



**Response to**

**Revised Custodial Arrangements for Children  
in Northern Ireland**

**January 2014**

## Introduction

Children in Northern Ireland (CiNI) are the regional umbrella body for the children's sector in Northern Ireland.

CiNI represents the interests of its 160 member organisations providing policy, information, training and participation support services to members in their direct work with and for children and young people. CiNI membership also includes colleagues in the children's statutory sector recognising that the best outcomes for children and young people are increasingly achieved working in partnership with all those who are committed to improving the lives of children and young people in NI.

CiNI welcomes this opportunity to provide some feedback and commentary on the revised custodial arrangements for Children in Northern Ireland. We trust that our comments will be positively used to inform the next step in the process.

## General Comments

CiNI believe that children and young people must be accorded greater priority and made more visible in all levels of government policy and planning. Therefore given that children and young people in custody are the subject of this consultation and will be directly affected by the policy decisions taken, we would be grateful if you would provide us with details of how you have or intend to consult directly with them as part of this process.

Article 3 (1) of the United Nations Convention on the Rights of the Child (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."*

We support the Youth Justice Review recommendation No 28 that Section 53 of the Justice (NI) Act 2002 should be amended to fully reflect the best interest principles as espoused in Article 3 of the UNCRC. We have however noted with some concern that the last two implementation plans for the Youth Justice Review prepared by the DoJ have both stated that:

*"The aims of the youth justice system, as currently articulated in Section 53 of the Justice (NI) Act 2002, reflect the importance attached to protecting the public, preventing offending and the concerns of victims. These elements will not change. However, in response to this*

*recommendation, the reference to the welfare of the child in Section 53 will be extended to include the 'best interests' principle as espoused in Article 3 which is important developmentally for a child but is also entirely compatible with the concepts of discipline, boundary setting and the application of sanctions."*

CiNI considers this to be a significant divergence from the recommendation of the Youth Justice Review in relation to the best interest principle. **Compliance with the convention requires that Article 3 (1) is reflected in legislation as a principal aim with the same status as the current aim rather than a second level concern restricted to welfare.**

Article 37 of the UNCRC states;

*"The arrest, detention or imprisonment of a child shall be in conformity with the law and shall only be used as a measure of last resort and for the shortest appropriate period of time; and no child shall be deprived of his/her liberty unlawfully or arbitrarily."*

**It is clear from the evidence that custody is currently not being used as a last resort in Northern Ireland.** There are a disproportionate number of children in Woodlands JJC from a care background. Recent figures reveal that over one third of total admissions to the JJC are looked after children. Of the 301 total initial admissions, 56% of those were under Police and Criminal Evidence Order 1989 (PACE) and 35% under remand; 19% of which were subject to a care order with a further 13% being voluntarily accommodated in the care system.<sup>1</sup> Given that looked after children account for approximately 0.4% of the total population of children under 16 in Northern Ireland, this statistic reveals a disproportionate use of custody and in particular the use of PACE and remand on these children.<sup>2</sup>

We agree with the conclusion reached by the Youth Justice Review report regarding the current use of Woodlands JJC;

*"Woodlands needs to change from being a remand centre to being what it was meant to be – a facility for young offenders sentenced to custody."*

The onus should now be on the DoJ and DHSSPS to introduce measures to ensure that no child or young person in their care is detained in custody unnecessarily. The accommodation and residential care of looked after children who come into contact with the criminal justice system must be addressed as a matter of urgency.

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<sup>1</sup> [http://www.youthjusticeagencyni.gov.uk/document\\_uploads/SB\\_4\\_2012\\_-\\_YJA\\_Provisional\\_Workload\\_Statistics\\_April-December2012.pdf](http://www.youthjusticeagencyni.gov.uk/document_uploads/SB_4_2012_-_YJA_Provisional_Workload_Statistics_April-December2012.pdf)

<sup>2</sup> Department of Justice, 2011, A Review of the Youth Justice System in NI, p7.

Central to any decision must be an assessment on how putting a child in custody and how the length of time spent there, will ultimately help the child to address their offending behaviour.

CiNI welcome the fact that no children have been held in the Hydebank Wood Young Offenders Centre since 1st November 2012<sup>3</sup> but we remain very concerned that the option to detain children in the YOC under 'exceptional circumstances' is still being considered under the recent proposals contained within this consultation.

Article 37 (c) of the UNCRC states that every child deprived of their liberty should be separated from adults in all places of deprivation of liberty. Furthermore, reports have demonstrated that the current regime at the YOC is not equipped to deal with vulnerable children.<sup>4</sup> Hydebank Wood was designed as a category C prison and is not a child appropriate institution. As a prison it is incapable of delivering on the child's right to education and health care including mental health care.

**CiNI believe there are no circumstances in which it would be acceptable that a child should be held in Hydebank Wood YOC. We believe that all pieces of legislation that allow children to be detained alongside adults in Northern Ireland must either be amended or repealed to prohibit this practice in all circumstances.**

## **Conclusion**

CiNI trusts that this submission can usefully inform the on-going consultation on custodial arrangements for children in Northern Ireland. If you would like to discuss any aspect of this response please get in touch.

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<sup>3</sup> 'Consultation: Custodial Arrangements for Children in Northern Ireland' Department of Justice, 4th October 2013, para. 1.5.

<sup>4</sup> IMB, Hydebank Wood Prison and Young Offenders Centre, IMB Annual Reports 2007/2008, 2009/2012, 2012/2013; CJINI, Inspection of Woodlands Juvenile Justice Centre, May2008; CJINI, Not a Marginal Issue: Mental Health and the criminal justice system in NI, March 2010; CJINI Unannounced inspection of Hydebank Wood Young Offenders Centre 18-22 Feb 2013; Include Youth, Young People's Response to the IMB Monitoring Report 2007/2008, 2009.