

include YOUTH

Response to DHSSPS's Consultation on Minimum Standards for Children's Homes

"Generally just support them and don't judge"

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Introduction

Include Youth welcomes the DHSSPS's consultation on the draft minimum standards for children's homes and the opportunity provided to comment on these standards. As an organisation that works with vulnerable and disadvantaged young people, including those living in children's homes, we know that for those young people, living in a homely, caring, supportive and nurturing environment can make all the difference to them in terms of self esteem and confidence, happiness, achievement in school or training, gaining employment and managing a successful transition to adulthood.

Having a set of regionally agreed and consistently applied standards will help to ensure that all children's homes, regardless of Trust location, provider or type of provision, are doing the maximum to ensure that the young people living in these homes develop in the ways referred to above. In addition to establishing a benchmark for quality care, these standards will form the basis for the Regulation and Quality Improvement Authority's (RQIA) inspections of children's homes and as such are also extremely important.

We recognise the level of work that has gone into the drafting of these standards to date and in particular pay tribute to the work done by our colleagues in VOYPIC in ensuring that the views and experiences of children and young people living in children's homes across the five Trusts have been fed into the drafting process.

Approach taken in our response

Include Youth delivers a range of employability programmes to young people aged 16-21 years of age across the five Health and Social Care Trusts, a number of these in partnership with other organisations. Programmes include the Give & Take scheme, Youth Works, Start and, on behalf of the Belfast and Western Health and Social Care Trusts an employability service for care experienced young people. Approximately half of the young people on the Give & Take scheme at any point in time are in residential care; in 2012/13 the figure was 45%. In addition a significant percentage of these young people will have had experience of the youth justice system. Include Youth delivers a youth participation project, Young Voices, for young people with experience of the youth justice system. This project operates both within the Juvenile Justice Centre and outside of it.

Aligned with the profile of the young people we work with and with our service provision, our key policy advocacy priority areas are employability and youth justice. In light of this we have approached this consultation through the lens of those two areas as it were, as that is where both our expertise and interests lie.

While there is no doubt that all of the 21 standards, if fully complied with, could have a very positive impact on young people's education, training and employment opportunities, and well as on the prevention of contact with and diversion from the youth justice system, we have selected the following standards as having most relevance and limit our commentary to those. They are Standards 1, 3, 8, 9, 14, 15 and 20. We also have some brief comments to make on Section 2 Requirements for Registration as well as on the Values and Principles Underpinning the Standards.

We engaged in consultation with young people on our Give & Take Scheme across the five Trust areas as well as young people availing of the Employability Service which Include Youth delivers on behalf of the Belfast Trust and young people in the Juvenile Justice Centre. In total we consulted with 40 young people.

We also carried out a group consultation exercise with Include Youth staff, a number of whom, in addition to working with young people from residential care within Include Youth, have experience of working in children's homes.

While our response is therefore shaped to a large extent by the views and experiences of young people as well as of practitioners we have also used the relevant international children's rights standards as benchmarks against which to assess the draft standards. Finally we have assessed the draft standards within the wider policy contexts of the looked after care provision, youth justice and employability.

The remainder of this response is structured as follows – some general overarching comments which apply to a number of standards, commentary on the values and principles underpinning the standards, followed by more detailed commentary on the specific standards referenced above, and lastly some comments on Section 2 of the document.

General Comments

The following comments are overarching in nature, applying as they do to a number or in most cases all of the standards.

Culture and ethos

The culture and ethos of a children's homes, which to a large degree is created and promoted by the registered owner and the manager supported by his/her staff, is critical as to **how and to what extent** the standards will be implemented. This is acknowledged in the consultation document *"the quality of care provided depends very much on the ethos and culture created in the home by the owner, managers and staff and is demonstrated in the practice adopted and evidenced in improved outcomes for children"*.¹ It is in the culture and ethos of a home that the values and principles can be 'felt' by the children and young people. Concepts such as 'leadership', 'trust' 'respect' and 'relationships' came through consistently in all consultations with the young people.

While, as the consultation document notes, there is no such thing as a 'typical children's home' what was clear from consultation with both young people and staff, is that there is a wide divergence in the culture and ethos of different children's homes, largely related to the management and leadership style. It is also evident that there are a number of examples of excellent practice which should be examined and reflected upon with a view to taking the learning from these and applying it elsewhere.

Staffing

To a large extent the staff make the children's home 'a home' for the children and young people who live there; in the words of one young person consulted with by VOYPIC:

"Some of the staff members are good craic and they make the home".

Young people were unanimous in their view that the children's home staff have a huge influence on what the home is like:

"You can trust good staff, you feel comfortable and have a laugh, when staff are approachable there's a good atmosphere... I like it when you can have a banter with staff".

The attitude and approach of staff were seen as vitally important:

¹ DHSSPS (2013) Consultation on Minimum Standards for Children's Homes, page 5

“It’s not the fact that they tell you what to do it’s how they tell you what to do; some staff have a better attitude than other staff...it’s their approach that is the most important.”

Young people recommended that there should be more staff who are youth work trained.

Include Youth believes that this is something worth considering as from our experience of employment youth work trained staff, young people often tend to form more trusting relationships, based on mutual respect and partnership working, with youth workers than other professional staff. It should be noted of course that staff do not of necessity need to have a youth work background to work well with young people in care - much of the success or otherwise of these relationships centre around an overall attitude and approach, with respect forming the corner stone of that approach.

Training

Again, this issue will be discussed further under Standard 17 and in relation to Section Requirements for Registration, **but the importance of training for all staff in the standards cannot be overemphasised.** The compliance or otherwise with standards on a daily, weekly, monthly and yearly basis will be almost entirely down to the staff working in the home.

The obvious question arising in relation to many of the standards is how staff and managers will meet the criteria set out under each standard. **Without the appropriate training it is difficult to see how staff could be expected to fulfil these criteria.** For example, in relation to Standard on Engagement, Participation and Involvement, staff will need training in how to facilitate children to express their views on matters affecting them and on ensuring that those views are given due weight. Similarly in relation to Standard 14 on Promoting Independence, Moves to Adulthood and Leaving Care, staff will need training in such areas as employability and independent living skills.

Lack of consistency between different Trusts

It was clear from both our consultation with young people and staff, and from VOYPIC’s Review of Minimum Standards in children’s homes in Northern Ireland² that young people’s experience of children’s homes can vary quite significantly depending on the culture and ethos of the particular home which in turn translates into day to day routines such as food preparation. We support VOYPIC’s recommendation in relation to service planning that the Health and Social Care Board should *“Adopt a regional strategy for the planning and development of residential services for children and young people in care. Coordinate review and planning across all HSCTs to ensure consistent, appropriate and adequate provision of*

² VOYPIC (2012) It’s not a unit, it’s my home! Review of Minimum Standards in children’s homes in Northern Ireland

accommodation and support. Involve children and young people in the process of review and planning via a RIT work stream”³

Lack of evidence linked to a number of standards

We note that the consultation document states that most standards have examples of evidence to show how the criteria of the standard have been met, and that where there is no evidence set out, the criteria must all be met. The document also notes that in most cases RQIA will expect to see all of the examples of evidence being met ‘*as a minimum indicator of achieving the standard*’, and, where no evidence is set out the criteria must all be met (we would have assumed that **all** criteria for **all** standards must be met unless they do not apply to particular children and young people ?). As no explanation is provided as to why some standards have no examples of evidence set out we would ask why this is the case. Two of the standards we examined, Numbers 8 and 20 do not have any evidence associated with them. We feel that it is important to set out some practical examples of evidence by which both the RQIA in its inspection, but also the young people, can assess whether or not the criteria have been fulfilled. **Ultimately an assessment of whether or not the standards have been complied will rest on the existence of evidence to indicate compliance or otherwise – we cannot overemphasise the importance of concrete evidence being outlined alongside each of the 21 criteria.**

Minimum Standards Only

These standards are minimum standards only. The consultation document describes them as “*the benchmark under which quality of care must not fall*”. **We would encourage the inclusion of a statement in the standards to the effect that children’s homes should strive to exceed these minimum standards where and when possible.**

³ Ibid page 21

Values and Principles underpinning the Standards

We believe that the values and principles underpinning the standards are of central importance and need to be given the weight they deserve. While they might be viewed by some as somewhat abstract or esoteric, they are intended to act as the foundation upon which the standards are built and provide a frame of reference within which the standards sit and should be interpreted. The following response given by a young person in the Juvenile Justice Centre when asked for his thoughts on the values set out for the standards goes to the heart of the purpose of having such values:

“What does that word (‘value’) mean? I dunno, never really heard it before. Maybe if someone listens to you, gives you a bit of their time and you feel they respect you, even with all the crap you’ve come through, then yeah, maybe that’s what being valued means.”

While the values and principles set out in the consultation document are to be welcomed, the challenge will come in ensuring, as the document states, that “managers *and staff (should) have the following values firmly embedded in their practice*”.⁴ Unless there is clear evidence of these values being translated into and reflected in the standards and associated criteria, there is a danger that they could remain something static and abstract. The question for the RQIA in assessing compliance with the standards is how will they determine whether these values have actually been embedded in practice?

As a rights based organisation Include Youth has a particular concern as to how the principles of children’s rights will be embedded into practice by Managers and staff in children’s homes. We naturally welcome the inclusion of rights as one of the underpinning principles (we would question what the distinction being made between individual and human rights is) but would like to see explicit reference made to the UN Convention on the Rights of the Child. As a set of non negotiable and legally binding minimum standards and obligations in respect of all aspects of children’s lives which have been ratified by government, there is an onus on all government departments and agencies to ensure compliance with all of the relevant provisions of the Convention, as well as with the relevant recommendations emanating periodically from the UN Committee on the Rights of the Child.

This obligation to give effect to the UNCRC and its provisions is reflected in the government’s overarching policy framework in respect of all children and young people, the ten year Children and Young People’s Strategy, where one of the six high level outcomes for children and young people is ‘Living in a society which respects their rights’.

⁴ Op cited at note 1, page 7

Given that the current set of draft standards sits within and must be aligned with the overall policy framework for children and young people we believe that the principle of children's rights and its application to these standards should be developed further by ensuring that all of the standards are proofed against and compliant with the relevant provisions of the UN Convention on the Rights of the Child. These include but are not limited to the following standards:

- Article 2 (non discrimination)
- Article 3 (best interests)
- Article 4 (implementation of rights)
- Article 6 (right to life, survival and development)
- Article 9 (separation from parents)
- Article 12 (right to have their voice heard)
- Article 15(freedom of association)
- Article 16 (right to privacy)
- Article 19 (protection from all forms of violence)
- Article 20 (children deprived of family)
- Article 23 (children with a disability)
- Article 24 (health and health services)
- Article 25 (Review of treatment in care)
- Article 28 (right to education)
- Article 29 (goals of education)
- Article 31 (leisure, play and culture)
- Article 36 (other forms of exploitation)
- Article 37 (detention)
- Article 40 (juvenile justice)
- Article 42 (knowledge of rights)

For example, Standard 1 on Engagement, Participation and Involvement should draw on the wording of Article 12 (right of the child to be heard) and Article 3 (best interests) of the UNCRC, as the standard as currently worded is not rights compliant.

Training of managers and staff in children's rights and their application will be essential if that commitment to children's rights espoused in the Values and Principles section of the document is to be 'embedded in practice' as the document states. The UN Committee on the Rights of the Child in 2006 drew attention to the lack of such education and training for professionals working with looked after children, including '*personnel in residential care settings*' and has recommended that "*State parties invest in systematic training, education*

and research in the field of the protection and alternative care of children without parental care from a rights-based and gender-sensitive perspective.”⁵

The UN Committee repeated this recommendation in 2008 in its examination of the UK government’s record on children’s rights when it noted that *“there is no systematic awareness-raising about the Convention and that the level of knowledge about it among children, parents or professional working with children is low”*.⁶ It recommended the *“the reinforcement of adequate and systematic training of all professional groups working for and with children, in particular law enforcement officials, immigration officials, media, teachers, health personnel, social workers and personnel of child-care institutions.”⁷*

⁵ CRC/C/153 CRC Committee 40th Session 17 March 2006 Day of General Discussion on children living without parental care, paragraphs 676 and 677

⁶ CRC/C/GBR/CO/4 October 2008 Paragraphs 20

⁷ Ibid paragraph 21

Standard 14 Promoting Independence, Moves to Adulthood and Leaving Care

The focus on achieving ‘economic wellbeing’ in the standard appears rather reductive. Not only is the term ‘economic wellbeing’ somewhat ill defined in itself, it seems rather limited as a measure of young people having made a successful transition to adulthood. The standards apply to young people who are in the main under 18 years of age. In this economic era it is not realistic to expect young people at that age to have achieved ‘economic wellbeing’, whatever that may constitute. **Include Youth would prefer to see the primary emphasis in this standard being on young people being supported to develop a coherent sense of a realistic pathway for themselves as they move into adulthood.**

Staff in children’s homes can play a key role in supporting young people to achieve in education, training and employment. This is clearly recognised in DEL/DHSSPS’s Regional Guidance on Promoting Positive Outcomes in Education, Training and Employment which states that *“residential care staff must be encouraged and supported to prioritise training and employment with young people. This needs to be woven into practice.”*⁸

While the draft standard does make reference to young people being supported to *“prepare for the world of work and/or further or higher education”* **we would suggest that greater emphasis is placed on this within the criteria in order to more closely mirror the wording of the Regional Guidance.** In addition, the criteria as currently worded makes no reference to supporting young people into training, which is often a next step for young people post compulsory education. Such training would include both government’s mainstream training programme, Training for Success, and employability programmes such as Include Youth’s Give & Take Scheme.

We would also recommend that the relevant Leaving Care Standards⁹ are reflected with the wording of Standard 14 and its associated criteria. We are referring specifically to Standard 5 Living in Stability and Safety with its associated action criteria which includes a clear policy statement around supporting young people to remain in a care placement until a young person’s 18th birthday, as well as extending the residential care placement beyond 18 years in keeping with the best interest of the young person and the home’s Statement of Purpose. While recognising that the decision regarding a young person’s placement rests with the Trust we believe it would be helpful to include reference to the above action criteria in Standard 14.

⁸ DEL, DHSSPS and Leaving and After Care NI (2009) Promoting Positive Outcomes in Education, Training and Employment for Young People Leaving Care: Regional Guidance on Arrangements to Support Young People to Engage in Education, Training and Employment

⁹ DHSSPS (2012) Standards for Leaving Care Services in Northern Ireland

Criteria and Evidence for Standard 14

No 3: There will clearly be a need for training for staff to enable them to support young people in the various ways set out in this criterion. The type of evidence which the RQIA would need to establish fulfilment of this criterion is rightly identified as being the existence of good quality training and development available which staff are encouraged to support and undertake in preparing young people for independent living and adulthood. **In light of our comments above in relation to training programmes for young people we would recommend that staff training includes modules on the supported learning model and the role of children's home staff in relation to this.**

Young people consulted with had lots of suggestions as to how children's home staff could provide practical support to young people and help prepare them for moving out of the home. These included:

"Build their confidence, self esteem and independent living skills."

"Skills like budgeting, cooking, cleaning etc."

"Do a test with them; let them move out for short periods of time but come back again."

"Young people need to visit benefit offices with staff."

"Staff need to ensure that young people are registered with a doctor and dentist."

However the support young people envisaged staff providing with was not only in relation to practical skills but also included emotional support as described by one young person:

"The children's homes staff need to support young people to meet their emotional needs while they are there so as they do not carry with them the issues they had as kids. Young people need to know how 'a family' works so they can build good relationships when they leave the children's home".

These suggestions should be considered as pieces of evidence for the purposes of an RQIA inspection i.e. the existence of a bank account, a national insurance number, and registration with doctor and dentist etc.

No 4: It is vitally important that children's home staff work collaboratively with the young person's social worker and personal advisor in implementing their care plan. In terms of

supporting evidence, the draft standard makes it clear that joint working arrangements should be in place with housing agencies, education, training and employment services, employers and benefit providers to support each young person leaving care. **Include Youth agrees with this and believes that there should be tangible evidence of such joint working arrangements in line with what is appropriate, whether that be written operational partnership agreements or other format.**

In the area of education and collaboration between agencies, young people we consulted with expressed a sense that contact and communication between their children's home and their school was often less than expected and required. Commenting on the amount and direction of contact one young person described it thus:

"Teachers to care homes - a lot, care home to teachers - not a lot."

Another young person outlined the basis for and nature of the contact between schools and children's homes as follows:

"Children's homes would not keep in touch with schools a lot because of confidentiality issues and they can only tell so much. Children's homes only really get involved with schools to see how much progress you are making and to see if you have problems and stuff or if you are not going in or something."

Generally there was a view among the young people that schools and children's homes only kept in contact regarding attendance and what they described as 'bad behaviour', with the basis for the contact therefore being rather negative. Clearly the joint working arrangements outlined in the standard should have the best interests of the young person at their centre, with the young person themselves also being involved in the communication between various agencies as appropriate, in line with UNCRC Article 12 'right to have their voice heard'.

Young people consulted with also focused on the importance of collaboration between children's homes and move on accommodation placements such as hostels, recommending that there should be much closer working relationships, established prior to the young person leaving the children's home.

"Staff from children's homes and staff from hostels should work together on the move on until the young person has built up a good relationship with someone in the hostel."

Finally, from the perspective of a training provider Include Youth would support the development of more formalised joint working arrangements with children's homes as we know the vital role they can play in supporting young people in education and training and into employment.

Standard 9 Promoting Educational Achievement

Include Youth believes that the wording of this standard should be stronger. Rather than talking about the *'active promotion of education as valuable in itself'* we believe that this standard should reflect Articles 28 and 29 of the UN Convention on the Rights of the Child¹⁰. Article 28 sets out the child's right to education up to 18 years of age, while Article 29 deals with the aims of education and states that the education of the child shall be directed to:

29.1 (a) the development of the child's personality, talents and mental and physical abilities to their fullest potential

(b) the development of respect for human rights and fundamental freedoms, and the principles enshrined in the Charter of the United Nations

(d) The preparation of the child for responsible life in free society, in the spirit of understanding, peace, tolerance, equality of sexes and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.

We recommend that the wording of the standard should reflect the above wording and make it clear that every child has a right to an education that helps them develop to the fullest of their potential.

Criteria and Evidence for Standard 9

No 2: Access to computers and the internet was an issue that young people consulted by Include Youth, but also by VOYPIC in its review, felt strongly about. VOYPIC noted that it was one of the biggest issues raised by children across all Trust areas.

Young people we consulted with, whilst recognising the legitimate child protection concerns staff have, felt that a 'one rule for all' approach to internet usage was not a fair or equitable policy for children's homes to operate. Young people noted that they needed access to the internet for homework/course work purposes but that this was often denied to them:

"If you are doing course work they tell you to go to the library and they are not the best places to go because the way some children see it they have a reputation so they are not going to be seen going to the library."

VOYPIC made the following recommendation which Include Youth supports:

¹⁰ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

“It is well recognised that educational outcomes for care experienced children and young people are not good. Therefore it is important that young people in children’s homes are able to access a computer and the internet to support and promote effective learning and achievement in education.”¹¹

This recommendation reflects what the Regional Guidance on Promoting Positive Outcomes in Education, Training and Employment says. The guidance notes that residential staff have a role *“ in ensuring that the care environment does not create barriers or disincentives to young people’s engagement in education, training or employment. For example, all residential care units which offer care placements to young people aged 16 and 17 should have computers in their units for young people’s use.”*¹²

Access to computers and the internet should be added as an additional example of evidence for the purposes of Standard 9.

Include Youth in partnership with Fostering Network was involved with running the Fostering Achievement Scheme during the first 3 years of its operation. The Scheme then and now does excellent work in supporting young people to gain access to additionally support to improve educational attainment. A significant aspect of the Scheme was purchase and installation of computers in children and young people’s foster placements. Include Youth witness the impact access to such support had on young people and believe that such a programme should be replicated for young people in residential care. As is evident from above it is concerning that these children in residential care do not have the same access to IT support as their counterparts in foster care.

No 3: The provision of support by staff to the young people to attend school, college or alternative education provision regularly was viewed as extremely important by the young people we consulted and they were vocal on what this means in practice:

“If you say you’ve done your homework it doesn’t necessarily mean you have done it, they (staff) don’t check it or nothing like in a normal family, not always but sometimes their family would check it. In the home no one checks it so you don’t know if it’s wrong or not so you get into trouble.”

“If one (young person) is not going to school and the social workers are letting it slide and not punishing them in the way they said they would then the other person is going to say well if it’s ok for her it’s ok for me. So literally it becomes a vicious circle.”

¹¹ Op cited at note 2, page 10

¹² Op cited at note 8 3.4.5

Among the examples of evidence suggested as demonstrating the provision of support by staff to young people to attend school is the extension of an invitation to young people to attend and contribute to all meetings arranged by staff with the school concerning their education and progress. There is a failure here to recognise the unequal power relations that exist between young people, their teachers and the school management. **What is required is a much more proactive approach by children's home staff whereby they actively help to support, prepare and empower the young people to participate in such meetings.** Among the ways this could be done are role play and rehearsal of the issues to be discussed.

No 6: While this criterion deals with issues of school transport that arise as a result of short term residential care placement, Include Youth staff cited a number of examples where a young person's continuation in education can break down as a result of placement changes. **The practical barriers created by distances involved can lead to the breakdown in a young person's education, or indeed training placement. This issue should be recognised and addressed within the context of Standard 9.**

No 11: As with the wording of the standard itself, Include Youth recommends that this criterion is framed using the education provisions of the UNCRC. The UN Committee on the Rights of the Child has made it very clear that all children have an equal entitlement to an effective education and that the state has a duty to fulfil that right; in its 2008 examination of the UK government the Committee recommended that government "*Ensure that all children out of school get alternative quality education*"¹³ **The standard in relation to alternative education provision therefore should be the same as that for mainstream education.**

No 12: This is a very important criterion –but the evidence suggested only relates to work experience, part time or vacation employment opportunities, and overlooks the vital role children's home staff have to play in supporting young people in further and higher education, training or employment, as recognised in the Regional Guidance on Supporting Young People into Education, Training and Employment. The need for such support is underscored by the following observation from a young person:

"If you are in sixth year and leaving they (children's home staff) would need to support you in where you are going after that, they can't just let you come out and go nowhere, they need to help you to go to tech or help you get a job or something."

¹³ Op cited at note 6 paragraph 67. (c)

In addition, the entire onus is on the young person to confirm that they have received support to seek work experience as well as part time or vacation opportunities. **We would suggest that there should be documentary evidence of the interventions made by children's home staff to support young people with their education, training and employment.** In the same way as the Care Plan sets out how children and young people's attendance at school is monitored and what systems are in place to achieve attendance, and this is taken as evidence of compliance with Standard 9 , a similar support and monitoring system should be put in place around training and employment.

Standard 3 Living in a Supportive Home

This is an extremely important standard and one young people we consulted with had much to say, including but not limited to the disproportionate use of PACE remands from children's homes into the Juvenile Justice Centre. **As an organisation Include Youth has long highlighted concerns about the disproportionate response to managing challenging behaviour adopted by some children's homes which has led to the criminalisation of children and young people as a direct result of their care status.** Where this happens it is clearly a serious breach of international children's rights standards in relation to juvenile justice¹⁴, and as such the practice has been heavily criticised by the UN Committee on the Rights of the Child.¹⁵ We are therefore pleased to see this issue recognised and addressed within this standard, although the standard still needs concrete evidence by which its compliance with can be measured.(this is discussed further below).

Include Youth suggests that the wording of the Standard itself be slightly amended to reflect more accurately the responsibility on the children's home to ensure that children and young people 'are provided with' as full an experience of a supportive, homely environment as possible, as opposed to simply being 'given opportunities' as the current wording states.

Criteria and Evidence for Standard 3

No 1: We would question whether this criterion might be reframed more positively. **We would suggest that rather than the emphasis being on risk management, which is only one aspect of the child's development, the focus should be on encouraging age appropriate behaviour and the building of trust between staff and young people.** There should be evidence that staff have been supported to develop positive parenting skills which include managing risk taking behaviour at various ages and stages of development.

Young people consulted felt acutely those situations where the approach taken by staff was primarily informed by managing/controlling their behaviour:

"I was treated like a child, I wasn't treated with respect. I was 14 years old but it was 'don't do this, don't do that'. Constantly, that's all it was'."

¹⁴ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> Article 37 (b) of the UNCRC states that deprivation of liberty must be used as a measure of last resort and for the shortest period of time.

¹⁵ Op cited at note 6 paragraphs 77 (c) and 78 (b)

Another young person described in some detail the escalating, counterproductive and 'self fulfilling prophecy' effect of an over emphasis on risk management by children's home staff:

"Care homes try to scare you if you don't go to school you are not going to get an education, you are going to sit around here all day, you are going to get into trouble, you are going to take drugs, you are going to drink, you are going to get locked up, you are going to come out with a criminal record and you are not going to get a job. Them trying to tell you how you are going to end up does not make a child want to prove them wrong it just make the child feel bad about themselves because there are reasons a child is not going to school so don't try to scare them even more, piss them off even more, that's what they done to me."

Numbers 4 and 5: It would be helpful to include a reference to further/higher education and course work for training programmes alongside school work here. We have already addressed the issue of internet access under discussion of Standard 3. **We fully support the reference in Criterion to blanket bans in respect of internet access not being applied.**

No 10 and 11: Include Youth fully supports both of these criteria. Young people consulted with highlighted the differences between children's homes in relation to food choices, meal preparation, meal times and access to kitchens. Some young people had experience of food being supplied directly by companies to the children's home which they didn't like as their food choices were limited.

"For instance, pasta and sauce, I used to live on that, because the company did not do it I couldn't eat it and the cooks were only on for a certain amount of time during the day. So you have to eat when they put the food out and I don't always get hungry at the usual times. You don't eat it then you will be starving later but there is no one there to make it for you and if you are not trusted to cook you have to rely on the staff but depends on whether staff have the time."

The experience described by this young person would seem to have done nothing to develop their domestic skills or their independence, both key skills in making a successful transition to adulthood.

A number of the young people commented on the kitchen being locked outside of meal times which they described as 'awkward and not homely'.

"One of the things I hated the most was that the kitchen was always locked. You had to get a staff member to get their keys to open it: it was awkward and not homely at all, always having to ask something to do something for you. I could understand from the safety point

of view, with things like knives in the kitchen but it was just so different from an ordinary family home.”

Numbers 14 and 15: While young people consulted with described differing experiences in relation to behaviour management and discipline, there was a general perception that a policy of punishing all for the misdemeanours of one, was too frequently in evidence *“If one person did something wrong everyone would get punished, not meaningfully but there would have been things put in place to stop it happening again that would affect everyone. Therefore what one person does has a knock on effect on everyone else in the house.”*

The reference in criterion 14 to a ‘proportionate, consistent approach’ to managing behaviour, which is explained to and understood by all children and young people and staff, is therefore to be welcomed.

As outlined earlier, the question of the involvement of the PSNI in the management of behaviour and discipline within children’s homes is a major one for both the young people involved in our programmes and for Include Youth as an organisation. Encouragingly, it has also been an issue that the various agencies have been proactively addressing in recent years, with the welcome introduction of regional guidance by the Health and Social Care Board and the PSNI in 2011.¹⁶

The Department of Justice’s Review of the Youth Justice System in Northern Ireland in 2011 examined the admissions under PACE of young people from residential care settings into the Juvenile Justice Centre. This Review noted that research suggested that *“sometimes looked after children are being remanded to the JJC who do not strictly fit the remand criteria. And often their offences will be trivial, such as kicking a door frame, stealing food from a fridge or throwing a snowball at a member of staff”*.¹⁷

The experiences of young people consulted with by Include Youth confirmed such practices:

“PSNI are called immediately when you break the law which doesn’t happen in the family home especially when the incident is small such as breaking a picture or smashing a glass/cup.”

¹⁶ HSCB and PSNI Regional Guidance: Police Involvement in Residential Units and Safeguarding of Children Missing from Home and Foster Care. (April 2011)

¹⁷ Department of Justice (2011) Review of the Youth Justice System in Northern Ireland, page 56

“Once I was playing football in the garden and a staff member came out the door and accidentally got hit in the face by the ball. Staff called the PSNI and I was arrested and brought to the police station.”

These experiences were echoed in VOYPIC’s consultation with young people¹⁸:

“Too much PSNI involvement over stupid things. If I was not in care I wouldn’t have a criminal record.”

The Review recognised the challenges faced by both residential care staff and the PSNI, noting that, according to care managers they interviewed *“there is a growing problem with young people aged between 15 and 17 who have been living at home or with foster carers but have ‘gone off the rails,’ behaving in ways their parents cannot cope with. Drug taking, breakdowns in foster placements and occasional violence towards parents are cited as the main triggers for admission into residential care.”*¹⁹

However, they also made the important observation that *“residential units that focus on equipping and supporting staff to deal with incidents, often using restorative approaches, seem to have a good record of avoiding criminalisation. However, where staff are poorly trained and inadequately supervised they tend to refer incidents too readily to the police”*²⁰ In effect what the Review was saying was that the higher levels of custodial admissions was largely due to the way in which care homes managed their children.

One young person consulted described how his challenging behaviour could have been managed more effectively by children’s home staff.

“They (care homes) understand what they have been told is wrong with you but they don’t understand how you feel. I find some care homes are too forceful, like I know when I was on the drugs and drink I was out of control, I was uncontrollable. When I went off on one, when I was having a fight with myself in the bedroom I was breaking things they just automatically got the police involved without realising that I was upset. I was stressed and there was reasons I was doing it but they just got the police involved which just made me worse and made me more angry but they kept doing it instead of just letting me go until I calmed down they just added oxygen to the fire.”

¹⁸ Op cited at note 2 page 12

¹⁹ Op cited at note 17 page 86

²⁰ Ibid

The Review noted that some children’s homes were utilising restorative approaches to resolve behavioural problems and recommended that such approaches be adopted more widely, a recommendation that Include Youth fully endorses.

The Review drew attention to the problems in relation to the Juvenile Justice Centre being designated as a place of safety under PACE. This legislation allows the PSNI to refuse bail to a child on the basis that they ought to be detained in their own interests. The Review noted that some care homes will refuse (if only for a short time) to have young people back if they have offended against the home or a member of its staff or where they are considered unruly.²¹ Deemed to be homeless and with no alternative accommodation available, in these circumstances the young person in question can legally be detained in the Juvenile Justice Centre. The Review was very clear that such a lack of accommodation is *“not sufficient grounds for remanding a child into custody”*. **The Review also posed a fundamental question in relation to this practice “... how children, already under the protection of the state, can be in need of a place of safety remains unanswered.”**²²

56% of all initial admissions to the Juvenile Justice Centre between April – December 2012/13 were under PACE, with the majority of those coming from residential care settings.²³ **This continuing high number highlights the need for concerted effort by all agencies involved to ensure that looked after children are not being criminalised for behaviour that would never have resulted in a similar young person from a non care background being detained in custody.**

The Review made two recommendations on this issue as follows:

“The practice of using the Juvenile Justice Centre as a place of safety for PACE procedures for any child should be reduced to an absolute minimum through the measures outlined in this report (recommendations 8, 9 and 19). The number of PACE places in Woodlands JJC should be limited to one or two.”

*“Looked after children should no longer be placed in custody, either through PACE, on remand or sentenced, where this would not have been an outcome for children in the general population.”*²⁴

²¹ Ibid page 57

²² *Ibid*, p. 53.

²³ Youth Justice Agency Provisional Workload Statistics April – December 2012 Statistical Bulletin 4/2012 N O’Neill 6 March 2013 Table 6 Initial Admissions by Age and Status

²⁴ Op cited at note 17, Recommendations 18 and 19

We should point out that Include Youth’s position is that the Juvenile Justice Centre should never be used as a place of safety for children from a care background. If a child is arrested from a children’s home, and this should only happen in the most exceptional of circumstances then they should be bailed back to the children’s home. If this is absolutely not possible then appropriate and suitable alternative accommodation must be provided for them but this should never be in the Juvenile Justice Centre.

Most recent figures for the period April/December 2012/13 34% of total admissions were either subject to a care order (20%) or voluntary accommodated (14%).²⁵ While these admissions are not broken down by placement type i.e. foster care or residential care, it would appear that the large majority of admissions come from children’s homes. **As noted above there is clearly ongoing work needed to ensure that, in line with international children’s rights standards, such admissions are a measure of last resort.**

The longer term impact of the HSCB/PSNI regional guidance will depend very much on training for all personnel involved, tracking of all JJC admissions from residential care and a readiness from the JJC to question and challenge if necessary such admissions.

Include Youth strongly recommends that these types of evidence, which should be readily available in record form, should be added in for Standard 3.

We would emphasise that the draft Minimum Standards for Children’s Homes should make it abundantly clear that the PSNI should only become involved in behaviour/discipline matters in children’s homes in the most exceptional of circumstances and where there is a breach or a potential breach of the law. Restorative approaches to solving behavioural problems should be promoted.

No 16: Difficulties with having friends to visit, either on sleepovers or during the daytime/evening time, or in going on sleepovers to friends’ houses, were raised by the young people we consulted with:

“I wasn’t encouraged to bring friends into the children’s home even though we had a room especially for visitors. It was as if staff didn’t trust our friends.”

“We were never allowed friends to stay overnight.”

²⁵Op cited at note 23 Table 5

One young person described the rather onerous checking procedures involved in going on sleepovers outside of the children's home:

"Staying in friends' houses is a lot more awkward because they have to get police checks done on your friend and their family which is really embarrassing. It can make you an easy target because it makes you stand out because no normal parent would say I want a police check done on them but the care home staff have to do it."

Being able to develop and sustain friendships is critical to a young person's development of self esteem and sense of themselves. **We support the inclusion of Criterion 16 for Standard 3 but recommend that practical evidence as to the consistent application of this policy be included, whether that be in the form of records maintained of inward/outward visits or self reporting by the young people.**

Privacy

While Criterion 6 and Criterion 8 do make some reference to the child or young person's need for privacy in certain contexts, we believe that greater emphasis should be placed on the child's right to privacy within children's homes. The young people we consulted with expressed a strong view that their right to privacy within children's homes, as per Article 16 of the UN Convention on the Rights of the Child, was being compromised, often due to the numbers of children and staff under the same roof.

"In the care home its harder (than in a family home) as there are more kids and staff have a duty of care so they have to constantly check up on you so you wouldn't have a lot of privacy to speak."

The numbers of people coming through the children's home, in addition to undermining a child's right to privacy can have a negative impact on their sense of safety and security as described by one young man:

"In a children's home you have so many people coming and going, workers, key workers, people in the office, the cleaners – I don't know if can trust everyone there."

Some young people also expressed the view that they were constantly being monitored, with staff observing and recording their actions and interactions:

"They know everything about you and your every movement is followed."

"There are places you can go but there is always someone watching you."

This was a view shared by young people consulted with by VOYPIC:

“The staff document your every move – only serious stuff should be put down, it makes you wild paranoid”²⁶.

100% of respondents to VOYPIC’s e-consultation agreed with the statement that there really must be *“somewhere private for myself”*.

²⁶ Op cited at note 2 page 15

Standard 1 Engagement, Participation and Involvement

We recommend that the wording of this standard more closely reflects the provisions of both Article 12 ‘the child’s right to have their voice heard’ and Article 3 ‘best interests principle’ of the UN Convention on the Rights of the Child.²⁷

Article 12.1 of the UNCRC states that “States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child”²⁸

The following key concepts contained in the wording of Article 12 should be evident in Standard 1 and its associated criteria:

- **Shall assure to the child**
- **Capable of forming his or her own views**
- **In all matters affecting the child**
- **Being given due weight in accordance with the age and maturity of the child**

The UN Committee has provided detailed guidance in its General Comment No 12 on the Right of the Child to be Heard²⁹ as to how Article 12 and its components can be given effect in alternative care settings. Mechanisms that must be introduced include the following:

- Legislation providing the child with the right to information about any placement, care and/or treatment plan and meaningful opportunities to express her or his views and for those views to be given due weight throughout the decision-making process.
- Legislation ensuring the right of the child to be heard, and that her or his views be given due weight in the development and establishment of child-friendly care services.
- Establishment of a competent monitoring institution, such as a children’s ombudsperson, commissioner or inspectorate, to monitor compliance with the rules and regulations governing the provision of care, protection or treatment

²⁷ Op cited at note 14. Article 3.1 of the UNCRC states that “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”

²⁸ Ibid

²⁹ CRC/C/GC/12 2009 paragraph 97

of children in accordance with the obligations under article 3. The monitoring body should be mandated to have unimpeded access to residential facilities (including those for children in conflict with the law), to hear the views and concerns of the child directly, and to monitor the extent to which his or her views are listened to and given due weight by the institution itself.

- Establishment of effective mechanisms, for example, a representative council of the children, both girls and boys, in the residential care facility, with the mandate to participate in the development and implementation of the policy and any rules of the institution.
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The existence of such mechanisms such be used as evidence that Article 12 is being given effect through Standard 1 of these Standards.

Similarly the central tenets of Article 3 on best interests should be reflected in this standard, given the closer inter play between Article 3 and Article 12. **We would suggest a re phrasing of Standard 1 so as the best interest principle is positively reflected rather than the current wording which appears to use Article 3 as a potential block to delivering on young people’s Article 12 rights.** The UN Committee on the Rights of the Child has drawn attention to the complementary dynamic that exists between these two principles of the UN Convention on the Rights of the Child.

“There is no tension between articles 3 and 12, only a complementary role of the two general principles: one establishes the objective of achieving the best interests of the child and the other provides the methodology for reaching the goal of hearing either the child or the children. In fact, there can be no correct application of article 3 if the components of article 12 are not respected. Likewise, article 3 reinforces the functionality of article 12, facilitating the essential role of children in all decisions affecting their lives”³⁰

Criteria and Evidence for Standard 1

Numbers 1 and 2 : As discussed above the wording of these two criteria should be in line with the standard set by Article 12 and Article 3 of the UN Convention on the Rights of the Child. Article 12 states that children and young people have the right to express their views in **all matters** affecting them whereas the criteria as currently drafted states that ‘children and young people’s views, wishes and feelings **are frequently and regularly sought** and acted upon’, a standard that falls short of that articulated in Article 12. Additionally Article 12 places significant emphasis on the views of children and young people ‘being given due

³⁰ Ibid paragraph 72

weight in line with the age and maturity of the child', something which is missing from the draft criteria.

We think that there is a need for much more concrete evidence of children and young people having been consulted, as well as evidence of how their views have been given due weight in decision making.

As mentioned already in the General Comments section of this response, this is one of the areas in which staff will need training, in order to be able to consult effectively with children and young people and ensure that their views are factored in the decision making processes of the home.

Numbers 3 and 4: Greater recognition should be given to the need to proactively support and facilitate children and young people to communicate their views. Criterion 4 seems to suggest that it is only children and young people with communication difficulties who may need support to communicate their views but the UN Committee on the Rights of the Child has indicated that Article 12 places an active duty on those in authority to facilitate all children and young people to communicate their views *"States parties must ensure conditions for expressing views that account for the child's individual and social situation and an environment in which the child feels respected and secure when freely expressing her or his opinions"*³¹

Young people consulted with also attached importance to the creation of a secure and open environment in which to communicate their views. When asked how children's homes could promote a culture of participation one young person replied:

"Do more activities with young people to build up relationships and gain thoughts and feelings through this way."

The culture of the home seemed to be more important than the particular methodology adopted to obtain children and young people's views. Young people, while having had mixed experiences, were generally supportive of regular residents meetings but stressed that these meetings had to be 'productive' and 'real' and that:

"Everything that's discussed at the meeting is acted upon and not just wrote on a piece of paper and forgot about."

³¹ Op cited at note 29 , paragraph 23

Number 6: Include Youth is supportive of children and young people having access to independent advocacy support and mentoring services. Currently VOYPIC provides a highly valuable independent advocacy service for young people in care; young people spoke very positively about this service during our consultation with them. **We believe that young people's entitlement to such services should be placed on a statutory footing** (this is discussed further under Standard 20 Complaints).

Number 10: We would suggest that children and young people's political/community background should also be considered in addition to the other aspects of their identity listed.

Standard 8 Citizenship and Participation in Community Life

Include Youth is very supportive of this standard being included as we believe that community based approaches and responses to vulnerable young people, including those who are classified as NEET and those involved with the youth justice system, many of whom will have had experience of residential care, should be given primacy within the range of government led interventions. However this may be problematic as some young people do not see themselves and are not seen as belonging to the particular community within which the children's home is located. One of the issues raised by young people in relation to this was the need to feel safe:

"It depends what area the home is in, if it is a sectarian area it can be difficult, location is so important."

Number 2: Very few of the young people consulted with had a well developed knowledge of their rights. Some referenced basic rights such as the right to have a roof over your head, right to food, water and work. This lack of awareness of rights among young people in care is in keeping with the low levels of awareness among children and young people generally in Northern Ireland. One young person commented that children in care develop an awareness of their rights but for quite negative reasons:

"Young people – some young people know their rights, maybe after being in care for a long time. You have to, to get by, to survive the system."

Given this low level of awareness there will need to be evidence that young people have received education and training around children's rights and their application in practice.

As noted at the outset of this response, Standard 8 does not have any examples of evidence attached to it. **We would encourage the DHSSPS to revisit this standard and make sure that there are concrete pieces of evidence identified by which compliance with the standard can be judged.**

Number 4: The young people consulted believed firmly that they, and the children's home where they lived, were perceived negatively by those in the community around them:

"They think we are all wee criminals"

"People believe that because you are in care you must be a header."

These negative perceptions and stereotypes of young people, particularly of teenagers, were highlighted by the UN Committee on the Rights of the Child in its 2008 examination of the UK government. The Committee described it as a “*general climate of intolerance and negative public attitudes towards children*”³² and recommended that government “*take urgent measures to address the intolerance and inappropriate characterization of children, especially adolescents, within the society, including in the media*”³³

For their part the young people we consulted with were keen to take steps to build better relations with their neighbours and local community. One young person relayed an example of how they had made an unsuccessful attempt to do so:

“We lived on (name of road) right beside an old people’s home. I remember I asked the social worker could we go over to the old people’s home and do things for them, like doing their nails, but we were never allowed to. I suppose I could understand a bit why not, but it would have been a nice thing to do for them, get to know them better.”

There is an onus on care home owners, managers and staff to take active steps to break down barriers that might exist between the children’s home and the local community and to dispel any misperceptions and myths.

³² Op cited at note 6, paragraph 24

³³ Ibid paragraph 25

Standard 20 Complaints

Include Youth believes that it is vitally important that all children and young people living in children's homes have access to an independent, impartial and child friendly and child rights compliant complaints system. **We welcome the inclusion of this standard but think that the wording of the standard could be elaborated on somewhat in line with the features outlined above.** The UN Committee on the Rights of the Child has spelt out the essential elements of a complaints system as follows *"..children's special status creates real difficulties for them in pursuing remedies for breaches of their rights, there must be effective, child-sensitive procedures available to children and their representatives, including child-friendly information, advice, advocacy – including support for self-advocacy - and access to independent complaints procedures and to the courts with necessary legal and other assistance."*³⁴

Criteria and Evidence for Standard 20

Include Youth was surprised to find no examples of evidence attached to this standard and would encourage the DHSSPS to develop some examples of evidence the can be utilised by the RQIA and others in assessing compliance with it.

The level of awareness of the complaints system varied amongst young people Include Youth consulted with. Some young people said that they were informed of the complaints procedure by their social worker while others said that they had received a booklet. One young person said that he had an awareness of the complaints system via VOYPIC's advocacy service:

"I knew I could make a complaint through VOYPIC so that was ok. You feel that they (VOYPIC) would do things for you."

Young people who had received a copy of the complaints procedure generally felt that it wasn't particularly accessible for children and young people, variously describing it as *"too official looking"* *"just black and white, no pictures"* and commenting that *"young people don't read leaflets"*.

Some confusion around the actual investigative process was evident in discussions with young people. Some young people thought that a young person makes a verbal complaint to the social worker while another thought that your Personal Adviser wrote out the complaint

³⁴ UN Committee on the Rights of the Child (2003) General Comment No 5 General Measures of Implementation for the Convention on the Rights of the Child, paragraph 8

and then passed it to the Social Worker. One young person outlined the investigative process as follows:

“You fill out a form and then it goes to the ‘big boss’. You should then get a letter back telling you what will happen.”

An issue raised by the young people and not addressed in the criteria is the need for confidence in the complaints system. A number of young people reported that they had made complaints but that they were not taken seriously:

“I think they threw it (the complaint) in the bin”

“To be honest with you, I didn’t feel they were going to listen to me or take me seriously or do anything with what I wrote down. What’s the point?”

Young people also raised concerns around their perceived lack of confidentiality of the complaints process:

“It’s never a secret if you want it kept between you and your key worker – it never is.”

“If one (member of staff) knows it they all know it, it goes around the whole building.”

“They always try to get more and more information out of you like names and stuff and then use it against you.”

While we see the involvement of an independent person from the outset of considerations of any complaint as a positive development we nonetheless believe, and this belief has been reinforced by the experiences shared by the young people, that there is a need for an fully independent advocacy service, established on a statutory basis. This advocate would have a role in ensuring that children and young people are facilitated to fully understand and participate in the complaints process at all stages. We believe that it is only through the provision of such an independent service that young people’s trust and confidence in the complaints system can be fully secured.

Young people also had some practical suggestions as to other ways in which the complaints process could be improved, some of which might form the basis for evidence with which to assess compliance. Their suggestions included the provision of an independent advocate, opportunities for informal resolution in the first instance and child friendly awareness raising and information on the complaints system

“Someone who doesn’t work in the home should come in every month and meet each young person to find out how things are going and if they have any complaints to make.”

“Have an informal discussion with staff first then report it (the complaint) to their social worker or personal adviser because you want to make it more formal, have a proper way to report.”

“I think they should have a complaints system, say a big poster with colours like pink and green and you would know what to do.”

Standard 15 Statement and Purpose of Children and Young People's Guide

Include Youth does not believe that it is helpful to link children's rights with responsibilities in the way that has been done under Criteria 4 of this standard. There is an unambiguous recognition in international human rights law, of which the UN Convention on the Rights of the Child is one instrument, that human rights are not contingent on individuals acting responsibly. There is a distinction made between the rights holder on one hand, in this case the child or young person and their entitlement to have their rights respected, protected and fulfilled, and the duty bearer on the other i.e. the government, and its responsibility to respect, protect and fulfil the rights of the child or young person.

While all children and young people have responsibilities to those around them, family, friends, neighbours, members of their community, staff who work with them, **we would suggest that these two concepts are decoupled and reference made to young people's responsibilities in the context of their overall development.**

The only comment made by young people in relation to Standard 15 was in respect of the Children's and Young People's Guide. One young woman expressed the view that such a guide would be useful but only if the rules, regulations and processes set out in it were adhered to by management and staff:

"It says things in their booklet (secure care) but not all the stuff actually in the booklet does happen."

Section 2 Requirements for Registration

The **Statement of Purpose** includes information on the arrangements for the supervision, training and development of employees (paragraph 6) – **among the types of training required by staff are training on children’s rights and children’s participation, employability and supported employment, positive parenting and independent living skills.**

The **Statement of Purpose** makes reference to the arrangements for the promotion of the education of the children and young people accommodated there but fails to recognise that some young people living in the home may be undertaking training or may indeed have taken up casual or part time employment. **These options also need to be reflected in the wording of paragraph 12.**

In relation to the **Fitness of the Registered Person** RQIA will seek assurance through the registration process that the person *“intends to undertake training to ensure he or she has the necessary, up to date, knowledge and skills”*. **We recommend that the Registered Person is obligated to undertake training in children’s rights as a minimum.**

The same requirement should apply to the **Manager**. The RQIA will seek assurance that the Manager *“has knowledge of current health and social services provision”* – **we recommend that this includes knowledge of the UN Convention on the Rights of the Child and the application of its provisions in the context of the children’s home.**

Conclusion

Include Youth has welcomed this opportunity to contribute to the development of the Minimum Care Standards for Children's Homes. We hope that you find our comments and analysis useful, particularly the extensive commentary by young people who are the experts in relation to what standards all children's homes in Northern Ireland should be required to comply with.

We look forward to being kept informed as to progress with the development of these important standards. We would welcome an opportunity to meet with Departmental staff to discuss our response. **You might also find it helpful to meet with some of the young people who contributed their views - we would be happy to facilitate such a dialogue.** We are also keen to provide feedback to the young people and staff we consulted and with this in mind it would be very helpful if we could be informed in due course as to how our concerns and recommendations have been addressed and taken forward.