Consultation on ‘Refining the Role of the Guardian Ad Litem’

A consultation was undertaken by NIGALA in 2013 on refining the role of the Guardian Ad Litem inclusive of proposals for improving quality assurance and feedback mechanisms within NIGALA. As a process, the consultation was the culmination of eighteen months work by the NIGALA Board and Executive Team.

NIGALA is a demand led service and it is therefore expected to experience peaks and troughs but the pattern of rising demand has been exceptional over recent years. This trend of increased activity commenced in January 2009 with an increase of 67% in court appointments which continued year on year. By January 2014, while there was a plateau in the number of appointments by 3% overall, care proceedings continued to represent the single most substantive public law application which comes before the courts. In this challenging climate, the purpose of the consultation undertaken by NIGALA was to engage stakeholders in how best the Agency could meet rising demand while maintaining a timely and child centred service.

There are evident and growing pressures on the family justice system overall and only through inclusive dialogue between stakeholders can informed change come about while retaining children’s interests as the fundamental guiding principle in the delivery of a Guardian Ad Litem service. NIGALA is one part of a family justice system which is under sustained pressure and any initiatives designed to meet the challenges 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 allow for the early and routine allocation of a Guardian in every case although this remains a key strategic objective.

Outcome and Planned Response to the Consultation

NIGALA is grateful to the full range of stakeholders, organisations and individuals, particularly children and young people, who took time to respond to the consultation questionnaire.

The consultation on refining the role of the Guardian Ad Litem and proposals for improving quality assurance and feedback mechanisms between NIGALA and its stakeholders 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’.

Having completed an analysis of the responses to the consultation, a number of objectives have been identified, to be actioned in the NIGALA Strategic Business Plan for 2014-15.

Summary of Actions

- 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 for the purpose of ensuring:
  1. 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. how it involves children and young people promoting child friendly participation mechanisms, ensuring the voice of the child is heard;
  3. In 2014-15 NIGALA will evaluate the potential for getting timely feedback from children in addition to the end of year retrospective feedback processes already in place.

- 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 reflecting 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 legislation, including consideration of a name change;
NIGALA will develop mechanisms which provide 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 for the purpose of positive comment, learning but also when concerns arise;

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;

It is proposed that NIGALA will engage with Key Stakeholder to generate changes to how Guardian’s report to court, with regard to;

1. optimising children’s representation in court proceedings and working to reduce prejudicial delay;
2. implement changes to the Guardian’s Report Template ensuring a focus on the needs of the child with timely and improved outcomes;
3. 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 achieving;

1. the foreshortening of proceedings;
2. reducing non purposeful delay;
3. supporting informed and evident based decision making by the courts.
4. through the ‘tandem model’ of representation NIGALA will promote and expand the repertoire of reporting mechanisms to court e.g. position papers, thereby optimising the Guardian’s expertise to the legal process.

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

NIGALA will finalise joint work with Trusts in respect of instructing experts.