

Barnardo's NI

**Response to The Gillen Report:
Preliminary report into the law and procedures
in serious sexual offences in Northern Ireland**

January 2019

Barnardo's NI is the largest children's charity in Northern Ireland. We work with approximately 10,000 children, young people and families, across more than 50 different services and programmes, and in over 200 schools. We provide a wide range of services, from providing family support to working directly with children and young people in need of support. We believe that every child deserves the best possible start in life, and our service provision reflects that philosophy.

Barnardo's NI welcomes the opportunity to comment on the preliminary report produced by Sir John Gillen. Our comments are informed by our experience of supporting children, young people and families affected by child sexual abuse. Our regional service, Safe Choices, is a specialist child sexual exploitation service, which supports children, young people and families affected by, or at risk of, sexual abuse, and can provide specialist therapeutic support for children who have experienced sexual exploitation.

We also have a range of other relevant service delivery experiences. Since April 2018, we have delivered the Independent Guardians Service, which provides guardians for separated children, including those who are victims, or potential victims, of human trafficking. We also have a varied portfolio of mental and emotional health and wellbeing services, reflecting an ACEs (Adverse Childhood Experiences) -aware approach and trauma-informed practice ethos.

We welcome the focus of this Review and commend the Review team for its scope and ambition. Given our portfolio of relevant services, and experience of supporting young people affected by the issues raised in the report, Barnardo's Northern Ireland would be keen to engage with the Review as it progresses.

1. General comments

- 1.1. Barnardo's NI welcomes the specific focus given to the voice of children and young people in Chapter 14 of the preliminary report, and the consideration given to children throughout the rest of the report. We would encourage the Review team to ensure that children's needs and rights, and the impact on them, are considered carefully and explicitly at every stage in the final report.

2. Recommendations

- 2.1. *Chapter 3:* We welcome the proposal to restrict access of the public to trials of serious sexual offences, particularly where children are involved.
- 2.2. *Chapter 4:* We welcome the recommendation to pre-record evidence and cross-examination of vulnerable victims and witnesses, to include all who are aged under 18. This process would remove the possibility of memory recall being challenged due to time delays in the court process, which can be particularly problematic in a jury trial. As highlighted in the preliminary report, this will allow the young person to move into a recovery stage when dealing with the trauma they have experienced. We also believe that providing witnesses who are aged under 18 the opportunity to pre-record evidence may address, to some degree, issues regarding witnesses dropping out due to long time delays since the original incident.
- 2.3. *Chapter 5:* We fully endorse the recommendation to provide separate legal representation for complainants, in recognition of the isolation and re-traumatisation complainants can feel in the course of the legal process.
- 2.4. *Chapter 6:* Barnardo's NI agrees with, and welcomes, the recommendations around challenging myths and stereotypes. The change in public attitude needs to be a cultural shift, achieved through an on-going public conversation. Providing consistent, well-informed Relationships and Sexuality Education (RSE) in all schools as part of the core curriculum could play a role in educating children. Although RSE is a statutory element of the school curriculum in Northern Ireland, the current CCEA guidelines allow for wide interpretation as to what is included and how it is delivered, resulting in vast variations between schools. Barnardo's NI believes that whole-school approaches to well-informed RSE in schools would be invaluable in challenging myths and stereotypes from a young age, as well as encompassing topics such as mental health, wellbeing, and resilience.

- 2.5. *Chapter 7:* Trolling and negativity on social media, particularly towards children and young people, are commonplace before a trial and can have a detrimental impact on the young people involved. We recommend that independent advice and guidelines are provided to young people regarding who has access to their social media, their privacy settings, and who can contact them through social media. This information should also be provided to parents/guardians of child victims/witnesses so they can be informed to support their child. This information could be in the form of a leaflet provided to the young people and their families when they are dealing with the Police Liaison Officer. In addition, we recommend that protection of the victim's identity on social media is extended to the pre-trial stage, not just during the trial.
- 2.6. *Chapter 8:* We welcome the proposal to prohibit cross-examination regarding previous sexual history. For children and young people below the age of consent, the presumption should be that there is no consensual sexual history to explore; this line of questioning of a child or young person questions whether they were legally able to consent to such activity.
- 2.7. *Chapter 9:* Delay is a central and systemic problem in the investigation and court process. We welcome proposals to reduce the delay in bringing and trying a case in court. It is particularly worrying that the longest delays are seen in the cases of children, the most vulnerable victims for whom a delay may have a disproportionately negative impact. Through our services, children and young people involved in this legal process report feeling stunted in their personal, academic, and professional growth and interactions, including their personal relationships. Delays in investigation and court proceedings prevent the young person from moving into the recovery phase when dealing with the trauma. We also recommend that processing of digital and physical evidence should be sped up as removing a device, e.g. a phone, from a young person can be very isolating.
- 2.8. *Chapter 11:* The general public's lack of understanding of consent is a serious issue, particularly around how a person can give, and receive, consent. There is a need for an open discussion and awareness-raising around how drink and drug intoxication affects a person's capacity to give *informed* consent. Furthermore, use of alcohol or drugs should not be used as a lifestyle indicator which mitigates the need for consent. Barnardo's NI supports a shift towards affirmative consent. We also recommend that consent is a component of any Relationship and Sexuality Education curriculum and of any public campaign proposed.

- 2.9. *Chapter 12:* Barnardo's NI welcomes the recommendation to provide anonymity for the accused at pre-charge stage, as we believe this will provide additional protection for the anonymity of the victim.
- 2.10. *Chapter 13:* Barnardo's NI supports the recommendation to gather further information on marginalised communities. In particular, we welcome the recommendations around providing targeted education to marginalised communities around laws and procedures for serious sexual offences, and for professionals working in these communities.
- 2.11. *Chapter 14:* We warmly welcome the dedicated chapter on the voice of the child, in recognition of the unique experience of children who are subject to serious sexual offences. We welcome that the experience of children is referenced throughout the report and recommend that this is continued and extended as the Review continues, to ensure the voice and experience of children and young people is fully reflected in the final report and recommendations as an integral element of this Review.
- 2.12. *Chapter 15:* Barnardo's NI welcomes the range of recommendations for specialist training for professionals working with vulnerable victims and witnesses, including the importance put on regular refresher training; furthermore, we believe this training should be mandatory for any legal professional practising in this area of law. This training should be trauma-informed and include methodology for engaging with vulnerable and young victims or witnesses, as well as identifying signs of sexual abuse or trauma.
- 2.13. *Chapter 16:* We would ask for clarity on the proposed recommendations for judge-alone trials – including regarding who can request them, in what scenario, and the process for assessing and considering the request. Barnardo's NI recommends that victims are active participants in this process and are consulted before a decision is made, and kept informed throughout. We believe it is important that victims are provided with appropriate advice and guidance to make an informed response to a request for a judge-alone trial. Furthermore, professionals engaged in this process should have received trauma awareness training, including judges.
- 2.14. *Chapter 17:* Barnardo's NI welcomes the move towards restorative practice, and supports the emphasis that this must be victim led, and not influenced by financial factors. We would also encourage research into restorative justice where both the victim and accused are children (i.e. peers), rather than removing children from the provision

completely; we suggest this should be carefully scoped for potential benefits in peer scenarios.

2.15. *Chapter 18:* Barnardo's NI agrees that investment is needed in order to see real change in the investigation and court processes; this investment should be targeted, specific in its use, and take a joined-up working approach between organisations involved in the criminal justice process.

Conclusion

Barnardo's NI welcomes the opportunity to respond to this preliminary report. We consider it vitally important that children are considered throughout the Review, while it is being developed and during its implementation. We welcome the scope of the report and its implications, and would be keen to support the eventual implementation of its final recommendations through the provision of services, training and advice where appropriate and relevant. We would be happy to engage further with the Review team to represent the views of the children, young people and families we work with to share our experience and findings.

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