NORTHERN IRELAND GUARDIAN AD LITEM AGENCY

Refining the Role of the Guardian Ad Litem

Analysis of Consultation Responses

December 2013
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<th>LIST OF CONSULTATION RESPONDENTS TO NIGALA CONSULTATION: REFINING THE ROLE OF THE GUARDIAN AD LITEM</th>
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<td>McKeown &amp; Co Solicitors</td>
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<td>Denis Humphrey Solicitor</td>
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<td>Suzan Rogers, Guardian Ad Litem</td>
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<td>Wilma Reid, Guardian Ad Litem</td>
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<td>Fiona Armstrong, Guardian Ad Litem</td>
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<td>Keenan Solicitors</td>
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<td>Brenda Sheeran, Guardian Ad Litem</td>
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<td>Patricia Owens, Guardian Ad Litem</td>
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CONSULTATION ON REFINING THE ROLE OF THE GUARDIAN AD LITEM AND PROPOSALS FOR IMPROVING QUALITY ASSURANCE AND FEEDBACK MECHANISMS WITHIN NIGALA

Summary

A consultation on refining the role of the Guardian Ad Litem and proposals for improving quality assurance and feedback mechanisms with NIGALA took place from 2 September - 29 November 2013.

A total of 31 responses were received to the targeted consultation on the role of the Guardian, feedback and quality assurance mechanisms, a majority of which overwhelmingly endorsed NIGALA’s commitment to ensuring the ‘voice of children’ are heard in court proceedings. It should be noted that although respondents may have answered ‘yes’ to a question, some also provided comments which have been fully considered in this analysis.

A small number of responses to the consultation opted to make generalised comments with a number offering to meet with NIGALA to discuss measures to refine the role of the Guardian.

A factual correction was made in reference to families presenting with ‘complex issues’ rather than ‘complex problems’.

As a result of the analysis, a number of issues raised will be addressed in our Strategic Business Plan for 2014-15:

- Through its work with children, NIGALA will reference both the UN Convention on the Rights of the Child (UNCRC) and the UN Convention on the Rights of Persons with Disabilities (UNCRPD);

- NIGALA will review how it engages directly with children and young people reflecting the child’s right to be consulted upon the service which directly affects them (embedding Article 12 of the UN Convention on the Rights of the Child);

- NIGALA will consider how it involves children and young people promoting child friendly participation mechanisms, ensuring the voice of children is heard;

- Issues raised which relate to working with solicitors/enhancing the partnership role, to be further considered and addressed within the Guardian/Solicitor reference group and/or via joint training;

- Where relevant, NIGALA will engage with the NI legal Services Commission on areas of common interest;
NIGALA will establish meaningful dialogue with key stakeholders and elicit stakeholder views on the NIGALA service;

- In the context of Legislation and Policy change NIGALA will work with the Child Care Policy Unit (DHSSPS) to consider changes to the NIGALA Panel Regulations, including consideration of a name change;

- NIGALA will promote greater clarity about the parameters of the Guardian role;

- NIGALA will facilitate discussion about effective means of communication with Trusts and viable feedback loops both positively and when concerns arise;

- In 2014-15 NIGALA will evaluate the potential for getting timely feedback from children in addition to the retrospective feedback processes in place at the end of a case;

- It is proposed that NIGALA will engage with Key Stakeholder to generate changes to how Guardian’s report to court, optimise children’s representation in court proceedings and work to reduce prejudicial delay for children in the legal process;

- NIGALA will implement a ‘Refined Role’ of the Guardian only in so far as the best interests of the child are promoted and the use of Guardian capacity promotes the early allocation of a Guardian in the early stages of proceedings;

- NIGALA will review and implement change to Report Templates ensuring a focus on the child with more timely and improved outcomes;

- NIGALA will enhance the ‘analytical’ aspect of the Guardian’s report, thereby making written reports, shorter, less repetitive and more focused on issues under consideration;

- NIGALA will collaborate with stakeholders in respect of foreshortening proceedings, reduce non purposeful delay and enhance decision making by the courts;

- NIGALA will finalise joint work with Trusts in respect of instructing experts.
## Statistical Analysis of Responses to Consultation Questions

### Question Number 1

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ANALYSIS OF COMMENTS FOR EACH QUESTION

QUESTION 1.

Do you agree with the proposal to make changes to how the Guardian Ad Litem undertakes his/her role to ensure that the child’s voice, wishes and feelings are central to the court process when making decisions about children’s lives?

There were 31 respondents to this question, with 15 responding as individuals and 16 on behalf of an organisation. A number of respondents made comment without expressing a preference. Of the 18, the vast majority (13) felt that any change should aim to ensure that the child’s welfare is the court’s paramount consideration and the ‘voice of the child’ is heard. In the context of making changes to the role of the Guardian, respondents cautioned against any change which interfered with the Guardian’s duty to represent and safeguard the child’s best interests in specified public law proceedings. For those who disagreed (4) there was a view that Guardians are already working to the core principles of the Children (NI) Order 1995.

Where there was disagreement the following points were raised:-

1. The current tandem model of representation for children in courts is working effectively.

2. Any proposals for change should not diminish the role of the Guardian.

Additional comments made were:-

3. Children In Europe\(^1\) has highlighted the participation of children as an essential value, stating that services should embody participation as an expression of democracy and as a means to combat social exclusion and should mean the active inclusion of the entire community;

4. Greater flexibility to reduce court waiting time in court;

5. Greater uniformity in approach by Guardians toward issues such as time spent with children and the balance struck between parents and children’s Human Rights to family life;

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\(^1\) Children in Europe (2007) Ten principles for a European approach to services.
6. Timely to review how the role of the Guardian is carried out but only in the context of a multi Agency review of the Guide to Case Management and its effectiveness;

7. Support for the proposal to make changes to the Guardian role only in so far as the voice of the child and the wishes and feelings of the child are central to the court process ensuring the child’s centrality;

8. The Guardian sharing ‘views’ with the Trust as a corporate parent in a timely fashion;

9. Delay in the court process attributed to the instruction of ‘experts’;

10. Do proposal for change include the Guardian becoming involved at the ‘pre-proceedings’ stage?

Response by Guardians

1. There is agreement that the role needs evaluating particularly in the context of anticipated legislative change;

2. To ascertain children’s wishes and feelings requires establishing a relationship which requires time; high case loads or reduced time spent with children may undermine this aspect of the role;

3. The Guardian’s report should deal with the duality of the child’s ‘wishes and feelings’ and what the Guardian understands to be in the child’s ‘best interests’;

4. Through the Guardian’s report ‘I do my utmost to ensure that the child’s voice is heard’;

5. As experienced practitioners, Guardians are well placed to determine the breadth and depth of their investigations ensuring proportionality and flexibility relative to each individual case;

6. The report is the Guardian’s professional opinion and evidence to court;

7. All stakeholders are required to make changes to ensure greater efficiency;

8. Change should not undermine the Guardian’s role to reflect the child’s ‘wishes and feelings’.
**NIGALA’s Response**

1. Through its work with children, NIGALA will reference both the UN Convention on the Rights of the Child (UNCRC) and the UN Convention on the Rights of Persons with Disabilities (UNCRPD);

2. NIGALA will review how it engages directly with children and young people reflecting the child’s right to be consulted about the service which directly affects them (embedding Article 12 of the UN Convention on the Rights of the Child);

3. NIGALA to develop how it involves children and young people promoting child friendly participation mechanisms, ensuring the voice of children is heard;

4. NIGALA will work in partnership with key stakeholders and the DHSSPS to review changes to legislation, guidance and policy to promote children and young person’s participation, incorporating the UN Convention on the Rights of the Child (UNCRC) and the UN Convention on the Rights of Persons with Disabilities (UNCRPD)

**QUESTION 2**

In order to streamline and focus reporting to court, do you agree with the proposal for the guardian to provide fewer written reports to the court?

There were 31 respondents to this question, with 15 responding as individuals and 16 on behalf of an organisation. A number of respondents made comment without expressing a preference. Of the 22 who did, a majority of respondents supported retaining the current practice, whereby the Guardian provides to court a written ‘Initial Analysis’ and final report (16).

Where there was disagreement (6) it was on the basis that the current arrangements work well, with written reports the most effective method of advising the court of the child’s ‘wishes and feelings’ and the Guardian’s assessment. The child’s expressed wishes and feelings must be before the court so that they can be taken into account by the judge in reaching any decisions concerning the child. Comments also emphasised a requirement not to reduce the ‘quality’ of Guardian reports.
Additional comments made were:-

1. Greater reliance on ‘oral’ reporting could result in the Guardian spending more time in court but may ‘speed up’ the judicial process.

2. The Guardian’s ‘Initial Analysis Report’ should be comprehensive, specific and pertinent to the issues under consideration; provide analysis and direction to the court on the ‘proposed way ahead’ and ‘timescales for achieving a permanent care arrangement’ for the child; avoid duplication.

3. Written reports ensure the ‘voice of the child remains central at all stages in a case’.

4. Guardians should have the skills and expertise to provide quality oral evidence in court.


6. A written report by the Guardian reflecting their professional opinion ensures accountability and opportunity for challenge.

7. In some circumstances ‘position papers’ drafted by solicitors are effective.

8. Dealing with ‘delay’ in the courts by having fewer expert; only instruct when an expert is necessary and by so doing the care plan is progressed within the child’s ‘timeframe; and ‘trusting’ the Trusts on care planning issues e.g. outcomes of fostering/adoption assessments.


**Response by Guardians**

1. Beyond presenting an Initial Analysis and Final Report, court directed reports are normally related to specific issues such as contact and therefore are focussed and streamlined;

2. In most circumstances an Initial Analysis and Final Report should suffice;

3. Writing reports takes up a significant amount of Guardian’s time;

4. Written reports allow the Guardian to provide a considered response to issues allowing for discussion outside the court;

5. The court may direct the Guardian to provide additional reports which does not obviate the Guardian’s duty to bring to the attention of the court any matters considered relevant to those issues under consideration;
6. The Guardian’s report is a valuable tool bringing the child’s circumstances to life and placing it (alongside the Guardian’s assessment and analysis) clearly and unambiguously before the court; concomitant with this it provides a clear record for the child, helping them to understand the process, how their views were placed before the court and what impact this had on the outcome;

NIGALA’s Response

1. It is proposed that NIGALA will engage with Key Stakeholder to generate changes to how Guardian’s report to court, optimise children’s representation in court proceedings and work to reduce prejudicial delay for children in the legal process;

2. Review and implement change to Report Templates ensuring a focus on the child with more timely and improved outcomes;

3. NIGALA to finalise joint work with Trusts in respect of instructing experts;

4. When the Care Order Pilot Study commences in September 2014, NIGALA will work with stakeholders to enhance the quality and reporting of information to court;

5. Comments raised are accepted about the value of the Guardian’s written report to court, incorporating the need for reports to be shorter, more focused and ‘analytical’.

QUESTION 3

Do you agree that increased use of oral reporting is an effective way of updating the court on issues such as contact or placement changes?

There were 31 respondents to this question, with 15 responding as individuals and 16 on behalf of an organisation. A number of respondents made comment without expressing a preference. Of the 19 respondents who expressed a preference 14 agreed with the proposal that ‘oral’ reporting could be used as an effective way to update the court and mitigate delay, but under certain circumstances e.g. for contact or contentious issues, if the court had time etc.
Additional comments made were:-

1. While oral reporting may reduce the number of reports being prepared for court, the parties should be aware of the Guardian’s view prior to court allowing time for consultation and only where issues are ‘non contentious’; not for final hearings or where there are ‘complex’ or ‘contested’ issues;

2. In preparation for a final hearing, court bundles should record/reflect the Guardian’s ‘oral’ evidence in the course of proceedings;

3. There is a potential for a breach of Article 6 rights;

4. A more appropriate alternative is a short abbreviated report with a bullet point analysis or ‘short focused reports’;

5. Waiting in court to give oral evidence may undermine any benefits derived;

6. Oral reporting may be ‘resource efficient’ but the parties should expect that the Guardian’s professional opinion is ‘open to challenge’;

7. Preference for focused reporting, which is relevant and succinct;

8. Overwhelmingly, Judges are of the view that written reports are ‘vital’ to the court process in order to allow careful consideration of the issues, especially those being raised by the Guardian in advance of the hearing, thus allowing the Judge to be better prepared to explore the relevant issues at hearing;

9. Judges place a ‘high value’ on the role of the Guardian and the importance they give the Guardian’s reports.

Response by Guardians

1. The use of oral reporting is less effective than written reports, which allow time for a considered and reflective response;

2. The Guardian’s report as a document ensures the child’s ‘wishes and feelings’ is central to the process;

3. Oral reporting does not reduce the time spent on enquires;

4. Oral reporting is infrequently used, possibly due to lengthy court lists;

5. Court waiting time has a significant impact on Guardian’s time;
6. While oral reporting can be a useful way to update the court, it is not always appropriate as time is required to reflect on information or a change of circumstances;

7. Position papers may be a useful alternative to written reports, but this will require solicitor time.

**NIGALA’s Response**

1. NIGALA will work with key stakeholders through COAC to review all mechanisms of reporting to court which promotes timely decision making within the ‘child’s time frame’;

2. Comments raised are accepted about the value of a written report where the Guardian’s ‘analysis’ is available in advance of a hearing and the Guardian’s professional opinion is open to challenge;

3. NIGALA will establish consultation mechanisms with the judiciary to specifically address the issue of focused reporting while giving prominence to the child and his/her expressed wishes and feelings;

4. NIGALA recognises the child’s expressed wishes and feelings must be before the court so that they can be taken into account by the judge in reaching any decisions concerning the child’s welfare. It is acknowledged that if a child’s expressed view is not represented to the court, Art 6 and Art 8 rights may be breached.

**QUESTION 4**

Do you agree that the Guardian’s reports should be refined to ensure they are analytical providing comment on areas, such as the child’s wishes and feelings, attachment behaviours, parental capacity, the child’s time-line, related developmental issues and where there is variance between the Trust and Guardian’s assessment?

There were 31 respondents to this question, with 15 responding as individuals and 16 on behalf of an organisation. A number of respondents made comment without expressing a preference. Of the 21 respondents who expressed a preference 18 were in agreement with the proposal that the Guardian’s reports should be ‘focused’, ‘qualitative’ and ‘analytical’ avoiding duplication,
concentrating on the child and his/her ‘best interests’. An emphasis on ‘analysis’ is considered to be a key component of the Guardian’s assessment to court. Those not recorded as a ‘yes’ felt this was already part of the Guardian’s practice.

Additional comments made were:-

1. A more focused report by the Guardian allows the courts and parties to ‘get to the heart of any issues’; they should be ‘focused and child centred’ assisting the court in identifying relevant issues;

2. The Guardian’s report should not ‘duplicate’ Trust and expert reports;

3. Trust’s welcome a more ‘open’ communication with the Guardian, early in proceedings on issues such as the application and the best way forward for the child;

4. Guardian’s reports are still quite ‘woolly’ in the first ¾ pages and can be lengthy; no merit in ‘regurgitating’ what is already before the court;

5. Guardian’s and social workers should be viewed as ‘experts’ with less focus on instructing experts;

6. Judges welcome the proposal that written reports will be shorter, less repetitive and more focused on the issues under consideration.

Response by Guardians

1. I ‘believe my reports already avoid duplication through cross referencing Trust reports;

2. Guardian report templates should be changed to reduce potential for duplication;

3. Guardian reports add value by synthesising available information;

4. Guardians sometimes must update the court on relevant factual information due to gaps in Trust reports;

5. Guardian reports have been refined, but each case is different with the Guardian best placed to determine what is necessary by way of content and length.

6. Reports are already substantially refined.

NIGALA’s Response

1. NIGALA will review and implement change to Report Templates ensuring a focus on the child with more timely and improved outcomes;
2. Comments are accepted on developing the ‘analytical’ aspect of Guardian’s report, thereby making written reports, shorter, less repetitive and more focused on issues under consideration;

3. NIGALA will collaborate with stakeholders in respect of foreshortening proceedings, reduce non purposeful delay and enhance decision making by the courts;

QUESTION 5

Do you agree that Guardian’s should be enabled to instruct solicitors to submit position papers or skeleton arguments in respect of legal issues, in addition to the Guardian’s Initial Analysis and Final Report?

There were 31 respondents to this question, with 15 responding as individuals and 16 on behalf of an organisation. A number of respondents made comment without expressing a preference. Of the 19 respondents who expressed a preference 15 supported the proposal of Guardians’ instructing solicitors to submit position/skeleton arguments. While there was no disagreement, the remaining respondents (4) were of the view that provision already exists for this, adding support to the Guardian’s report.

Additional comments made were :-

1. Instructing the solicitor on these areas is part of the ‘tandem’ model of representation;

2. Instructing the solicitor should be transparent and based on professional considerations;

3. Skeleton arguments are only necessary where a legal issue is in contention or a specific issue arises;

4. Concern about an increase in the number of position papers at the expense of the Guardian’s professional assessment; loss of professional emphasis;

5. A change in practice should not contribute to delay;

6. A reduction in the legal aid budget may impact adversely on the role and what tasks the solicitor can undertake;
Response by Guardians

1. This is already established practice and can be positive;
2. The Guardian’s Initial Analysis Report should be sufficient;
3. Position papers require time to prepare therefore any impact on time is negligible;
4. There is concern that with proposed changes to the legal aid system, lawyers may have less time for preparation and consultative tasks.

NIGALA’s Response

1. NIGALA will work with key stakeholders through COAC to review all mechanisms of reporting to court which promotes timely decision making within the ‘child’s time frame’;
2. Comments raised are accepted about the value of a written report where the Guardian’s ‘analysis’ is available in advance of a hearing and the Guardian’s professional opinion is open to challenge;
3. Comments are accepted that through the ‘tandem model’ of representation provision already exists for the submission of position papers/skeleton arguments. NIGALA will expand the repertoire of reporting to court e.g. position papers, value can be added to the legal process.

QUESTION 6

Do you agree that, through increased use of technology (video link and tele-conferencing) professional and court time across all courts can be used more efficiently?

There were 31 respondents to this question, with 15 responding as individuals and 16 on behalf of an organisation. A number of respondents made comment without expressing a preference. Of the 20 respondents who expressed a preference 18 who answered this question were unanimous in their agreement for the use of technology. Concern was raised by the Children’s law Centre (CLC) regarding the right to a fair hearing for children and young people, who should
be facilitated to understand and participate in the proceedings in which they are involved. With regard to children with mental health, disability and special educational needs, special consideration was considered necessary to ensure rights under Articles 5, 6, 8 and 14 of the ECHR and Articles 2, 3, 3 and 12 of the UNCRC are protected.

Comments made included:

1. A significant amount of time is spent waiting outside court for social workers and Guardians and any steps that could reduce this and timetable cases is welcome
2. Particularly relevant for secure accommodation applications;
3. Technology is currently used in relation to meetings of experts;
4. The issue of ‘capacity’ is multi faceted, ranging from the way courts operate e.g. repeated adjournments; there is an impression that courts retain control over children’s cases for longer than is sometimes necessary, which consumes the time of social workers and Guardians;
5. Technology must be reliable;
6. For technology to work, courts must timetable cases for specific times and not timetable for the Guardian only;
7. Operational considerations;
8. Time spent outside court in joint negotiations etc, is often very productive time and assists the court;
9. If the use of technology is to facilitate the child’s participation in proceedings, time must be take to prepare the child;

Response by Guardians

1. Technology must work;
2. Not a substitute in all circumstance e.g. final hearings, when it is important to be in court to hear evidence;
3. Court designated ‘time-slots’ would save waiting time;
4. Any means which reduces travel and court waiting time is to be welcome; many professionals are following Judges to different courts.

**NIGALA’s Response**

1. Comments made are accepted about the potential benefits of technology as a significant amount of professional time is spent waiting outside court;

2. NIGALA recognises COAC Best Practice guidance in respect of ‘Video Link in Family Cases’ which is primarily adult/professional focused. From a ‘rights based’ perspective NIGALA acknowledges the response by the Children’s Law Centre (CLC) on the use of ‘live links’ for children and young people in criminal cases. As an organisation founded on the UN Convention on the Rights of the Child, it their belief that children have a right to appear in court and take part in his/her own defence (Art 6 of the ECHR).

**QUESTION 7**

Do you agree that by changing the names of the ‘Guardian Ad Litem’ the role and purpose of the Guardian and the Agency cam become more meaningful to stakeholders?

The responses to this question from stakeholders reflected a range of views, with a majority of respondents (12) expressing disagreement with the proposal to change the name of the Agency; based primarily on the fact that the ‘name’ is only one factor in assisting service users to understand the role of the Guardian. For those respondents who supported a change their rationale was almost exclusively to do with helping children (and adults) better understand the role of the Guardian, in child friendly language.

A part of the consultation process, NIGALA commissioned VOYPIC to set up a number of groups to a total of 32 children and young people. The feedback from children and young people reflected a majority who felt that NIGALA should change its name, as the current name does not tell them about the service. It was felt the name is ‘not child friendly’ and does not reflect the work of the Guardian. The young people suggested words that they associate with NIGALA and the service it provides:
Where there was disagreement the issues raised were:-

1. A name change will not add to stakeholders understanding of the role of the Guardian;
2. The term NIGALA is widely used and recognised;
3. Rebranding may cause confusion;

Additional comments made included:-

4. Only change the name if by so doing, the role and function can be better explained;
5. Retaining the ‘Guardian’ element may convey to the child a sense of ‘safe keeping’;
6. Any proposed change should reflect that NIGALA is a social work service directed by the courts;
7. Access to justice, includes ‘accessibility’ which supports a name change which reflects the ‘court advisory professional role’;
8. The development of any new name should be discussed with service users and stakeholders so any change effectively defines the service provided, thereby enhancing accessibility.

Response by Guardians

1. No difficulty in explaining the name to professionals and parents with ‘Ad Litem’ linking a necessary link to the court;
2. The name is well established and enshrined in legislation;
3. The title can be misleading to parents and children;
4. The title ‘Children’s Guardian’ may be more meaningful.
NIGALA’s Response

1. NIGALA will engage with the Child Care Policy Unit (DHSSPS) to actively work to achieve changes to Legislation;

2. NIGALA will consult on a name change in 2014.

QUESTION 8

What formal feedback mechanisms do you think the Agency should have in place in respect of the services it offers?

There were 31 respondents to this question, with 15 responding as individuals and 16 on behalf of an organisation. The majority recognised that feedback mechanisms were already in place, with specific comments made as to the nature of the feedback mechanisms, including how they could be developed e.g. reciprocal arrangements following the conclusion of a case. It was also agreed that the Agency should have in place feedback mechanisms from its respective stakeholders e.g. children and young people, courts, legal advisers and the Trusts.

Additional comments made related to:-

1. Reciprocal arrangements in place at the conclusion of a case would assist reflective practice between Guardians and Trust Social Workers;

2. Clearer mechanisms for dealing with practice issues in live cases and clarity regarding complaint’s procedures/information leaflets etc;

3. The professional independence of the Guardian should not inhibit appropriate quality assurance mechanisms;

4. Feedback mechanisms should be uncomplicated, transparent with a right of reply;

5. Feedback should be meaningful;

6. Create a forum by way of focus groups to advance;

7. Suggestions for a range of mechanisms including, computer generated questionnaires, self interview, feedback forms, annual evaluations, video interactive mechanisms;
8. Feedback mechanisms which work at different levels; individual practitioners, courts; stakeholder events a stakeholder forum etc.

**Response by Guardians**

1. Current arrangements are sufficient;
2. Current arrangements do not extent to parents or carers;
3. Stakeholders should have a say on the service.

**NIGALA’s Response**

1. In 2014-15 NIGALA will evaluate the potential for getting timely feedback from children in addition to the retrospective feedback processes in place at the end of a case;
2. NIGALA will engage with Stakeholders to develop information exchange forums and feedback mechanisms which work at different levels; individual practitioners, courts; stakeholder events a stakeholder forum etc.
3. NIGALA will consider the mechanisms outlined by the Children’s Law Centre (CLC) for monitoring and quality assurance, evaluating its service delivery.

**QUESTION 9**

Do you agree that the Guardian Ad Litem should seek formal feedback from children about their experience with the Guardian at the completion of each case?

**Of the 19 respondents, there was significant agreement (15) with the proposal to seek formal feedback from children and their experience of the Guardian.**

Additional comments made were:

1. Through its work with children, NIGALA should reference both the UN Convention on the Rights of the Child (UNCRC) and the UN Convention on the Rights of Persons with Disabilities (UNCRPD);
2. NIGALA should consider how it engages directly with children and young people reflecting the child’s right to be consulted upon the service which directly affects them (embedding Article 12 of the UN Convention on the Rights of the Child);

3. NIGALA should consider how it involves children and young people promoting child friendly participation mechanisms, ensuring the voice of children is heard;

4. Feedback from children predicated on the child’s age and level of understanding;

5. A best interest’s recommendation at variance with the child’s wishes and feelings result in negative feedback from a child;

6. Feedback mechanisms must be robust while child and parent friendly;

7. Feedback is essential to quality improvement;

8. Feedback arrangements would act to reassure children that their needs and views are important and have been appropriately represented by the Guardian to court;

9. NIGALA may wish to engage with stakeholders to identify and develop structures for feedback having regard to the age of the child and level of understanding.

**Response by Guardians**

1. Dependant on the child’s age and level of understanding;

2. A ‘cooling down’ period post proceedings may be beneficial for children give the emotive nature of proceedings;

3. Already happens and is an important part of the work of the Agency;

4. Welcome an update on what research says about effective methods of eliciting views from stakeholders.

**NIGALA’s Response**

1. NIGALA will consider how it engages directly with children and young people reflecting the child’s right to be consulted upon the service which directly affects them (embedding Article 12 of the UN Convention on the Rights of the Child);
2. NIGALA will consider how it involves children and young people promoting child friendly participation mechanisms, ensuring the voice of children is heard;

3. NIGALA will work with stakeholders to review mechanisms for sharing information for children and adults to develop opportunities for feedback;

4. NIGALA will continue to develop and invest in its PPI strategy.

QUESTION 10
Do you agree there should be feedback from all Stakeholders on an;

(a) Annual basis?
(b) Six monthly?
(c) Quarterly?
(d) Monthly?

Of the 27 responses there was a significant agreement with the proposal to seek formal feedback from all stakeholders, with a majority of respondents (18) of the view that this be done on an annual basis. A small number of responses opted for feedback to be sought on a six monthly (5) and quarterly (4) basis.

NIGALA’s Response
In 2014-15 NIGALA will evaluate the potential for getting timely feedback from children in addition to the retrospective feedback processes in place at the end of a case.

Comments raised are accepted about the frequency of seeking formal feedback from all stakeholders; NIGALA will therefore establish meaningful dialogue with key stakeholders to develop feedback mechanisms.
QUESTION 11

Do you agree there should be face to face meetings between NIGALA and all Stakeholders on an;

(a) Annual basis?
(b) Six monthly?
(c) Quarterly?
(d) Monthly?

Of the 26 responses there was a significant agreement with the proposal that there should be face to face meetings between NIGALA and all stakeholders on an annual basis (17). A small number of responses opted for face to face meetings on a six monthly (6) and quarterly (3) basis.

NIGALA’s Response

Comments raised are accepted about the nature of engaging with all stakeholders on a face to face basis. Further stakeholder events will be convened to develop and enhance stakeholder participation on promoting effective communication.

Human Rights and Equality Implications

QUESTION 1

Are any of the proposals contained in this consultation document likely to have an adverse impact on any group of people in terms of the nine equality dimensions?

No respondent identified any potential adverse impacts.
### QUESTION 2

Are you aware of any indication or evidence, qualitative or quantitative, that the proposals set out in this consultation document may have an adverse impact on equality of opportunity or good relations?

*No respondent identified any potential adverse impacts.*

### QUESTION 3

Do the proposals as set out in this consultation document afford an opportunity to promote equality of opportunity and/or good relations?

*The majority of respondents agreed the proposals contained in the consultation document would afford an opportunity to promote equality and/or good relations.*

### QUESTION 4

Do any of the proposals contained in the consultation document have the potential to lead to or produce human rights violations?

*In their response to the NIGALA Consultation, the Children’s Law Centre (CLC) referred extensively to the relevant minimum human rights standards, particularly the Child’s Right to be Heard in Legal Proceedings and The Participation of Children and Young People in Court Proceedings.*

*There was overwhelming agreement that proposals contained in the consultation document would not have the potential to lead to human rights violations. Given the nature of the work however, two respondents commented on Article 6 and Article 8 Rights being engaged, with the ‘potential’ for human rights breaches, obviated by the Agency adopting a Human Rights and Equality approach.*

*The recommendation that data collected by NIGALA should always to disaggregated, where possible to, to cover the all nine S.75 categories, will be progressed.*
In addition Process through which data are disaggregated and examined for possible cause-effects and other interpretive conclusions.

**QUESTION 5**

*Do you have any further comments on NIGALA's proposals as set out in this Consultation Document?*

Additional comments made, not covered in responses to earlier questions included:-

1. Helpful to have clarification/further exploration on issues such as oral reporting;
2. Unrealistic expectations in respect of Trusts funding shortfalls for experts;
3. Helpful to have continuing engagement with NIGALA as a stakeholder to enable case analysis and research for forecasting purposes relative to cost/ongoing legal aid reform/use of technology and instruction of experts;

**Conclusion**

NIGALA is grateful to the full range of stakeholders, organisations and individuals, particularly children and young people, who took time to complete this consultation document. As a demand led service, NIGALA is subject to the vagaries of Trust interventions in family life, which is influenced by a wide range of local, regional and national pressures.

While it is expected that there will be peaks and troughs in applications to courts for children and young people, it is important that NIGALA strives to improve its service, developing a strategic vision which aims to reduce delay in proceedings while improving outcomes for children. As outlined in the foreword to the consultation, like all Arms length Bodies, NIGALA is required to demonstrate efficient and effective working practices in the face of an economic downturn while meeting increased demand. Through a reduction in the number of Guardian appointments in public law applications, we are only recently seeing a plateau of activity against a year on year increase which from 2009 saw a rise in the number of Guardian appointments by 67%. It remains to be seen if this is a pattern which is to be sustained for the foreseeable future.

The purpose of this consultation process was to have a different type of dialogue with key stakeholders to consider areas for improvement and change. NIGALA is only one part of a Family Justice System which is under sustained pressure and any initiatives designed to meet the
challenges outlined in this paper must by necessity incorporate a collaborative approach. Based on an analysis of the responses to this consultation, it is evident there is no one single action which will bring about an outcome which allows for the purposeful and early allocation of a Guardian, although this remains a key strategic objective.

Unnecessary delay in care proceedings is prejudicial to the welfare of the child and therefore remains a significant challenge for all family justice stakeholders. As a result of the analysis in this document, a significant number of issues raised will be addressed in our Strategic Business Plan for 2014-15. The work for the NIGALA Senior Management Team is to develop a ‘Next Steps’ action plan which will include a consultation on a name change to the Agency. Furthermore, striving to enable people and stakeholders to influence and actively contribute to the Agency’s strategic vision is a key objective. A number key priorities will be progressed by way of the following:

- NIGALA will review how it engages directly with children and young people reflecting the child’s right to be consulted upon the service which directly affects them (embedding Article 12 of the UN Convention on the Rights of the Child);

- In the context of wider legislative and policy changes, NIGALA will work with the DHSSPS and key stakeholders to bring forth changes which impact on children and reduce delay in public law proceedings, learning lessons from the anticipated Care Proceedings Pilot;

- NIGALA will consider any changes to how the Guardian undertakes his/her role in the context of wider strategic initiatives, such as the ‘Care Proceedings Pilot’ (DHSSPS & DOJ) and the ‘Legal Needs Survey for Children and Young People’ (DOJ,2013-14) (as recommended by CLC);

- In conjunction with key stakeholders, NIGALA will work with the Trusts in formulating and implementing guidance for Guardians and Trust staff on use of expert witnesses;

- NIGALA to continue to engage in a series of measures to promote effectiveness and efficiency and to avoid delay in allocation of Guardians;

- NIGALA will review and implement more focused and effective methods by which the Guardian reports to court, developing an ‘analysis’ based framework for court report templates;

- Issues raised which reflect the ‘tandem model’ of representation for children in public law cases to be further considered and addressed within the Guardian/ Solicitor reference group and/or via joint training.
Appendix 1

Consultation Document – Refining the Role of the Guardian Ad Litem
PROPOSALS TO

REFINE THE ROLE OF THE GUARDIAN AD LITEM

CONSULTATION DOCUMENT

August 2013
Contents

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Section 2  Background to NIGALA  Page 4
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Section 1 - Introduction

Purpose: This consultation document sets out proposals for refining the role of the Guardian Ad Litem. The Agency is seeking to engage with key stakeholders to ascertain views on refining the role of the Guardian Ad Litem to improve the quality of service to children, making best use of professional time and minimising delay. The proposals seek to establish a more efficient model of working whereby the participation and representation of the child in family proceedings is optimised.

It has generally been accepted in England and Wales that the system of family justice is increasingly under pressure (Family Justice Review, November, 2011) with a similar recognition (Access to Justice Review, August 2011) emerging in Northern Ireland. In the absence of change, continued growth in demand is likely to become increasingly problematic in the management of timely outcomes for children subject to court proceedings.

By streamlining the work of the Guardian it is anticipated that a more efficient and economic model of working will be created, allowing the improved representation and participation of the child in public law proceedings. Such proposals do not seek to amend legislation or policy relevant to the role of the Guardian rather they seek to ensure a more efficient and effective service.
Section 2 - Background to NIGALA

The Agency was established as a Special Agency by virtue of powers contained in the Health and Personal Social Services (Special Agencies) (NI) Order 1990. The Northern Ireland Guardian Ad Litem Agency (Establishment and Constitution) Order (NI) 1995 was introduced on 1st December 1995 making provision for the constitution of the Agency and appointment of the Agency Board. On the 4th November 1996, the Agency became operational.

Guardians, all of whom are qualified social workers, are appointed at each of the three tiers of court throughout the jurisdiction to advise on children’s wishes and feelings and to independently represent and safeguard those children who are the subjects of specified public law under the Children (NI) Order 1995 and adoption proceedings under the Adoption (NI) Order 1987. The Agency’s legislative mandate is incorporated within the NIGALA Mission Statement to ‘advise the court of children’s wishes and feelings and to independently represent and safeguard the interests of children in specified public law and adoption proceedings in Northern Ireland’. The Mission Statement expresses the core principles enshrined in Articles 3 and 60 of the Children (NI) Order 1995.

In public law proceedings, the Guardian Ad Litem has a statutory responsibility to represent the child who is subject of proceedings. The Guardian will appoint and instruct a Solicitor on behalf of...
the child thereby ensuring a system of tandem representation in the courts. The role of the Guardian is best illustrated in the words of Judith Timms –

‘The crucial importance of the Guardians’ role is that it stands at the interface between the conflicting rights and powers of courts.......The Guardian Ad Litem also has to make a judgement between the potentially conflicting demands of children’s rights, children’s rescue, the autonomy of the family and the duty of the state’.

Timms, 1992, p. 112

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**Section 3 - Background to the Proposals for Reform**

Revised expectations of the Guardian in line with the introduction of the *Guide To Case Management in Public Law Proceedings* (2009) has resulted in a growing emphasis on the guardian being more ‘proactive’ in the early stages of proceedings bringing what courts viewed as ‘definition and direction’ to children’s cases. Guardians are therefore not only taking on additional responsibilities such as leading in the instruction of experts but also preparing greater number of reports for court placing increasing demands on the guardians’ professional time.

NIGALA has approached the issue of workload management on a number of fronts between September 2011 and 31st March 2013, the Agency established a Board approved Waiting List to manage the increased number of court appointments relative to the Guardian capacity. In June 2012 the Agency made a successful business case to the Department of Health, Social Services & Public Safety (DHSSPS) to secure additional non-recurring funding for additional guardians who were recruited in 2012/13. The latter enabled the ending of the waiting list in March 2013.

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In tandem with these developments the Agency has continued to collaborate with the Children Order Advisory Committee (COAC) in considering proposals designed to reduce avoidable delay and the progress of public law cases through the court system.

In October 2012 the Agency established a Panel of Children Order Solicitors within NIGALA. The purpose of this initiative has been to promote high quality representation for children in public law and relevant adoption proceedings. In the interests of advancing agreed expectations and constructive working relationships, NIGALA created a Solicitor Reference Group with the objective of promoting the professional relationship between Solicitors and Guardian’s by clarifying respective roles, enhancing communication and codifying the expectations that solicitors and guardian’s have of each other.
Section 4 - Current Proposals

With unprecedented increase in the volume of public law applications and pressure on NIGALA to consistently meet such demands, it is imperative that any options for change must work on a number of strategic and operational levels. The common goal remains that of delivering a quality, child focused and timely service.

In the absence of legislative change consideration as to how the Guardian delivers a service to children and the courts must concentrate on what can realistically be expected of the Guardian. the Agency will continue to seek additional resources where appropriate, but must also focus on making the best possible use of existing resources and expertise.

The requirement for change can only be fully understood within the context of wider influences which impact of the delivery of family justice; in the words of Lord Justice McFarlane, in England -

‘The context within which public law children’s cases are determined is constantly changing as a result of many various stimuli including subsequent legislation, government guidance, rule changes and practice directions, but, most of all, the context has changed as a result of the increase in the court’s caseload and consequent rise in delays across the system. These changes, in turn, give rise to initiatives designed to meet the developing situation; the PLO, the Family Justice Review and now the proposed Family Justice Bill are prominent examples.’

The Family Justice Review has recommended that a revised Family Justice Service should be established for England and Wales. Mr Justice Ryder is currently taking a lead role in providing proposals seeking to provide judicial solutions to the problems identified in the report of the Family Justice Review in England and the Government’s response. In Northern Ireland we await the outworking of the joint Department of Health, Social Services & Public Safety and Department of Justice scoping exercise into the need for a review of the Family Justice System.

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3 2012, EWCA Civ 853) in a Court of Appeal Judgement (2012) concerning CAFCASS
Section 1: Proposals on how the Guardian undertakes their role providing an efficient service to children and courts.

It has generally been accepted in England and Wales that the system of family justice is under increasing pressure with a similar recognition emerging in Northern Ireland.

In the period ending the 31 March 2102 the impact of work load demands on NIGALA is best measured by the increase in the numbers of public law applications and appointments in care proceedings over the past five years. The overall increase shows a 102% in the number of appointments from courts since 2007.

In addition to the growing workload demands on the family justice system, Guardians in particular have been exposed to revised expectations associated with the introduction of the Guide to Case Management in Public Law Proceedings (2009, The Guide). The rationale for the introduction of The Guide (and the Public Law Outline (PLO) England & Wales 2008) is based on an examination of the family justice system since 1996, highlighting that delay and case duration is often unacceptably long; by way of synopsis -

- in addition to the growing numbers of cases brought before the court, the applications by Trusts are rarely about single issues and represent responses to families with complex problems
- increasing demands on court resources and the public purse, with the instruction of experts being a singular source of cost and delay
- unreasonable time-scales in resolving issues through the court process, causing prejudicial delay for children
- poor quality social work at pre-proceedings stage
- poor case management.  

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It is therefore proposed to consult with key stakeholders on whether broad agreement can be reached on how the guardian conducts the representation of children in the court process. The following questions are designed to elicit your views but it is imperative that you provide and brief explanation and rationale for your response relative to your specific role.

**Section 2 : Proposals on Quality Assurance and Feedback.**

The Guardian Ad Litem Agency establishes a framework of quality assurance to enhance the representation of children in the court process and mitigate the influence of prejudicial delay.

In 2013 The Regulation and Quality Improvement Authority (RQIA) whose role it is to provide independent assurance about the safety and quality of health and social services in Northern Ireland undertook a review of governance arrangements within NIGALA and recommended that –

‘NIGALA should introduce a system of quality assuring live court reports produced by guardians ad litem’.

This section seeks the views of stakeholders on the appropriate means of eliciting feedback from service users and consideration to changing the name of the ‘Guardian Ad Litem’ and the title of the organisation from the ‘Guardian Ad Litem Agency’ to make the role of the guardian and the function of the Agency more meaningful to service users and stakeholders.
Section 5 - The Consultation Process

The proposals in this consultation document have relevance for children and families, guardians, Trust social workers, solicitors and members of the judiciary; representative bodies such as Trade Unions and professional organisations; voluntary bodies such as British Agencies for Adoption and Fostering (BAAF) and the Voice of Children and Young People in Care (VOYPIC) and universities providing social work education and training.

When the consultation period is completed, the NIGALA will analyse the responses received to determine the best way forward with a view to developing final proposals for consideration by the Agency’s SMT and Board. The proposed changes to how the Guardian delivers a service to children and courts will be considered by the NIGALA Board.

Consultation Closing Date 30 September 2013
You can respond to the Consultation Document by email or post, using this Consultation Questionnaire.

Before you submit your response, please read Appendix 1, at the end of this questionnaire, about the Freedom of Information Act 2000 and the confidentiality of responses to public consultation exercises.

Responses should be sent to:

Email: Ann Andrew, ann.andrew@nigala.hscni.net

Written: Ann Andrew, Administration Manager, NI Guardian Ad Litem Agency, Centre House, 79 Chichester Street, Belfast, BT1 4JE

To be considered as part of the response to consultation process, responses must be received by the NIGALA by 30th September 2013.

I am responding: as an individual [ ] On behalf of an Organisation [ ]

Name: ____________________________________________________________

Job Title: _________________________________________________________

Organisation: ______________________________________________________

Address: __________________________________________________________

_________________________________________________________________

Tel: _______________________________________________________________

Fax: _______________________________________________________________
This is a targeted Consultation designed to elicit the views of key stakeholders of the Guardian Ad Litem Agency. It is proposed to seek the views of service users, children and families through a series of focus groups facilitated by VOYPIC.

Section 1 - Efficient use of the Guardian Ad Litem by Refining the Role of the Guardian

NIGALA’s strategic objectives include providing a high quality service to courts and to the children who are the subjects of public law and adoption proceedings, ensuring the independent representation of the wishes and feelings of the child. There is an urgent need to ensure that children involved in such proceedings can be confident that their right to have their views, feelings and wishes heard is upheld and given due consideration by adults in making important decisions affecting their lives in a timely manner.

Question 1 - Do you agree with the proposal to make changes to how the Guardian Ad Litem undertakes his/her role to ensure that the child’s voice, wishes and feelings are central to the court process when making decisions about children’s lives?

Yes | No | Please tick as appropriate

please support your choice with a comment
The pressure on the family justice system was acknowledged in the ‘Access to Justice Report (August 2011) commissioned by the Justice Minister, Mr David Ford. The challenge for NIGALA is to respond positively to the rising demand for guardians, while working within finite resources and more efficiently. Masson et al (2008) identified a range of factors that contributed to delay in court proceedings. These included resource issues such as delay in identifying and obtaining expert and assessment reports and failures to keep to the court timetable.

Question 2 – In order to streamline and focus reporting to court, do you agree with the proposal for the guardian to provide fewer written reports to the court?

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*please support your choice with a comment*

Question 3 – Do you agree that increased use of oral reporting is an efficient and effective way of updating the court on issues such as contact or placement changes?

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*please support your choice with a comment*
As part of the RQIA review of Governance Arrangements of the NIGALA (2012) feedback from the Judiciary suggested that on occasions reports prepared by guardians are too long. The Children Order Advisory Committee ‘Best Practice Guidance’ (2010) identifies the responsibilities of the guardian and the parameters of the role of the guardian are defined by statute and limited to the duration of the proceedings. Furthermore, guardians are required to complete reports as directed by the court and ‘the guardian should avoid unnecessary duplication of information and focus on the analysis and evaluation of the issues in the case’ (10.4)

Question 4 - Do you agree that the Guardians reports should be refined to ensure they are analytical providing comment on areas, such as the child’s wishes and feelings, attachment behaviours, parental capacity, the child’s timeline, related developmental issues and where there is variance between the Trust and guardian assessment.

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*please support your choice with a comment*
At the outset of their appointment the guardian shall appoint a solicitor from the NIGALA Panel of accredited solicitors to represent the child. The guardian should meet with the solicitor and provide relevant instruction, or facilitate the young person who is deemed competent, to provide instruction to the solicitor. This ‘Tandem model’ of working should be mutually enabling to benefit the child in achieving timely and the best possible outcomes for children.

Question 5- Do you agree that guardians should be enabled to instruct solicitors to submit position papers or skeleton arguments in respect of legal issues, in addition to the guardian’s Initial Analysis Report and Final Report?

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*please support your choice with a comment*
The Public Law Outline (PLO) was introduced into England and Wales in 2008 while in Northern Ireland the Guide to Case Management in Public law Proceedings (the Guide) was introduced in 2009. The object of the Guide is to provide a means of managing the conduct of proceedings while promoting the providing core information in an efficient manner.

Question 6 - Do you agree that, through increased use of technology (video link and teleconferencing) professional and court time across all courts, can be used more efficiently?

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Please support your choice with a comment
As part of the RQIA review of Governance Arrangements of the NIGALA (2012) a recommendation was made that the DHSSPS should consider changing the name of the ‘Guardian Ad Litem’ and the title of the Agency, to make the role and the purpose of the guardian more meaningful to children and young people.

Question 7 - Do you agree that, by changing the name of the ‘Guardian Ad Litem,’ the role and purpose of the guardian and the Agency can become more meaningful to stakeholders?

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*please support your choice with a comment and please provide suggestions for an alternative name or title of the organisation.*
Section 2 – Quality Assurance and Feedback

The Agency is required by statute to quality assure its service. This is a planned and systematic means by which Management is assured that defined standards and practice are applied. Feedback from key stakeholders (children and their families/carer’s, the Judiciary, HSCT’s and Solicitors) enables the Agency to reflect on what works well and consider areas for service development/improvement. In particular feedback from children and young people is critical to providing assurance that the guardian ad litem reflects their wishes and feelings and safeguards their interests in the court process.

Question 8 - What formal feedback mechanisms do you think the Agency should have in place in respect of the service it offers?

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*please support your choice with a comment*
**Question 9 -** Do you agree that the Guardian Ad Litem should seek formal feedback from children about their experience of their involvement with the guardian ad litem at the completion of each case?

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*If No, please comment*
Question 10 - Do you agree there should be feedback from all Stakeholders on an;

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Please tick as appropriate

Question 11 - Do you agree there should be face to face meetings between NIGALA and all Stakeholders on an;

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Please tick as appropriate
Section 3 - Human Rights and Equality Implications

Section 75 of the Northern Ireland Act 1998 requires Public Bodies in carrying out their functions to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between person with a disability and persons without; and
- between persons with dependants and persons without.

In addition, without prejudice to the above obligation, Public Bodies should also, in carrying out their functions relating to Northern Ireland, have due regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group. Public Bodies also have a statutory duty to ensure that their decisions and actions are compatible with the European Convention on Human Rights and to act in accordance with these rights.

The NIGALA has undertaken an Equality Impact Screening on the draft Regulations is now screening the proposals set out in this document as part of the screening process and is inviting responses to the following questions:

Q1 Are the proposals which are set out in this Consultation Document likely to have an adverse impact on any group of people in terms of the nine equality dimensions? (Please Tick)

Yes [ ] No [ ]

If you answered yes, please state which group(s) and the reasons why:
Q2 Are you aware of any indication or evidence – qualitative or quantitative – that the actions in this document may have an adverse impact on equality of opportunity or good relations? (Please Tick)

Yes [ ] No [ ]

If you answered “yes”, please state the reasons why and suggest how these might be mitigated:
Q3  Do proposals afford an opportunity to promote equality of opportunity and/or good relations? (Please Tick).

Yes [ ]  No [ ]

If you answered “yes”, please outline:

[Blank space for outline]

Q4  Are there any aspects of these proposals where potential human rights engagements may occur? (Please Tick).

Yes [ ]  No [ ]

If you answered “yes”, please outline:

[Blank space for outline]
Further Comments

Q5  Do you have any further comments on the NIGALA’s proposals as set out in this Consultation Document? (Please Tick).

Yes  [ ]  No  [ ]

If ‘yes’, please give comments:

[Blank space for comments]
Appendix 1

Freedom of Information Act 2000 – Confidentiality of Consultations

The Northern Ireland Guardian Ad Litem Agency (NIGALA) will publish a summary of responses following the completion of the consultation process. Your response and all other responses may be disclosed on request. The NIGALA can only refuse to disclose information in exceptional circumstances. **BEFORE YOU SUBMIT YOUR RESPONSE** please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in respect of this consultation.

The Freedom of Information Act gives the public the right of access to any information held by a public authority, namely the NIGALA in this case. This right of access to information includes information provided in response to a consultation. The NIGALA cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have a responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidentiality.

This means that information provided by your response to the consultation is likely to be treated as confidential except in very particular circumstances. The Lord Chancellor’s Code of Practice on the Freedom of Information Act provides that:

- The NIGALA should only accept information from third parties in confidence if it is necessary to obtain information in connection with the exercise of any of the NIGALA’s functions and it would not otherwise be provided.

- The NIGALA would not agree to hold information received from third parties in confidence which is not confidential in nature.

- Acceptance by the NIGALA of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.