paragraph 8.5 of the Hydebank Wood policy. It is our view that this is somewhat confusing, and that in matters of child protection the paramount consideration should be the 'best interests' of the child, which should be consistent throughout the NIPS policy.

Equality issues

22. We note that the NIPS does not consider that this policy will have any adverse impact on any of the named groups under Section 75. However, we consider that there may be significant equality implications arising from this policy for a number of groups protected under the legislation – including gender, age, disability, sexual orientation, cultural and /or religious beliefs, those with or without dependants. We are therefore of the view that this policy ought to have been screened in for the purposes of conducting a full Equality Impact Assessment.

23. This is supported by the fact that the NIPS itself in its draft policy in relation to Hydebank Wood has identified a number of areas where there is the potential for significant adverse differential impact, particularly those children and young people with a disability and those for whom English is not their first language (4.3)
24. It is well documented that there are gender specific child protection issues raised through this policy (see *Children's Rights in Northern Ireland*, NICCY, 2004, and *The Hurt Inside*, NIHRC, 2005). In addition there are particular issues which arise in respect of protections afforded to LGBT young people. It is submitted that the NIPS must explicitly make reference to equal protections for children and young people who are abused due to their sexual orientation, whether perceived or actual. There is another issue in respect of training for all staff around equality / rights and diversity issues.

Protection statement

25. Include Youth believe that NIPS should include in its overarching Child Protection Policies and Procedures a clear and unequivocal statement to the effect that each child has the right to be detained in a safe environment and that every child shall suffer no harm, harassment or reprisals as a result of invoking the child protection procedures.
26. Whilst this may be implicit in the Hydebank document, we believe that an express statement is important not only to illustrate the NIPS commitment to this process, and to help build confidence in the system among children and young people and their parents/carers, but also to ensure that the Agency complies with its obligations under Article 3 UNCRC to promote the best interests of the child.

Child Protection Policy & Procedures: Hydebank Wood Prison and Young Offenders Centre

27. 1.4 and 1.5

We note the comments in respect of detention of both male and female children with adults. One of the young people consulted in respect of the Child Protection policy stated;

- *'It's just a mixing bowl in here – everyone's thrown in together. It's not safe.'*
- *'This isn't a good place if you're under 18.'*
- *'I remember a girl who came in here, she was 16 – though she looked and acted like a 14 year old – she just sat in her cell and cried and cried and cried. All the time. She just couldn't handle it. To look at her she was just a baby. Some 16s are as mature as 21s, but some are only like 13 or 14.'*

Include Youth believes, in line with international standards and the recommendations of the UNCRC Committee, that children should never be held in prison with adults. It is our view that custody of children should be a matter of last resort and for the shortest period of time possible, again in line with international standards; and that any children who are detained in custody in Northern Ireland, should be detained at the Youth Justice Agency's Woodlands Juvenile Justice Centre – the regional purpose-built facility designed to accommodate detained children and young people in this jurisdiction. Include Youth recommends that children who are detained must be held in a caring environment and manner which is consistent with the promotion and safeguarding of their rights, well-being and protection, and one which operates in the best interests of the child. We strongly contend that detaining children in prison conditions does not fulfil this obligation. The following comments from young people in regards to 'Rathgael', the predecessor to Woodlands JJC powerfully convey their absolute conviction that Hydebank Prison and YOC is not a suitable place to detain children and young people.

- *'See in Rathgael, I thought it was all right...but it's a different story up here.'*
- *'They would need to get all new staff – get the Rathgael ones in. You get treated well in Rathgael.'*
- *'Rathgael was far better. You should be allowed to stay in Rathgael 'til your 18.'*
- *'Aye, nobody should be sent here till they're 18.'*
- *'The only way to stop child protection being a problem in here is not send anyone here till they're 18.'*
- *'If you're under 18 you shouldn't be on the same landing as adults, over 18s. And definitely not put in along with anyone over 21.'*
- *'If the males are treated like juveniles, the women should be as well – they should have their own landings for girls under 18.'*
- *'All juveniles get treated the same as the adults on the female side – it's not the same as for the boys.'*

28. We welcome the comment at Paragraph 1.5 in respect of reviewing the issue of accommodation of girls, including the option of making further use of the Juvenile Justice Centre as an alternative. We would like to ask for details of the Review, including Terms of Reference, timeframes, and how Include Youth can assist in the

process. We recommend that this Review extends to take cognisance of male children who are also currently detained with adults in Hydebank Wood. We note again NIPS' recognition of the 'inherent vulnerability' of young people held in Hydebank Wood (paragraph 1.1), and believe that this analysis should be applied to the Criminal Justice (Children) (Northern Ireland) Order 1998 to ensure that all children serve any necessary period of detention at the JJC.

29. We would encourage the NIPS to use its influence to encourage legislators to outlaw the detention of children in prison custody; however, in the interim we very much welcome the publication of this draft child protection policy.
30. Include Youth believes that the policy provides for accommodation of male children with adults in 'exceptional circumstances' (1.4) is a clear breach of child protection principles and international human rights and children's rights standards. We do not believe that this should ever be permitted, and we would like further information with regards to what NIPS considers constitutes 'exceptional circumstances'. We agree that children should never be required to share a cell with an adult.
31. With regards to the detention of female children at Hydebank Wood, there have been a number of recent reports from CJINI, NIHRC and HM Prison's Inspectorate, which have identified the significant gender-specific issues raised and challenges which face government in relation to incarceration of girls and women. The NIHRC report *Still in Our Care* recommended that a strategy for girls in custody should be developed and that 'JJC policies should specifically address gender issues including development of a policy for dealing with vulnerable girls.' (page 68)

1.6: Escorting young people

▪ *See what I hate – when you're on the bus going to court and there's about ten of you but you're the only girl. They all shout abuse at you, make dirty comments – you know like "Show us your tits", "Give us a blow job!" It's ok if there's just one of them, then they're all right, they talk to you, ask you what you're up for and stuff, but when there's a crowd I f***ing hate it.*

32. We welcome the fact that all PECCS staff will be subject to POCVA procedures, will be subject to the child protection policy and procedures, and will receive comprehensive child protection training, all of which are vital.
33. However, we note that the policy fails to provide assurances that children and young people will always be transported separately from adults due to 'other constraints', despite the NIPS recognition that children and young people are 'inherently vulnerable'. We recommend that children and young people are always transported separately from adults, in accordance with international standards, and the commitment to the paramouncy of the interests of the child given by the Director of NIPS. (Child Protection Policy for the Northern Ireland Prison Service – Statement by the Director)

1.11: Complaints

34. We agree with NIPS that the child protection and complaints systems must be complimentary. We note the statement that 'the complaints process will also be designed to reflect the particular needs of the young people held at Hydebank

Wood.’ Include Youth would like to be provided with further information as to the meaning of this statement, in order to allow us to fully comment.

Underlying Principles

35. As stated earlier, Include Youth recommends that an overarching NIPS policy should contain a section on Underlying Principles, which would include the principles as set out in ‘Co-operating to Safeguard Children’, and other relevant underlying principles pertaining particularly to NIPS. There may be specific principles which relate to children detained at Hydebank Wood, which we recommend should be located in the sub-section on this establishment.

1.14: Advocacy

- *‘It has to be someone from outside, cos no one listens to you in here. And they all stick together in here.’*
- *‘You would need someone to stand up to the prison, someone who wasn’t scared, to protect us if we made a complaint.’*
- *‘Someone who wasn’t biased towards the prison.’*
- *‘And someone who could say what they liked – not censored.’*
- *‘Yeah and who didn’t have to tell people here what they had heard about – just take it higher.’*
- *‘If people come in here to talk to us, someone always gets to them first, gives them a cup of tea and talks to them.’*

36. We agree that any child who makes an allegation should be offered the support of a wholly independent advocacy service, as this is one of the essential components in supporting children and young people, especially those who are vulnerable, to make complaints. However, we recommend that this section be strengthened to make the role of the Advocacy Service more pro-active, and not wholly dependant on a child accepting an offer of support from a member of NIIPS staff – given the marginalised and hard to reach nature of the young people who frequently appear within the custodial setting, and who are not used to making complaints. It is essential that support is encouraged at all stages of the investigation in order for the young person to feel as at ease as possible. It is the responsibility of those charged as Advocates under this policy to ensure that children and young people are aware of their right to complain; they fully understand how to go about making a complaint; they have confidence in the NIPS Child Protection policy; they have capacity to complain should they wish to do so; they have someone to advocate on their behalf when required/desired.

37.

We therefore recommend that all advocacy staff are fully trained in both children’s rights and child protection and are skilled around engaging with marginalised and hard to reach young people. It is also imperative that NIPS takes steps to ensure that an Independent Advocacy Service is available equally to all children and young people with whom it comes into contact. We would draw NIPS attention to the Advocacy Model which has been developed by VOYPIC (Voice of Young People in Care), and which has been commissioned by DHSSPS to provide an independent Advocacy Service for care experienced children and young people in N. Ireland. The service receives legal impetus from Article 12, UNCRC and promotes the fulfilment of national legal requirements as laid down in the Children (NI) Order

1995, in particular Article 45, providing for the child's views to be taken into account in relation to case reviews and or representations or complaints made by a "looked after child" or "in need child". It is hoped that following the current review of Adoption legislation in Northern Ireland Advocacy arrangements for looked after children in this jurisdiction will be placed on a statutory footing, in line with provisions in England and Wales.

- 38.** We recommend that those charged with fulfilling the Independent Advocacy Service function within the NIPS must also receive training and be skilled in engaging and ensuring participation of children and young people with a disability, including learning disability and those with special educational needs and those for whom English is not their first language. Such a service will be one of a number of measures which are essential in order to build confidence in the system among young people.
- 39.** It is our view that children and young people should have a right to a choice of avenues for support. Include Youth is of the view that the contact details of the Commissioner for Children and Young People should be included in this draft policy as NICCY has a statutory duty to promote and protect the rights of children and young people. NIPS should also provide information to young people about specialist independent organisations which could support them to make a complaint—for example, Children's Law Centre's CHALKY helpline, or VOYPIC if they are care experienced young people. These details should appear at Appendix 7.
- 40.** In addition, in cases of a more serious nature, it may be in the best interests of the child to seek legal advice from a solicitor, and we believe that the young person should explicitly be made aware that they have a right to legal representation at any and all stages of an investigation under NIPS Child Protection Policies and Procedures.

1.14: Protection

- 41.** We recommend that the second bullet point at paragraph 1.14 be strengthened to the effect that 'NIPS shall take all necessary steps to ensure that no child nor anyone acting on their behalf will suffer harassment or reprisals as a result of raising child protection concerns, and that any child or person acting on their behalf shall be reassured in this regard'

1.15: Confidentiality

- 42.** Again, Include Youth believes that the generic issue of confidentiality should be dealt with in the overarching child protection policy.

Section 2: Definitions of Child Abuse

- 43.** It is important to recognise at Section 2 that the abuse of children can arise not just through the actions of individual perpetrator(s) but also from institutional policies and practices, most notably the use of punishment, searches, segregation cells and some forms of physical restraint. Each child has the right to be detained in a safe environment and it is important that the Child Protection policy is flexible enough to investigate such issues and patterns of alleged abuse as well as allegations about individual incidents. Policies in relation to searches, segregation, restraint and the use of punishment etc. must be referenced in the Child Protection policy, which should also be similarly reflected in these policies. We wish to request a copy of the

NIPS policies in respect of the use of searches, segregation and restraint against children and young people, in order that we may comment further on this issue. However, we believe that the NIPS Child Protection policy as currently drafted does not provide sufficient safeguards for children and young people detained in relation to searches, restraint or segregation.

44. For example, with regards to the issue of searching in particular, whilst we appreciate that there could be security and child protection issues which may necessitate the search of a child, we strongly recommend that current provisions be strengthened to reflect research conducted by NIHRC which found that ‘searching can be stressful, especially for children and young people with histories of abuse’. (*Still in Our Care*, 40)

- *‘Stripping, it’s hard that – if you’ve been through a lot of sh**e in your life, like a lot of people in here have, it’s not nice to have to strip in front of people.’*
- *‘It’s worst when you’ve got your period.’*
- *‘They shouldn’t have the right at your time of the month – it’s even worse. You feel bad enough, ashamed, but when it’s your period...’*
- *‘All the C+R (Control and Restraint) team are men – they should be all women for female inmates.’*

45. It is imperative that the searching of children who are detained within NIPS is conducted in a manner which is consistent with children’s rights and human rights standards, not least of which are the child’s right to be safe from harm, to privacy, to bodily integrity, and the principle of best interests.

46. Include Youth believes that this matter is extremely important and should be the subject of separate policy development and we therefore strongly recommend that the NIPS as a matter of urgency produce a policy on the searching of children who are detained, and subject it to a full consultation.

47. *‘Within the custodial context a strip search is more than just the removal of clothes for a visual inspection. It is a manifestation of power relations. A strip-search involves adult staff forcing a child to undress in front of them. Forcing a person to strip takes all control away and can be demeaning and de-humanising. This power is compounded by the threat, or actual use of, force to those showing any reluctance to strip.’* (*An Independent inquiry into the use of physical restraint in, solitary confinement and forcible strip searching of children in prisons, secure training centres and local authority secure children’s homes* Lord Carlile of Berriew QC, The Howard League for Penal Reform, 2006, page 58)

2.3: Persistent Bullying

- *‘Bullying is a big, big issue in here.’*

48. We are pleased to see the matter of serious and persistent bullying included within the Child Protection Policy, however, we do not believe that the statement are currently framed goes far enough. Include Youth strongly asserts that serious and persistent bullying *does* constitute child abuse, and the paragraph should be amended accordingly to reflect this unequivocal statement which will afford victims of such abuse stronger protections. We would like to receive a copy of the NIPS Anti-Bullying Policy referred to, in order that we can comment further on this matter.

However, in the meantime we recommend that the Child Protection Policy should contain a stronger commitment to the effect that NIPS shall ensure that the anti-bullying strategies are rigorously enforced which recognise the various underlying prejudices (e.g. race, sexual orientation, sectarianism, etc.) which can cause bullying and conform to the policies and procedures in place to enable them to protect children from bullying.

49. Include Youth recommends that Young People under Threat / Paramilitary Threat should come under this Child Protection policy as NIPS have a duty to protect children from harm in all circumstances.

Section 3: Roles and Responsibilities within Hydebank Wood

50. We note that the policy sets out ‘the role of *any* member of staff’ (emphasis added) in relation to child protection matters and we concur with this section of the policy. Include Youth believes that this gives rise to significant training implications for all NIPS staff, which must go further than basic awareness training on child protection, and must be addresses at this section of the Policy.

3.3, 4.14 and 4.17: CPC decision not to proceed and Withdrawal of allegations

51. We note that the Child Protection Co-ordinator (CPC) is empowered to undertake a preliminary assessment and decide whether or not to refer the matter to Social Services, and/or the police and parents. While there appears to be clear procedures which will become activated after a decision has been taken to proceed with a referral, the draft policy does not appear to provide guidance to assist the CPC in making this crucial preliminary assessment. Include Youth recommends that the procedures should be amended to include a clause which would stipulate that the CPC should at first instance consult with social services on all child protection cases they are considering at the preliminary assessment stage. On this issue of preliminary assessment, Include Youth would like to know what assessment criteria will be applied, and in cases where a decision has been taken by the CPC not to proceed with a referral, when and how will the child will be informed of said decision, whether such allegations which fail to proceed past the preliminary assessment stage will be recorded and monitored by NIPS, and whether there is any appeals mechanism. Include Youth recommends that procedures must be put in place to ensure that children and young people sign off on all complaints, including those of a child protection nature, in the presence of a carer or appropriate adult, as a matter of course. These steps will not only be important in the interests of increased transparency and enhancing confidence in the system, but could also be an important monitoring tool to assess young people’s satisfaction with the process.
52. We recommend that the statement which appears at paragraph 4.15 outlining Tasks to by Undertaken by the Governing Governor to ‘review and verify any decision made by the CPC not to proceed with a referral’, should also be included at paragraph 3.8.
53. Include Youth recommends that the NIPS record and monitor all child protection allegations which are subsequently withdrawn, for the purposes of seeking to learn lessons, and determine whether any patterns emerge. In addition, we recommend that each child or young person who withdraws an allegation is given the opportunity

to speak with a member of the independent advocacy service, in order to ensure that they are asked to give reasons for their decision to withdraw the allegation, and also to sign off on the complaint process, to indicate their satisfaction or otherwise with the process undertaken.

3.3: Joint Protocol

54. We welcome reference in paragraph 3.3 to the Protocol for Joint Investigation by Social Workers and Police Officers of Alleged and Suspected Cases of Child Abuse. Include Youth believes that all complaints of a child protection nature which emanate from custody, should fall to be investigated by officers from the CARE Units, within the terms of the Joint Protocol. We further recommend that it would be beneficial to have the Joint Protocol added as an Appendix to the draft policy, and that it should also be translated into a child friendly format. In addition, it is important that there is comprehensive and regular training provided on the Joint Protocol and its effective operation.

3.7

55. We recommend that the CPC should actively facilitate access to Independent Advocacy Service when this is requested by the young person.

3.7 point 6 and 3.10 point 6: Training

56. We believe that comprehensive Child Protection training should be provided for *all* staff, not just those working with children and young people, and that this message should be consistent throughout the draft policy. In addition, all staff should receive full copies of the procedures for reporting child abuse etc.

3.10: Monitoring

57. It is essential that NIPS' Child Protection Policies and Procedures are open to systematic independent monitoring, to ensure that problems can be identified and dealt with and that lessons learned can be integrated throughout the organisation. Furthermore, such monitoring is important in the interest of independence, accountability and ensuring confidence in the child protection systems. In addition comprehensive and independent monitoring provisions will help ensure that NIPS complies with its section 75 duty in terms of gathering data on affected groups.

58. The issue of monitoring is unfortunately only briefly dealt with in the consultation document. Include Youth believes that the detail of monitoring procedures must be included explicitly at all stages of the process, not only to ensure consistency in terms of recording and gathering information, but also in seeking to ensure that problems are identified and dealt with at the earliest opportunity. Reference is made at paragraph 8.4 to the need for openness to consider that a single alleged incident may be representative of other serial events. Clearly systematic and comprehensive monitoring will support the NIPS in detecting and proving such instances of organised, multiple or ritual abuse of children who are in its care.

59. Monitoring should also examine numbers of child protection allegations made; numbers withdrawn, together with reasons for withdrawal; recurrent issues; length of time taken to deal with case; outcomes; satisfaction of complainants, including degree of feedback provided by young people; training delivered to staff and evaluation thereof. This information should be shared with external agencies, including Inspectorates, members of the Visiting Committee etc. Child Protection

policy should be reviewed annually to take on board findings and lessons learned from this monitoring process.

Section 6 – Dealing with allegations made against members of staff

6.1

61. It is essential that all children and young people detained at Hydebank Wood have full and unfettered access to child protection complaints procedures – inherent in this is the responsibility of NIPS to engender a culture of openness and respect, and we are pleased to see such a commitment at paragraph 8.1 of the draft policy. All of this will be especially important in the context of a child making an allegation against a member of staff. In such a situation, the ‘inherent vulnerability’ of children detained in Hydebank which the current policy recognises at paragraph 1.1 becomes more acute, as there is a clear inequality of arms issue given rise to when a detained child makes an allegation against a member of staff. This could potentially be a terrifying experience for the young person, and it is vital that all steps are taken to encourage and empower them to pursue a complaint if they have been caused harm by a member or members of staff.

- *‘If you’re dead on to staff, staff are dead on back. You know call them sir and do stuff when they ask you, don’t shout about the landings at night.’*
- *‘If you complain, they set you up... They find something to put you on a charge. Then it’s easier for them to say you’re a trouble maker, and you don’t get believed.’*
- *‘Or they get one of the other inmates to hit you.’*
- *‘If you’re writing a letter to your solicitor, your ma or whatever, and it’s about the screws, they don’t let it out.’*
- *‘The governor’s never about, never comes onto the landing, but if someone comes in to see us about complaints or something, then he’s on the landing just like that [finger click] – he’s about, watching, he gets to them first.’*
- *I wouldn’t make a complaint – they [prison guards] could do whatever they want and I wouldn’t say anything.’*
- **Question from Facilitator: Anything? Any sort of abuse?**
- *‘Well if they beat you and all I mean...if it went further, like if it was sexual, if you got raped, then I would say something. I would talk to the governor or the police.’*

62. We recommend amending the following sentence thus: ‘The child’s *best* interests are the paramount concern.’ This would serve to demonstrate an understanding of the potentially huge fears and challenges facing such a child in coming forward with an allegation, and to reassure children and their carers of integrity of process and of how seriously NIPS takes its responsibility to promote the rights and best interests of children and protect them from harm. Include Youth believes that the draft policy commitment that children’s views and wishes must be given ‘careful consideration’ at all times does not go far enough, and should be replaced with a more robust form of words which comply with international children’s rights standards to the effect that their views will be ‘taken seriously and given due weight and attention’, in line with Article 12 UNCRC. In addition, whilst we welcome the policy statement that children should receive appropriate support and should feel empowered through these procedures to bring their concern to attention, Include Youth believes that more detail should be provided on these issues of support and empowerment. Once again, we believe that such detail will serve to promote confidence in the NIPS Child Protection Policy and Procedures.

- 63.** Crucial in terms of supporting and empowering young people through a process of making an allegation against a member of NIPS staff is the issue of access to a range of independent support mechanisms.
- 64.** Include Youth believes that NIPS Child Protection Policy must clearly state that access to independent support mechanisms will be encouraged among children / young people making a complaint, from the outset, and throughout the process, and we recommend that this commitment must be expressly included in the section governing complaints against members of staff. It is important that the child is supported throughout in a way that ensures their protection and integrity of the process. Moreover, we recommend that reference should be made to a comprehensive list of independent people that children and young people could get in contact with should be included at this point in the policy– including NICCY, solicitors, CHALKY Helpline, VOYPIC’s Advocacy Service and others listed at Appendix 7.
- 65.** In addition, it is essential that monitoring of allegations against staff should be particularly rigorous, and should be conducted both internally and externally. One of the matters which should form part of the monitoring process for both NIPS managers and external monitors is when individual staff members become the focus of multiple child protection investigations, and whether there are any patterns of behaviour etc.

6.4

- 66.** We concur that in situations where the abuse has been witnessed the member of staff must be immediately suspended. We note that in situations where an allegation cannot immediately be corroborated or refuted that NIPS will ensure that the staff member will not work with the particular young person and conduct a risk assessment to determine what level of access they should have to other children. Part of this risk assessment should examine whether it is appropriate for the member of staff to have supervised access to other children, or whether the person should be stood down, without prejudice, as is also provided for in the draft policy. Include Youth recommends that in conducting this thorough risk assessment, the paramount consideration must be the ‘best interests of the child’.

6.7

- 67.** This is the first time it is mentioned that the Governing Governor has an obligation to pursue an internal disciplinary enquiry against a member of NIPS staff who has been the subject of a child protection allegation which has subsequently been withdrawn, despite this matter arising earlier in the draft policy at paragraph 3.3, which we submit is confusing.

6.8

- 68.** Include Youth recommends that this paragraph also contains a commitment that the child and parent/carer should also be informed of the outcome of the Disciplinary process as soon as possible and be provided with an opportunity to see a representative from the Advocacy Service, which should be available throughout the entire process, preferably with continuity of personnel, as relationships are a key aspect of ensuring trust and engagement in the process.

7.1

69. The example given concerning a one-off spontaneous confrontation between two young people which the draft policy states may fall short of coming within the definition of child abuse, raises a number of issues. In the first instance, it is important to remember the context of detention in which such a confrontation would be taking place. The fact of being detained in a prison/YOC could transform a confrontation that in a non-custodial environment the child or young person could perhaps cope with, into a traumatic event causing significant harm in a detention setting where the child may feel unable to escape from the environment and may feel very threatened and alone. It is also important to recognise the comments from young people at paragraph 61 above.
70. It is essential that all NIPS staff are equipped to exercise appropriate judgement and decide whether such an incident warrants referral to CPC, which clearly gives rise to the need for comprehensive training for all staff. Moreover, Include Youth is interested to know how NIPS deals with such situations which are not to be deemed serious or significant enough to constitute 'significant harm' and warrant a child protection investigation. In such situations it may be appropriate for other NIPS policies and procedures to be triggered, for example, complaints, anti-bullying etc. and we recommend that this matter is addressed in the draft policy.

Section 8:

71. Include Youth recommends that Section 8 should also contain paragraphs on Substance Misuse and Bullying.

8.1: Prevention and Awareness Strategies for Children

72. Include Youth welcomes the inclusion of this important section on prevention and awareness strategies for children. We recommend that a number of the statements contained at paragraph 8.1 should be included within the Underlying Principles section of the overarching NIPS Child Protection policy that we have advocated, particularly, children feeling respected and valued and promotion of the child's self-esteem, the culture of openness, and regular and on-going access to trusted, independent adults, professionals, and help-lines. We further recommend that in terms of prevention of child abuse the NIPS policy should include commitment at this section that Hydebank YOC and Prison must ensure 'compliance with the NIPS whistle-blowing policy.'
73. We are pleased to note NIPS' recognition of the 'inherent vulnerability' of young people held in Hydebank Wood (paragraph 1.1) We also particularly welcome the commitment in paragraph 8.1 that 'complaints procedures are clear, simple, accessible and fully understood by children and that processes and outcomes are recorded.' We strongly recommend that this section must include an express commitment to providing information in accessible formats and in a manner which takes account the age and understanding of the child. We recommend that examples of the various types of format should be included at paragraph 8.2.
74. We welcome the commitment to provide 'additional support' to children with disabilities and other vulnerable children to express concerns they may have, however we believe that this statement does not go far enough. Given the evidence concerning the underachievement of children and young people in the justice system, measures must be taken by NIPS to ensure that information is provided in a meaningful way to those who present with literacy difficulties. We recommend that an express statement

be included at paragraph 8.1 which ensures necessary steps taken in respect of children with literacy problems, special educational needs and for whom English is not their first language. Within this, we also recommend that a specific commitment is given within the policy to ensure that detailed procedures are put in place which enables young people with a mental health and learning disability to fully understand the NIPS Child Protection Policy which encourages the accessibility of the system.

75. We further recommend that that clear procedures should be set out by NIPS within this Child Protection policy to ensure that children with disabilities and other vulnerable children receive the additional support they require to express concerns they may have, and to mitigate any other differential impact which this policy will have on this group, in accordance with section 75 of the NI Act 1998.

76. We also recommend that NIPS seek feedback from children and families about services provided, not only through managers, but also through an independent source.

8.2: Information and Induction

77. We note at 8.2 the list of opportunities for children and young people to bring to attention anything that could be improved or needs remedy. We welcome the fact that this is not an exhaustive list, and we strongly recommend that this section must include express commitment to providing information in accessible formats and in a manner which takes account the age and understanding of the child.

78. These formats may include written materials, including child friendly version in a range of formats, for example, leaflets, posters; introductory video, CD or DVD that the young person is allowed to have continued access to in their cell. We recommend that NIPS should place posters in prominent positions; distribute leaflets and other publicity materials to all young people availing of services; and include contact details in NIPS's own materials. Materials should be provided in a range of languages, and interpreters should be provided through NIPS and the Independent Advocacy Service.

79. In addition, we strongly recommend that young people can easily access contact cards / suggestions & concerns questionnaires in a manner which doesn't draw attention to them, which can be posted to the CPC or to a named person within the Advocacy Service. A supply of forms, together with sealable envelopes, should be freely available in a place where young people can easily access them without the explicit knowledge of NIPS staff. In addition members of the Advocacy Service should carry forms with them when visiting young people, and should assist any individual who wishes to pursue a complaint. It is essential to develop a confidential means of lodging complaints, which restricts knowledge of the complaint to CPC and other personnel who are empowered to deputise, all of whom should be bound by a detailed Code of Conduct. We further recommend regular focus group meetings with young people and parents facilitated by independent agencies.

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| <ul style="list-style-type: none">▪ <i>'You should just put a complaint in a box and it doesn't get looked at by anyone from the prison service.'</i>▪ <i>'Forms like they have in Rathgael – see the ones here, they're too complicated – too hard to fill in.'</i> |
|---|

- *'If you want to make a complaint, you have to go through a CO (Class Officer); you can't even go to the SO (Senior Officer) – they ask you why you can't speak to them about it.'*
- *'Complaints should go straight to the governor.'*
- *'Sure the governor's no time for you – the complaint would go straight in the bin.'*

8.3: Sexual Exploitation

80. Include Youth recommends that the word 'prostitution' should be changed to 'sexual exploitation'.

8.5: Children who display sexually harmful behaviour

- *Young people who have been victims of abuse in the past, they can maybe on the same landing as an abuser and it could bring up memories from the past. It could f*** their head up. Or they might want to get their anger out on the person and get them into trouble.*
- *You could be constantly scared. [if sharing space with someone who has abused]*

81. Include Youth believes that this important paragraph needs to be amended to offer stronger protection, services and support for children who display sexually harmful behaviour, in order to ensure that both they and other children and young people with whom they may come into contact are safe and protected from harm. We recommend that this section must include more detail about the clear care planning procedures that NIPS will put in place to protect these children and young people, and others around them. Such care planning procedures should include necessary additional support and monitoring arrangements. Moreover, the procedures should state what immediate steps NIPS will take if an incident should occur. We suggest that it might be helpful for NIPS to take advice from Probation Board of Northern Ireland or any therapeutic service which the young person may have engaged with prior to their detention at Hydebank Wood Prison and YOC.

8.7: Internet Misuse

82. Include Youth welcomes the fact that NIPS is currently reviewing its IT access for staff and prisoners and will develop a policy for ICT usage which will take full account of child protection issues. We look forward to receiving a copy of the draft ICT policy in line with NIPS duties under section 75 of the NI Act 1998.

Section 9: Recruitment, Training and Support of NIPS Staff

83. We are unsure as to what exactly is meant in the statement 'vetting is only part of the process and the Service is committed to ensuring that the weight given to POCVA checking is proportionate to the range of other good recruitment practices.'

9.7: Performance Management and Training

- *'It could be safe (to make a complaint) – it depends what the member of staff you complained about said to the others.'*
- *'Some staff are ok, but if you went to a staff member, you know that when crunch came to crunch they'd stand on the side of the other staff rather than you. You can't blame them, it's their job that's on the line, they have to work here.'*
- *'Staff should be willing and happy to listen to you and type out a form for you.'*

84. Include Youth is pleased to see a commitment in the draft policy that 'staff will be given appropriate and comprehensive training in all aspects of child protection.' The

UN Rules are clear that such training, as will enable them ‘to carry out their responsibilities effectively’ should include training in ‘international standards and norms of human rights and the rights of the child, including the present Rules.’ (Rule 85)

- 85.** Include Youth recommends that all staff will be given appropriate and comprehensive and comprehensive training in all aspects of child protection, including those who have little direct contact with children – we submit that ‘awareness’ training is not sufficient, given the complexities involved. In addition, we recommend that inter-disciplinary training should be provided particularly with members of Police Service of Northern Ireland and Health and Social Services personnel who will be collectively responsible for effectively operating the Joint Protocol. Moreover, we recommend that NIPS staff should engage in training alongside other agencies which have a responsibility to work with and on behalf of children and young people, including representatives from Education, Youth Justice Agency and Probation Board of Northern Ireland. Training should also be provided to all staff on children’s rights and how to communicate effectively with children and young people.

Child Protection Policy and Procedures for Children Visiting Prison establishments in Northern Ireland

86. Many of the issues discussed in relation to the Hydebank Wood Policy are also relevant in respect of the draft policy on Visits, and we wish our comments above to be taken into consideration in relation to this draft policy. Once again, we reiterate our strong recommendation that this policy is re-framed and contained within an overarching NIPS Child Protection Policy. There are a number of brief points we wish to make in specific reference to this policy.

2.13

87. We have tried unsuccessfully to access a copy of the NIPS Searching Policy 2004 via the NIPS website, and would be grateful if you could forward copy of same to Include Youth, in order that we might have the opportunity to comment further in this matter. However, we wish to be very clear that searching of children in any circumstances must be fully compliant with children's rights standards, especially the best interests of the child principle, right to privacy, bodily integrity and protection from harm. We recommend that such a commitment must be expressly stated at this section of the draft policy. We are concerned to note the statement that 'children will only be searched with the consent of an accompanying adult,' in that no recognition is made of the right of the child to consent or otherwise to any such proposed search. This is a clear breach of article 12 UNCRC. We note the strange anomaly that provision is made at paragraph 2.19 to obtain consent from children in relation to the use of photographs, whilst under the current provisions their consent would not be required for a search to their person, which could prove to be a very traumatic and disempowering experience.

Appendix 5 – Contact addresses

88. Include Youth recommends that contact addresses for a range of voluntary organisations which provide support and independent advice to children and young people should be included in this Appendix, including NSPCC, Children's Law Centre's CHALKY helpline, NIACRO and VOYPIC. In addition, details of the Independent Advocacy Service should be provided also. Moreover, we recommend that NICCY's contact details are included in Appendix 5.

Child Protection Policy and Procedures for Managing visits to, and communication with, those prisoners who present a risk to children

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| <ul style="list-style-type: none">▪ <i>'I didn't let my niece or nephew come in here to visit me, cos I knew there where paedophiles in here and I was worried they might have to see them in the visits.'</i> |
|--|

- 89.** Again, Include Youth would like our earlier comments to stand in relation to this draft policy. It is essential that in decision-making processes concerning such contact with a prisoner at risk, whether through visits or other means of communication, the paramount consideration must be the best interests of the child. We strongly recommend that a huge amount of caution is exercised by social services in making such a determination, to ensure that no child is ever be placed at risk of abuse through an approved visit or communication with a prisoner who present a level of risk.
- 90.** In the event that there is consideration that a child or vulnerable adult should visit a prisoner who may present a risk than the decision should be taken within the MASRAM procedures and in full consultation with relevant child protection agencies.

Conclusion

91. Include Youth intends the above as a constructive submission and would welcome the opportunity to discuss any issues raised in our response. Include Youth is committed to working in partnership with NIPS to help ensure that any child detained within Hydebank Wood Prison and YOC, visiting any Prison Service establishment or otherwise communicating with any prisoner detained within the Prison Estate, is safe and protected from harm. We wish to be kept fully informed of progress in the development of the NIPS Child Protection Policy and look forward to the issues raised and recommendations made in this response being addressed and taken forward. We would grateful to receive a copy of your analysis of responses when same becomes available. We look forward to receiving a copy of the NIPS Policies requested throughout this response.