

**Northern Ireland legal framework and policies on child welfare and
protection**
Regulations and practices
October 2022



This document is part of the European Erasmus+ KA202 Project, "Participation and Collaboration for Action", acronym PANDA, Sept. 2020 – Aug. 2023. The project involves 4 European Universities: Artevelde University of Applied Sciences (Belgium), Norwegian University of Science and Technology (Norway), Queen's University Belfast (Northern Ireland) and Universidad Complutense de Madrid (Spain). It also involves 4 organisations: Growing Up (Belgium); Trondheim Kommune/Link (Norway); Voice of Young People in Care, VOYPIC, (Northern Ireland) and Fundación Secretariado Gitano, FSG (Spain).

Authors: Winter Karen, Mc Cafferty Paul

Content

- Introduction..... 3
- 1. General description of the legal provisions 4
 - 1.1. Legislative basis..... 4
 - 1.2. Children in need of support..... 4
 - 1.3. What are the State obligations to children it defines as ‘in need’?..... 5
 - 1.4 Children at risk of harm and/or who have suffered harm 6
- 2. What are the State obligations to children it defines them at risk of harm and/or having suffered harm’? 6
 - 2.1 Referral..... 6
 - 2.2 Child protection investigation and case conference..... 7
 - 2.3 Child protection register..... 7
 - 2.4 Child protection plan 7
 - 2.5 Applying to court for a court order..... 8
 - 2.6 Before the application gets to court 8
 - 2.7 Options available to Judges regarding the long-term care of children..... 9
- 3. General description of the referral process 9
 - 3.1 How does the system for processing any referral work? 9
 - 3.2 The 10 principles of Integrated Child Protection systems 11
 - 3.3 In what ways is young children’s participation facilitated?..... 11
- 4. Issues..... 12
- Helpful links 12

Introduction

The aim of the PANDA project is to promote the participation of young children (aged 12 years and under) in decision making in a transnational context through strengthening professionals' collaboration with young children known to social services, especially in child welfare and child protection.

Led by 8 partner organisations comprising social workers, managers, policy officers, academics and trainers from four countries, Belgium, Spain, Norway and Northern Ireland, the project has three objectives:

- to increase the skills and knowledge of professionals by creating a media library;
- to support organisations to create the conditions necessary for participatory social work with young children by providing a framework for policy officers and managers to support the implementation of a participatory approach;
- to provide trainers with new tools and methods in this area.



Figure 1 PANDA concept (2022)

In this text, you can read about the main legal framework in the four participating countries. It are four examples of how International legislation is translated into regional child welfare and child protection systems.

Each country has structured the presentations somewhat differently, but all have described how the authorities take care of and include the most vulnerable children in their country.

1. General description of the legal provisions

1.1. Legislative basis

The Children Order (Northern Ireland) 1995, provides the legislative framework that governs the response to, and services provided for:

- (a) Children in need of support
- (b) Children at risk of harm and/or children who have suffered abuse and harm.

Other relevant laws and policies include:

- (a) 'Our Children, Our Pledge', the strategy for children and young people in Northern Ireland from 2006 to 2016 (OFMDFM, 2016), set out an outcome framework to improve the health, achievement, safety, well-being, societal contribution and rights of all children and young people in the country.
- (b) 'Families Matter' (DHSSPSNI, 2009);
- (c) 'Healthy Child, Healthy future' (DHSSPSNI, 2010);
- (d) The Children's Services Co-operation Act (2015)
- (e) UNCRC (1989)
- (f) Human Rights Act (1998)
- (g) Adoption and Children Bill (Northern Ireland) draft (2021)

1.2. Children in need of support

For children in need of support, the legislation imposes a general duty on Health and Social Care Trusts in Northern Ireland to provide a range of services for children defined as 'in need' in their locality. Articles 17, 17A, 18, 18A, B, C and D (under Part IV of the Children Order) and Schedule 2 (1-12) set out the main Trust responsibilities for children defined as 'in need' as well as those it accommodates.

Article 17 of the Children Order outlines that a child becomes defined as 'in need' if:

- (a) they are unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for them of services by an authority under this Part;
- (b) their health or development is likely to be significantly impaired, or further impaired, without the provision for them of such services; or
- (c) they are disabled.

'Family', in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he or she has been living.

Article 17A relates to *children who are carers* and states that if:

- (a) a child (“the carer”) provides or intends to provide a substantial amount of care on a regular basis for a person aged 18 or over;
- (b) the child requests an authority to carry out an assessment for the purposes of determining whether he is to be taken to be in need for the purposes of this Part; and
- (c) the authority is satisfied that the person cared for is someone for whom it may provide social care, the authority (i) shall carry out such an assessment; and (ii) taking the results of that assessment into account, shall determine whether the child is to be taken to be in need for the purposes of this Part.

1.3. What are the State obligations to children it defines as ‘in need’?

Once defined as ‘in need’, the Trust, under Article 18(1-9) has a duty to safeguard and promote the welfare of children and young people by, insofar as it is consistent with that duty, promoting their upbringing by their families by providing a range and level of personal social services appropriate to those children’s needs.

With respect to the provision of such services, Article 18 establishes that:

- (a) a child’s family could provide the services (Article 18(3));
- (b) Trusts shall facilitate others (such as voluntary organisations) to provide support services (Article 18(5));
- (c) the types of service could include giving assistance in kind and, in exceptional circumstances, cash (Article 18(6));
- (d) that prior to provision of services the Trust shall take account of the child and their circumstances and that (Article 18(8));
- (e) and that services provided could be unconditional or subject to forms of repayment except where the family is receipt of certain welfare benefits (Article 18(7), (9)).

Article 18A relates to assessments of carers of disabled children. It establishes that: (1) Where (a) the carer of a disabled child who has parental responsibility for the child requests an authority to carry out an assessment of the carer's ability to provide and to continue to provide care for the child; and (b) the authority is satisfied that the child and his family are persons for whom it may provide services under Article 18, the authority (i) shall carry out such an assessment; and (ii) shall take the results of that assessment into account when deciding what, if any, services to provide under Article 18.

Under Article 18(2) the same duty is imposed for authorities carrying out their own assessments and those under section 2 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 53).

Article 18C relates to provisions for direct payments to a person with parental responsibility for a disabled child, a disabled person with a parental responsibility for a child, a disabled child aged 16-17 years.

Article 18D establishes the right to information on the part of carers that informs them of their right to an assessment under Article 17A or 18A.

Schedule 2 Children (NI) Order 1995 imposes a duty on Trusts to:

- (a) identify the extent to which there are children and young people in need in their locality;
- (b) publish information about services and to make sure that those who may benefit from services are aware of them and draw up a children's services plan;
- (c) maintain a register of disabled children in their locality;
- (d) take steps to prevent the need for care proceedings;

provide a range of services to children and young people while living with their families including advice, guidance, counselling, social and cultural activities, home helps, help with travel costs and access to family centres; and in providing services; provide family centres; maintain children at home; and take account of the different racial groups to which children, young people and their families belong.

1.4 Children at risk of harm and/or who have suffered harm

In Article 66, Children (Northern Ireland) Order 1995, it states that where an authority:

- (a) is informed that a child who lives, or is found, in the authority's area (i) is the subject of an emergency protection order; or (ii) is in police protection; or
- (b) has reasonable cause to suspect that a child who lives, or is found, in the authority's area is suffering, or is likely to suffer, significant harm, the authority shall make, or cause to be made, such inquiries as it considers necessary to enable it to decide whether it should take any action to safeguard or promote the child's welfare'.

2. What are the State obligations to children it defines them at risk of harm and/or having suffered harm'?

2.1 Referral

For those at risk of harm/ or having suffered harm, neglect and abuse, the Children Order (Northern Ireland) 1995, makes provision. *The Co-operating to Safeguard Children* and the *Regional Child Protection Policy and Procedures* give procedural effect to the legislative requirements. With regards to the procedures for managing child protection referrals, these are received and initially processed by the newly formed Gateway teams.

2.2 Child protection investigation and case conference

Under a child protection investigation, an initial UNOCINI assessment is completed within 15 days. The child involved must be seen within 24 hours from receipt of the referral and there must have been a strategy discussion (or if possible a strategy meeting) within 24 hours.

Depending on the information that emerges from home visits and liaison with other professionals, a multi-disciplinary case conference may be called also within 15 days of receipt of the referral. The case conference is a multi-disciplinary forum where concerns are shared through the provision of reports and through verbal feedback, the significance of those concerns weighed up, analyzed and decisions made about whether a child's name should be placed on the child protection register, under what category and agreeing the elements of the child protection plan.

The social worker should provide the case conference with a report. Other professionals should also provide reports and these all should be shared with the parents at least 1 working day before the conference. Parental attendance at the case conference is strongly encouraged as is that of the child/young person where they are deemed to be of an age, maturity and level of understanding. They can bring a person to support them. There is the possibility of parents being excluded from the whole case conference (or part thereof). If this is the case the parent must receive the reason in writing.

The parents should be advised in writing of the outcome of the child protection case conference within 14 days of the conference being convened. Minutes should be circulated within 14 days of the conference and their receipt acknowledged within 7 days. Parents can complain to the conference Chairperson about the process, outcomes and decisions reached.

Review child protection case conferences take place on a regular basis, the first being held within 3 months of the initial case conference and then 6 monthly thereafter.

2.3 Child protection register

A child protection case conference decides on whether a child's name should be placed on a child protection register. Categories are confirmed, suspected or potential physical, sexual abuse or neglect. A child's name may be registered under more than one category.

A child's name is removed from the child protection register through the case conference. De-registration does not mean that support services should be automatically and immediately withdrawn because the child may still be deemed as a child 'in need' under Article 17 Children (NI) Order 1995.

2.4 Child protection plan

A child protection case conference also agrees a child protection plan. This gives details of the key roles and responsibilities of each professional involved in the case in relation to an agreed action

plan. It therefore involves outlining the expectations of the parents particularly what help is to be provided to them, by whom, when, where, how often and why.

The child protection plan involves outlining the roles and responsibilities of the other involved professionals including the case coordinator making a visit to the child and their family no less than once every 4 weeks. If a child has been removed from the family home (either by way of a legal order or voluntarily – see below) then the child protection plan includes details of contact arrangements.

The implementation and progress of the child protection plan is reviewed through core group meetings (these being coordinated by a case coordinator and the first of these should be held within 10 working days of the initial case conference) and regularly thereafter. Parents and children should be invited to comment on the child protection plan, should have a copy of it and should sign it as an indication that they understand it and are prepared to work with it. Failings in the plan may lead to a case conference being called and a review of the progress being made.

2.5 Applying to court for a court order

For some children and young people, a decision is made to apply to court for a legal order in respect of that child and they come into care. The management of court application through court is set out in new guidelines. The Guide, which was originally introduced in 2009, emerged in response to concerns regarding delays in decision-making and cost effectiveness. It emphasizes strong judicial management in cases and timely decision-making by way of pre-proceeding meetings between parents, the Trust and solicitor, early identification and agreement on core issues. A central aim is to reduce the time it takes the court to come to a final decision in a case.

2.6 Before the application gets to court

At the point of pre-proceedings Trusts are expected to write to parents to inform them of the concerns and their intention to apply for a care order. Parents are invited to attend a pre-proceeding meeting at which they can have their solicitor present to explore the concerns and to continue to work with the Trust to address them.

Children are not entitled to independent legal representation at the pre-proceedings meeting and from anecdotal evidence in interviews with some stakeholders' children are notable by their lack of physical presence and/or voice in these meetings. Following the pre-proceedings meeting and if the when the application gets to court

The Trust pursues their application an initial directions hearing will take place this being held within 8 days of the application being lodged at court. Subsequent hearings involve the Trust presenting reports (with supporting reports by other professionals if necessary) that outline evidence of harm to the court and the intended care plan for the child.

The guardian ad litem, as an officer of the court, plays a proactive role in the timetabling of the case for final hearing, instructing experts and in facilitating meetings to establish common areas of agreement before the case proceeds to the final hearing.

2.7 Options available to Judges regarding the long-term care of children

The following are legal options for Judges:

- (a) A voluntary arrangement with parents that the child remains in care
- (b) A supervision order that gives the State some involvement but does not give the State parental responsibility
- (c) A care order. This confers parental responsibility on the State and it is shared with the parents.

The care order is only granted if three core elements are met namely that:

- (a) the threshold for significant harm has been met;
- (b) that alternative care is the best option for the child when all other options have been considered and ruled out;
- (c) and that the care plan agreed for the child is in the child's best interests.

Harm is defined in Article 2(2) Children (NI) Order (1995) as ill treatment or the impairment of health or development. While only one of these conditions needs to be satisfied, proceedings may refer to all three. Ill-treatment is defined under Article 2(2) as including sexual abuse and forms of ill-treatment that are not physical, as for example emotional abuse. Health is defined as physical or mental health and development as physical, intellectual, emotional, social or behavioural development.

3. General description of the referral process

3.1 How does the system for processing any referral work?

3.1.1 Referral

The initial point of contact with social services (for those who self-refer and for referrals from other agencies) will be with a Gateway team.

Gateway teams represent one point of contact in all Trusts for all referrals and are based on 13 principles designed to improve accessibility, assessment processes and accountability. The Gateway teams have been complemented by the development of the Family Support and Intervention Service that receive family support cases from the Gateway teams.

3.1.2 Assessment

A new common assessment framework known as UNOCINI has also been introduced and structures assessments to take account of three interrelated domains (the needs of the child; parenting capacity; and the family within the broader context of extended family, community and society). The policies and procedures set out the management of referrals to social services.

The Gateway Service receives referrals, which could be for support and assistance or where there are concerns about the protection, safety, welfare and well-being of a child. ‘Thresholds of intervention’⁴ determine the needs of the children. Four ‘Levels of Need’ are outlined:

- (a) Level 1** refers to children and families who use universal services and may require occasional advice, support and/or information.
- (b) Level 2** refers to children and young people who, in addition to universal services, may need access to community support services.
- (c) Level 3** refers to children and young people who have complex needs that may be chronic and enduring. These are generally identified as children ‘in need’ within the meaning of the Children (NI) Order 1995, including some of the children, who are ‘in need of’ safeguarding.
- (d) Level 4** applies to children in the greatest need – children in need of rehabilitation with critical and/or high-risk needs; children in need of safeguarding (including those in care); and children with complex and enduring needs.

Following receipt of a referral a social worker in a Gateway team, a decision is made on the priority level of the referral. Those cases that fit with Level 4 threshold of need receive the highest priority and those with Level 1-2 receive lower priority.

On completion of an initial UNOCINI assessment the following options could be applicable:

- (a) case closure;
- (b) referral onwards to the family intervention and support team;
- (c) instigation of child protection procedures (which include a child protection investigation and the convening of a case conference);
- (d) instigation of child protection and looked after child procedures which result in the removal of a child from their family home by way of an application to court for a legal order.

3.1.3 Interventions

For those cases where ongoing family support is decided upon it is likely that the Gateway team will have completed the initial family support pathway plan, which is followed up and developed by the Family Intervention team.

Family support pathway plans are then further developed within the Family Intervention team. A range of services, voluntary and Trust based, can be accessed. These include: day care; after schools’ clubs; summer schemes; food vouchers; counselling; home visitors who provide home based, practical family support; and parenting classes.

For those at risk of harm/ or having suffered harm, neglect and abuse, and/or where family support services fail to ameliorate concerns and where children are at risk of/have been abused/neglected, the Children Order (Northern Ireland) 1995, makes provision. The Co-operating to Safeguard Children⁷ and the Regional Child Protection Policy and Procedures⁸ give procedural effect to the legislative requirements.

3.2 The 10 principles of Integrated Child Protection systems

- (a) Every child is recognised, respected and protected as a rights holder, with non-negotiable rights to protection.
- (b) No child is discriminated against.
- (c) Child protection systems include prevention measures.
- (d) Families are supported in their role as primary caregiver.
- (e) Societies are aware and supportive of the child's right to freedom from all forms of violence.
- (f) Child protection systems ensure adequate care
- (g) Child protection systems have transnational and cross-border mechanisms in place.
- (h) The child has support and protection
- (i) Training on identification of risks
- (j) There are safe, well-publicised, confidential and accessible reporting mechanisms in place

3.3 In what ways is young children's participation facilitated?

3.3.1 Referral processes

Children can refer themselves to social services but rarely do so. They rely on adults to refer on their behalf. Children do however use Helplines (NSPCC Childline) for example.

3.3.2 Assessment

The use of the UNOCINI assessment framework runs alongside Signs of Safety. There is some evidence and examples of innovative practice (ML Sloan -from the Northern Irish learning event) that indicate that children's views are sought and participation encouraged.

3.3.3 Involvement in formal decision-making processes

Case conferences – it is not known how many children participate in child protection case conferences which consider risk and harm to children

Looked after Child reviews – when the State provides alternative accommodation, they become described as 'looked after' and reviews are held. There is some evidence that older children in particular participate in their review meetings and less evidence for younger children. There is no statistical data base that records participation

Court proceedings – for all children involved in care proceedings, a Guardian ad Litem is appointed. They independently represent the wishes and feelings of the child and gather evidence regarding best interests decisions. In Northern Ireland the agency, known as NIGALA, has worked hard to promote the participation of young children in court proceedings in a variety of ways and to ensure that their views and feelings are fully recorded and the impact of their views and feelings on decision making made clear.

When in care and after care – VOYPIC works with children and young people in care and when they have left care.

Independent visitors and advocates – The law provides for children in care to have access to a person who advocates on their behalf and/or performs the role of an independent visitor. These services are offered through NGO's such as VOYPIC, Extern, NIACRO, BARNARDOS. There is little published evidence in Northern Ireland about how many children access these services and their areas of influence.

4. Issues

If we consider the following questions, gaps can be identified:

- (a) Is the existing model rights-based?
The system proports to be child rights based, but it is difficult to see how and where children have been engaged to help design systems, services and evaluation processes.
- (b) Are children enabled to participate?
There is some evidence that children are encouraged to participate but no accurate regional database regarding who participates, the profile of those who participate, evidence of the impact of their views and feelings on the outcomes of the decision-making processes
- (c) To what extent has feedback from children been collated as part of any monitoring systems?
There is some evidence that children are encouraged to participate but no accurate regional database is indicated above.
- (d) Are there gaps and weaknesses in the system?
Yes, there are gaps with evidencing children's participation, how and where it takes place, by what method and its influence over outcomes, as indicated above.
- (e) Are there particular groups that are not adequately provided for?
We need to know more about how the particular participation needs of young children who are disabled, come from different backgrounds and so on.

Helpful links

Children (NI) Order (1995) <https://www.legislation.gov.uk/nisi/1995/755/contents/made>

The Review of Children's Cases Regulations (NI) (1996)

<https://www.legislation.gov.uk/nisr/1996/461/contents/made>

Placement of children

[The Arrangements for Placement of Children \(General\) Regulations \(Northern Ireland\) 1996](#)

Regulations for foster children

[The Foster Placement \(Children\) \(Amendment\) Regulations \(Northern Ireland\) 2012](#)

[The Children \(Private Arrangements for Fostering\) Regulations \(Northern Ireland\) 1996](#)

[The Foster Placement \(Children\) Regulations \(Northern Ireland\) 1996](#)

[The Placement of Children with Parents etc. Regulations \(Northern Ireland\) 1996](#)

[The Representations Procedure \(Children\) Regulations \(Northern Ireland\) 1996](#)

[The Review of Children's Cases Regulations \(Northern Ireland\) 1996](#)

[Children \(Leaving Care\) Act \(Northern Ireland\) 2002](#)

[The Children Leaving Care Regulations \(Northern Ireland\) 2005](#)

The Children's Homes Regulations (NI) (2005)

<https://www.legislation.gov.uk/nisr/2005/176/contents/made>

Draft Adoption and Children (Northern Ireland) Bill

<https://www.health-ni.gov.uk/consultations/adoption-and-children-northern-ireland-bill>

Cooperating to safeguard

<https://www.health-ni.gov.uk/publications/co-operating-safeguard-children-and-young-people-northern-ireland>

Children and Young People's Strategy 2020-2030

<https://www.education-ni.gov.uk/articles/children-and-young-people>

Children's Services Co Operation Act (Northern Ireland) 2015

<https://www.education-ni.gov.uk/articles/children-and-young-people>

UNOCINI

<https://www.health-ni.gov.uk/publications/understanding-needs-children-northern-ireland-uncini-guidance>

Signs of Safety

<https://www.eani.org.uk/school-management/safeguarding-and-child-protection/e-learning/signs-of-safety-model-for-case>

Northern Ireland Guardian Ad Litem Agency

<https://nigala.hscni.net>

Voice Of Young People In Care

<https://www.voypic.org>

Northern Ireland Commissioner for Children and Young People (NICCY)

<https://www.niccy.org>

Independent visitor schemes

<https://www.niacro.co.uk/independent-visitor-iv-scheme>

<https://www.extern.org/independent-visitor-programme>