



The **Regulation** and
Quality Improvement
Authority

The Regulation and Quality Improvement Authority

**Independent Review of the Governance
Arrangements of the Northern Ireland
Guardian Ad Litem Agency**

March 2013

The Regulation and Quality Improvement Authority

The Regulation and Quality Improvement Authority (RQIA) is the independent body responsible for regulating and inspecting the quality and availability of health and social care (HSC) services in Northern Ireland.

RQIA was established in 2005 under The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 to undertake regulation of health and social services and to drive improvements for everyone using these services.

RQIA provides independent assurance about the safety, quality and availability of health and social care services in Northern Ireland.

As part of RQIA's Three Year Review Programme (2012-15) RQIA has undertaken a review of the governance arrangements of the Northern Ireland Guardian Ad Litem Agency (NIGALA) in respect of delivery of its duties and responsibilities against the Department of Health Social Services and Public Safety (DHSSPS) quality standards framework.

RQIA's reviews are carried out by teams of assessors which consist of experienced practitioners and lay reviewers, who may also be experts by experience. Review reports are approved by the RQIA Board and submitted to the Minister for Health Social Services and Public Safety. Review reports are open documents, accessible to the public and available on the RQIA website.

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Executive Summary

Independent Review of the Governance Arrangements of the Northern Ireland Guardian Ad Litem Agency

The Northern Ireland Guardian Ad Litem Agency (the Agency) is an arm's length body funded by the Department of Health Social Services and Public Safety (DHSSPS). The organisation has a clear mission¹, supported by strategic objectives which are set out in the business plan and in other strategic planning documents.

The Chief Executive is due to retire in March 2013; in addition three of the four Board members will stand down in 2013. The current Chairman was appointed in November 2011. It is anticipated that the fourth position on the Board, which is vacant, will be filled in January 2013. This means that in the immediate future the Board of the Agency will undergo a complete transformation. The current Chairman recognises the need to ensure effective leadership and oversight of the Agency as the Board completes the transformation process. Specific consideration has been given to succession planning for the replacement of three existing Non-Executive Directors, who will complete their second terms in August 2013.

Recent years have seen a steady increase in referrals from the court service which has resulted in the creation of a waiting list. The Agency has responded by securing additional non-recurrent funding until 2014. This has been used to employ additional Guardians Ad Litem. Whilst this additional funding is welcome, it is time limited and brings with it a challenge to ensure that the resource is used to reduce the waiting list and to respond to referrals within an appropriate timeframe. The Agency identified this as a priority issue which would require both a short term resolution and a longer term strategy.

The Agency has a relatively stable workforce. The majority of Guardians Ad Litem are employed directly by the Agency and a small number are self-employed. Guardians are currently employed at Band 8A of Agenda for Change terms and conditions and must have 5 years post qualifying experience. The Agency must consider if the existing grading structure provides the best use of resource and whether it should, over time, consider moving towards a career grade structure.

Stakeholders interviewed in the pre review engagement process said that they found the Agency to be responsive and child centred, placing children at the heart of its work. The Agency advised the review team of its intention to engage effectively with young people to achieve timely feedback. The Agency should review the comprehensive arrangements already in place to ensure that this information and knowledge is put to good effect in planning for the future.

The review team recognised the strategic importance of the Children's Order Advisory Committee (COAC), a multidisciplinary body including representation from the Agency, Court Service (Family Division), DHSSPS, HSC Board and HSC Trusts. COAC provides an inter-agency forum to support the Agency's Board in addressing important strategic issues such as demands on the Agency, the responsiveness of the service and the quality of the contributions made by the Guardians Ad Litem.

¹ Reference Section 4, page 5, paragraph 2.

The review team explored the independence of the Guardians Ad Litem in their decision making, whilst remaining accountable to the Agency, as their employer, for the quality of their work. The existing structures to support the Guardians need to be strengthened to ensure appropriate oversight of the quality of reports prepared for submission to the courts service.

The Northern Ireland Guardian Ad Litem Agency (Establishment and Constitution) Order (NI) 1995, which came into operation in December 1995, made provision in relation to the constitution of the Agency and the tenure of office of Agency members. It is this statute which gives title to the Guardian Ad Litem. The review team believes that the term 'Guardian Ad Litem' is not appropriate for the current age. The DHSSPS should review the statute and consider whether an alternative title such as 'Children's Guardian' may be more meaningful to parents and children.

The review team noted the complex nature of the Agency's complaints policy and procedure. This needs to be revised, taking into account the requirement to make the investigation of complaints as responsive and timely as possible. Whilst complaints are not frequent it is not beneficial to the complainant, or to those who are subject of a complaint, to have to undergo a multi-layered process of investigation.

The Agency uses the Guardian Case Information System (GCIS), an electronic database which allows for timely capture and reporting of the work underway within the Agency. This system generates significant information which would be of benefit to a range of stakeholders including DHSSPS, the HSC Board and trusts to help understand and communicate emerging trends in referrals and for commissioning and research purposes.

The Agency has appointed a Solicitors' Panel from whom solicitors are selected to represent children in court proceedings. This is a relatively new initiative and will be reviewed within a year. The review team recognised the benefit of recruiting solicitors with relevant experience of family law for children and young people. However the Agency needs to keep under review the working arrangements for the Solicitors' Panel to ensure regular dialogue and the resolution of emerging issues.

Table of Contents

1. Terms of Reference	1
2. Methodology	2
3. Context to Governance in Northern Ireland	4
4. The Northern Ireland Guardian Ad Litem Agency	5
5. Findings in relation to NIGALA's Principles of Good Governance	7
5.1 Engaging stakeholders and making accountability real	8
5.2 Performing effectively in clearly defined functions and roles	11
5.3 Promoting values for the whole organisation and demonstrating good governance through behaviour	14
5.4 Focusing on the organisation's purpose and outcomes for citizens and service users	19
5.5 Developing the capacity and capability of the governing body to be effective	25
5.6 Taking informed, transparent decisions, supported by robust financial controls and risk management	32
6. Conclusions	42
7. Recommendations	46
Appendix 1: Update on Capita Review (2004)	49
Appendix 2: Stakeholder Engagement	52
Appendix 3: NIGALA Organisational Chart	53
Appendix 4: References	54

1. Terms of Reference

- I. RQIA will undertake a review of the corporate governance arrangements in place within NIGALA to ensure there is effective leadership, professional and corporate accountability and adherence to NIGALA's six principles of good governance, as set out in the NIGALA Corporate Plan 2010-13:
 - Engaging stakeholders and making accountability real.
 - Performing effectively in clearly defined functions and roles.
 - Promoting values for the whole organisation and demonstrating good governance through behaviour.
 - Focusing on the organisation's purpose and outcomes for citizens and service users.
 - Developing the capacity and capability of the governing body to be effective.
 - Taking informed, transparent decisions, supported by robust financial controls and risk management.

This will take account of the HPSS Quality Standards for Health and Social Care, in particular, Theme 1 Corporate Leadership and Accountability;

- II. In addition to looking at NIGALA's six principles of good governance RQIA will look for evidence of effective implementation of recommendations from the previous Capita review (2004) which relate directly to governance;
- III. Report on the findings and make recommendations as appropriate.

2. Methodology

The methodology for this review was designed to gather evidence, including the views of a range of staff and stakeholders of the NI Guardian Ad Litem Agency (the Agency) in relation to the effectiveness of the 6 principles of good governance, as detailed in the Agency's Corporate Plan 2010-13. The methodology included the following steps.

1. An initial desk top review to examine the context in which the Northern Ireland Guardian Ad Litem Agency was established and the function of the organisation. Lines of enquiry were developed to explore the effectiveness of the corporate governance arrangements and the Agency's interface with key stakeholders. The responses have been used throughout this report to set the scene for the specific issues under review.
2. RQIA requested an update on progress made in relation to the Independent Review of the Northern Ireland Guardian Ad Litem Agency undertaken by Capita Management Consulting², commissioned by the DHSSPS (summarised in Appendix 1). The principal objective of that review was to examine the Agency's management systems, and standards of professional practice, to determine whether they were adequate and operating efficiently. The Report published in March 2004 contained 23 recommendations in relation to governance.
3. A series of interviews was held with Guardians Ad Litem to explore their experiences and perspectives around the 6 principles of governance adopted by the Agency and adherence to these principles in the work of the Agency.

This stage of the review was facilitated by:

Philip O'Hara	Inspector, Children's Team, RQIA
Brian Dornan	Lay Reviewer

4. Interviews were held with a range of organisations which interface with the Agency, including groups representing children and representatives of the Northern Ireland Courts Service (Appendix 2). Each of these interviews followed a semi structured interview approach, using a list of specific questions determined by the RQIA review team.
5. The initial findings were collated and used to inform the lines of questioning undertaken by the RQIA review team during the visit to the Agency. The visit provided an opportunity for the information previously collected to be validated, and for the review team to explore, in greater depth, the effectiveness of the current governance arrangements within the Agency.

² Department of Health, Social Services and Public Safety, Review of the Northern Ireland Guardian ad Litem Agency, Final Report, March 2004

6. This membership of the review team was as follows:

Glenn Houston	Chief Executive, RQIA (Review Team Lead)
Jeremy Gleaden	Principal Officer, OFSTED (Office for Standards in Education, Children's Services and Skills)
Joan Henderson	Inspector, Education and Training Inspectorate (Northern Ireland)
Philip O'Hara	Inspector, Children's Team, RQIA
Theresa Nixon	Director of Mental Health & Learning Disability and Social Work, RQIA
Helen Hamilton	Project Manager, RQIA
Paulina Spychalska	Administrative Support, RQIA

3. Context to Governance in Northern Ireland

Governance is the system by which an organisation directs and controls its functions, and relates to its stakeholders. It is the way in which organisations:

- manage business
- determine strategy & objectives
- achieve objectives

All arms-length bodies sponsored by DHSSPS need to provide assurance that they have an effective system of internal control. Health and Social Care (HSC) has a duty of quality and a legal responsibility to ensure that the services provided meet a required standard. All HSC bodies, including arms-length bodies, must ensure that there are visible and rigorous structures, processes, roles and responsibilities in place to plan for, deliver, monitor and promote safety and quality improvements in the provision of health and social care.

In Northern Ireland there are 22 Controls Assurance Standards which have been developed by the DHSSPS to support the effective governance of HSC bodies. The Governance Controls Assurance Standard³ was launched in 2003/04, as a high-level 'overarching' core standard. It is supported by two additional core standards covering Financial Management⁴ and Risk Management⁵. Compliance with the core standards is mandatory, as they are central to the risk management and controls assurance agenda, and form the foundations of best governance practice.

The Quality Standards for Health and Social Care⁶, developed by DHSSPS, facilitate the regulation of services provided by HSC organisations, arms-length bodies and by the independent sector. The Quality Standards for Health and Social Care contribute to the implementation of clinical and social care governance, and provide a useful framework to assess the quality of care provision.

³ http://www.dhsspsni.gov.uk/cas_2011_governance_pdf.pdf

⁴ http://www.dhsspsni.gov.uk/financial_management_cas.pdf

⁵ http://www.dhsspsni.gov.uk/cas_2011_risk_management_pdf.pdf

⁶ The Quality Standards for Health and Social Care, Supporting Good Governance and Best practice in the HPSS, March 2006

4. The Northern Ireland Guardian Ad Litem Agency

The Northern Ireland Guardian Ad Litem Agency (the Agency) was established in 1996, following the introduction of the Children (NI) Order 1995⁷, as a special agency within the DHSSPS.

The Agency mission statement reflects the core principles set out in Articles 3 and 60 of the Children (NI) Order 1995 'to advise the courts of children's wishes and feelings and to independently represent and safeguard the interests of children in specific public law and adoption proceedings in Northern Ireland'.

The function of the Agency is to safeguard and promote the interests of children by providing independent social work investigation and advice in specified proceedings in respect of the Children (Northern Ireland) Order 1995 and the Adoption (Northern Ireland) Order 1987. The Agency's primary responsibility is to provide effective representation of children's views and interests to the courts during public law and adoption proceedings. The provision of an effective and efficient Guardian Ad Litem Service is vital in bringing independence and objectivity to the task of safeguarding the interests of the child.

The aim of the Agency is to ensure the best possible outcome in all court proceedings for each child.

The strategic objectives of the Agency are:

1. to provide a high quality service to the courts and to the children who are the subjects of specified public law proceedings under the Children (NI) Order 1995 and who are subject of proceedings under the Adoption (NI) Order 1987
2. to ensure the independent representation of the wishes and feelings of the child who is the subject of specified public law proceedings or adoption proceedings and also to ensure the safeguarding and promotion of the child's wishes and best interests
3. to regularly seek the views of users of the service and key stakeholders to improve standards of practice and inform service development
4. to improve service provision by providing the opportunity for continuous professional development and the enhancement of knowledge and skills for all staff members
5. to ensure the efficient and effective management of the service in compliance with the principles of controls assurance
6. to ensure regularity and propriety in the stewardship of public funds
7. to maintain a quality assurance framework based on DHSSPS core standards.

⁷ <http://www.legislation.gov.uk/nisi/1995/755/contents/made>

Role of the Guardian Ad Litem

A Guardian Ad Litem (Guardian) is an independent officer of the court who is experienced in working with children and families. The Guardian is required to represent the interests of the child in court and to report to the court the wishes and feelings of the child regarding his/her circumstances and the preferred outcome to the proceedings:

In particular the Guardian Ad Litem is required to:

- thoroughly investigate the child's circumstances and provide an independent recommendation to the court
- appoint a solicitor to represent the child, unless a solicitor has already been appointed
- instruct the solicitor, unless the child is competent to do so, or unless the child wishes to instruct the solicitor differently to the wishes of the Guardian Ad Litem, and the solicitor considers the child competent to do so
- understand the judicial, legal, social, political and governmental systems affecting the child in achieving the best possible outcome for the child
- assist the court in effectively managing the timetable of the case in order to avoid delay, ensure that the case is heard by the appropriate court, if necessary facilitating transfer
- assess the impact of the proceedings on the child and, if necessary, act promptly to protect the child from further stress or distress
- make a judgment, in consultation with the child's solicitor, about the amount of expert evidence that is necessary, bearing in mind the negative implications of delay
- evaluate the level, timing and the manner of state intervention in the life of the child
- provide a report to the court, of the relevant information gathered during the investigation, and making a recommendation for the court. The Guardian Ad Litem report is a confidential document and the property of the court

The Agency's primary responsibility is to facilitate the establishment, organisation and management of a panel of suitably qualified persons from which a court can appoint individual members to act as Guardians Ad Litem. Most Guardians are employed on a full time basis however a small number of staff are self-employed and work on a sessional basis.

The Agency is an arms-length body of the Department of Health, Social Services and Public Safety. It is managed by a Board which consists of a Chairman and four Board members appointed by the Minister. The Chief Executive is also a member of the Board. Board members are appointed for a period of four years and may, subject to Ministerial approval, serve two consecutive terms of four years duration.

5. Findings in relation to NIGALA's Principles of Good Governance

The following Principles of Good Governance have been adopted by the Agency's Board:⁸

1. Engaging stakeholders and making accountability real.
2. Performing effectively in clearly defined functions and roles.
3. Promoting values for the whole organisation and demonstrating good governance through behaviour.
4. Focusing on the organisation's purpose and outcomes for citizens and service users.
5. Developing the capacity and capability of the governing body to be effective.
6. Taking informed, transparent decisions, supported by robust financial controls and risk management.

This report reflects the progress made in embedding these principles into the Agency's core activities.

This report is structured around the agreed terms of reference; it should be recognised that the findings relate to the Agency as a whole and some have application to more than one of the stated terms of reference. We have, therefore, placed the recommendations within the specific section of the report where we feel they are most relevant.

⁸ NIGALA Corporate Plan 2012-13

5.1 Engaging stakeholders and making accountability real

The Agency's primary responsibility is to ensure that the child's voice is heard within the court setting.

This principle is about having a constructive dialogue with each of the Agency's stakeholders, and being able to understand and manage the tools and methods by which the Agency can interface directly with its external environment. This principle is also about maximising public accountability for what the Agency does and how it allocates resources.

The Children's Order Advisory Committee (COAC)

COAC is a multiagency group chaired by a senior judge in the Family Division. COAC includes representation from the Agency, the judiciary and HSC Trusts. COAC provides an important forum for consideration of key issues impacting on the progression of cases through the courts. It is an influential committee which can influence systems and processes and is a network by which matters of strategic importance to the Agency can be aired and resolved. COAC has established a task group to examine the reasons for delays in care proceedings. The average time for care proceeding in Northern Ireland is currently 55 weeks; this is comparable with England and Wales where there is an average of 51 weeks⁹ for care proceedings. The ability of the task group to reduce the average time to complete care proceedings will depend largely on the effectiveness of the task force established to follow up on the actions required. There is a need to ensure that all parties are receptive to and supportive of the need for change. As planned changes in the leadership of the Agency take effect in 2013, it will be important for the Agency to sustain and build on the essential links with the judiciary and with the court service.

The Chief Executive of the Agency described having developed an effective working relationship with members of the judiciary which is helpful in keeping them advised of the issues facing the Agency. The review team acknowledged the importance of this relationship and believed it was an important factor in facilitating effective communication between the Agency and the wider family justice system in Northern Ireland.

Feedback from Stakeholders

The review team explored the arrangements in place to seek opinions and obtain feedback from people about the quality of the work of the Agency. Board members referred to the information in the annual report which includes a section on stakeholder feedback, including an evaluation of the Agency by 11 members of the judiciary and a survey completed by 77 solicitors, the results of which are almost 100% positive.

In the pre-review engagement with Guardians Ad Litem they outlined how they communicate with individuals and organisations who make use of the service. Guardians identified their main stakeholders as children, courts, HSC Trusts, parents and solicitors. Communication tends to be through face to face contact, by letter or by text and e-mail. Increasingly, young people use text messaging to

⁹ HMCS Data: Age at disposal in Family Proceedings Courts (FPCs) January - June 2005

communicate with Guardians, and parents prefer to text, related to the increasing reliance on 'pay and go' mobile phones. Most parents respond to text messaging and are less likely to make or respond to phone calls, which are more expensive. Maintaining contact with parents is an important aspect of the Guardian's role not only in respect of the on-going management of individual cases, but also in seeking feedback on performance. Section 5.4 of this report provides further evidence in respect of feedback from children and young people and the role of the Voice of Young People in Care (VOYPIC) in assisting the Agency in obtaining their views.

The Assistant Directors at the Agency attend the family court business committees, which include representatives of the judiciary, solicitors, HSC Trusts and court service officials. Agenda items are agreed in advance which ensures that important matters are addressed and the outcomes are communicated to the Guardians. Guardians indicated that when complex issues arise which can be difficult to resolve, the Agency could be more effective in addressing their concerns to the courts.

Members of the judiciary have indicated that, on occasions, reports prepared by Guardians are too long. This concern was mirrored in the pre-review engagement with members of the judiciary. Whilst there has also been positive feedback from the judiciary on the content of court reports, they expressed a desire to have the Guardians' recommendation on how a case should proceed clearly articulated and succinctly stated. Judges and magistrates have also requested that Guardians' reports summarise key points rather than repeat information already provided in social work reports.

Guardians stated that they had changed the format of their reports in response to this feedback. They now report specifically on matters of disagreement with the trusts' recommendations or findings; this has reduced duplication and assisted the courts in reaching balanced and informed decisions. The Guardians stated that they may provide supporting documents and refer to them without repeating the content.

Whilst accepting the desire for shorter reports the Agency outlined the difficulties this presents, citing the need to provide a comprehensive assessment in the best interests of the child, particularly if the social worker's report does not adequately cover all areas under consideration. Guardians are required to evidence the work that has been undertaken with children prior to reaching a recommendation. Guardians must make sure that all relevant matters are brought to the court's attention, so that the best interests of the child or young person are properly reflected in the outcome of the proceedings. Some Guardians indicated that time management could be further improved to facilitate more time for direct engagement with children which would enable Guardians to obtain a better understanding of the family dynamic and social circumstances, especially in complex cases.

The Agency has established a training programme with Queen's University Belfast (QUB) in relation to critical thinking and the importance of analysis in report writing. Guardians who were involved in this training had differing views on how useful this had been. There had been an understanding that QUB would review the

effectiveness of the training, seeking feedback to assess the impact on current practice but Guardians reported that the planned evaluation has not been completed. Given the importance of training for the Agency, and for individual Guardians who participate in training, it is important that the joint programme with Queen's University Belfast is subject to a robust evaluation. This would help to inform future training programmes, taking account of the feedback from participants.

Recommendation 1:

NIGALA should continue to engage directly with the multi-agency Children Order Advisory Committee (COAC). NIGALA should work with COAC to identify and address issues of common interest and concern, reduce waiting lists and maximise response times for the care pathway, ensuring that proceedings are expedited in a reasonable timeframe.

5.2 Performing effectively in clearly defined functions and roles

This principle is about ensuring all Agency staff, Board members and self-employed contractors are clear about their own roles and responsibilities and those of others, and behave in ways that are consistent with those roles. They should understand how their role fits within the organisational structure and how their responsibilities contribute to the overall objectives of the organisation. The Agency's functions should be clear and everyone should understand the role the organisation plays within the family justice system in Northern Ireland.

The Agency's Board has overall responsibility for ensuring this principle is reflected in the work of the Agency, through the remit of Board committees, corporate and business planning processes, and through policy formulation.

The Guardian Ad Litem Agency

The term 'Guardian Ad Litem' is derived from the Guardians Ad Litem (Panel Regulations) (NI) 1996. The review team considered that the term Guardian Ad Litem conveys little or no meaning to children and young people who are the main users of the service. This view was widely shared by staff from the Agency, key stakeholders and by the Guardians. The review team was advised of an opportunity to review the title of the Agency as part of a wider review of the panel regulations. The review team would endorse the need to change the title of the Agency to one that will resonate more appropriately with a child or young person accessing its services and with the wider community.

Strategic Leadership

The Agency is undergoing major change at both Board and senior management levels. The Board of the Agency currently comprises a Non-Executive Chairman, four Non-Executive Directors and an Executive Director. Non-executive Board members are appointed through the public appointments process by the Minister. The Northern Ireland Guardian Ad Litem Agency (Establishment and Constitution) Order (NI) 1995 provides that the members shall be appointed for a period of four years.

The Chairman is a relatively new appointment (October 2011), having just completed the first year of his four year term of office. The tenure of three Board members will end in August 2013 and the fourth position, which was vacant at the time of the review, will be filled in January 2013. This new Board member will bring financial expertise to the Board.

The Chief Executive is due to retire, and a recruitment process is underway. It is intended that the successor will be from a professional social work background, as social work practice is at the core of the business of the Agency.

Consideration has also been given to Board membership and the Agency has indicated that it will want to ensure that all four Non-Executive Director positions (plus the chair) are filled, thus increasing skill mix at Board level. It is critical that a programme of induction and appropriate skills training is provided to all new Board members on appointment.

The senior management structure consists of an Executive Team made up of the Chief Executive and three Assistant Directors, a Quality Assurance and Training Manager and Corporate Services Manager. Guardians reported that there is good communication and feedback from management, but demands on time mean that line managers don't always get the opportunity to share information with Guardians. Staff meetings have been replaced by locality meetings, which are seen as more inclusive and participative.

Assistant Directors are in regular contact with staff and are described as accessible and approachable. The Chairman, on taking up his appointment, visited all staff in the Agency. In addition, the Guardians described themselves as competent in representing their views on matters of strategic and operational importance.

The Agency recognises the need to ensure effective leadership and strategic oversight of its core functions and legislative responsibilities.

Corporate Governance

The Agency's management team has a collective responsibility for ensuring effective performance in respect of clearly defined roles. In 2012 the Agency retained substantive compliance with the controls assurance standards for governance, risk management and financial management. The Agency provided evidence to the review team of the assessments, carried out in 2011/12 against the controls assurance standards, requiring substantive compliance including the three core standards. This was also verified by an internal audit report completed in April 2012 which stated that NIGALA has met the DHSSPS requirement for substantive compliance.

The Board operates a committee structure which consists of four committees as follows:

- Audit Committee
- Remuneration Committee
- Social Care Governance Committee
- Information Governance Committee

This structure is described in the NIGALA Board governance manual which was implemented in October 2012. The governance manual includes reference to the Agency's corporate governance and accountability process, code of conduct and accountability for Board members and the supporting systems and policies. The committee structure is an important aspect of the overall governance framework. The NIGALA Board should review the governance framework at regular intervals to make sure it remains fit for purpose.

Reports from individual committees are presented to the Board by the chair of the respective committees. A corporate governance manual identifies the key components of the governance structures. This provides a common understanding of the framework of corporate governance for all staff. The Board receives additional monitoring information in respect of areas of specific concern, for example, in respect of management of the waiting list.

DHSSPS holds regular accountability meetings with the Agency which are attended by the Chairman, Chief Executive and the four Non-Executive Directors. This ensures the involvement of the Non-Executive Directors in the strategic oversight of the organisation and provides an opportunity for Board members to engage directly with the relevant policy group at DHSSPS.

The Agency's Corporate Services Manager has been awarded the CIPFA certificate in corporate governance and has contributed to the recent development of a corporate governance manual. This has facilitated Board members in bringing constructive challenge to meetings with the senior management team thus ensuring the best interests of the Agency are met.

The review team explored recent changes made in the Agency's corporate governance arrangements. Board members and executives have convened in workshop format to consider key strategic issues which have informed the building blocks of the corporate business plan. Specific consideration has been given to succession planning for the replacement of three existing non-executives, who will complete their second terms in August 2013.

Two Guardians Ad Litem have been nominated to participate on the social care governance committee, but at the time of the review one place was vacant.

Recommendation 2:

Consideration should be given by DHSSPS to changing the name of the 'Guardian Ad Litem' and the title of the organisation 'Guardian Ad Litem Agency' to make the role and purpose of the Guardian and the Agency more meaningful to children and young people.

Recommendation 3:

A programme of induction and appropriate skills training should be provided to the new Board members, including the new Chief Executive who will commence in 2013.

5.3 Promoting values for the whole organisation and demonstrating good governance through behaviour

This principle ensures all staff, Board members and self-employed contracted Guardians Ad Litem are aware of the Code of Conduct and understand the Nolan Principles¹⁰ and their practical application in the Agency context. The Agency has communicated its corporate values and principles, as outlined in the corporate governance manual and business plan and seeks to embed these within the wider organisation.

The Agency has overall responsibility for oversight of this principle and for ensuring it is reflected in the remit of Board committees, corporate and business planning, and policy formulation. It also has responsibility for overseeing good governance within the Agency and ensuring that reputation is not impugned.

Responsibility for operational delivery is delegated to the Chief Executive and management team. The management team has a collective responsibility for promotion of the organisation's principles and the promotion of good governance through appropriate behaviour.

Each line manager has a responsibility to ensure that all staff are following Agency policies and that appropriate behaviours are being portrayed as part of each staff member's role.

Complaints

Complaints are dealt with under the Guardians Ad Litem (Panel) Regulations (Northern Ireland) 1996¹¹ which requires the Agency to have a two stage process, incorporating local resolution (stage 1), and detailed investigation (stage 2).

The Complaints Board comprises 3 external members (one from health and social care, a clerk of petty sessions and one of whom shall be a person who is neither an officer nor a member of the Agency or of a Health and Social Services Board or of a Health and Social Services Trust). The Complaints Board will consider representations from both the complainant and from the respondent before making a determination regarding the complaint. The Agency is not bound by the recommendation of the Complaints Board but should not make a decision on a matter referred to a Complaints Board before taking into account its recommendation. If the complainant remains unhappy with the outcome they can appeal the decision.

The total number of complaints in any given year is relatively low. Complaints tend to centre on the outcomes of court proceedings. In 2011/12 the Agency dealt with three complaints all of which were referred to the Complaints Board. Two were resolved following initial investigation and one at initial mediation.

The Agency can only address a complaint once legal proceedings are concluded.

¹⁰ <http://www.public-standards.org.uk/>

¹¹ <http://www.legislation.gov.uk/nisr/1996/128/contents/made>

An appeal will revisit the decision making process, but will not reopen the original investigation. A complaint may also be referred to the Ombudsman, if the person bringing the complaint remains dissatisfied and believes that maladministration may have occurred.

Whilst the number of complaints is relatively small, the investigation of a complaint can be stressful, both for the complainant and for the individual who is the subject of the complaint. It is important that complaints are investigated in accordance with the Agency's policy and procedures and that staff members whose practice may be the subject of a complaint are provided with the necessary support, both during and after the investigation.

The current complaints policy dates from 2009. There is currently no standing complaints panel in situ; this is constituted on an ad hoc basis, as and when required. This is unlikely to result in a consistent approach to complaint investigation and resolution.

The Agency is aware of the need to revise the complaints policy, and a proposal to that effect has recently been brought to the Agency's Board.

Policies and Procedures

The Agency was asked to provide evidence of the policies and procedures in place to support its corporate governance arrangements. The Agency has policies in place covering a range of areas such as user involvement, supervision, appraisal, staff accountability, hospitality and gifts, fraud, code of conduct and whistleblowing. The existing suite of policies should be revised and updated and any policy gaps identified should be addressed.

Some Guardians Ad Litem described the current comments, compliments and complaints policy as cumbersome and expressed a concern that this policy may not be applied consistently. Guardians expressed the view that adherence to the standard operating procedures would ensure a consistent approach to implementation of this policy

The Agency had completed a consultation on the escalation of risks policy and the comments, compliments and complaints policy, both of which were due for approval by the Agency's Board in October 2012.

The Agency advised that all draft policies are subject to formal consultation and are issued via the electronic metacompliance system for a six week consultation period. Consultations on policy changes are also drawn to Guardians attention at staff meetings and the Agency has a formal joint consultative forum with the trade union to consider and agree the content of all draft policies. The metacompliance system is a relatively recent development, to ensure that responses are received from all staff. Some Guardians' stated they would complete an acknowledgement without having read the draft policy, due to other more immediate priorities, and deadlines, therefore its benefit should be reviewed in consultation with staff. Guardians stated that training would help them to understand the implications of applying policies to current practice.

Professional Autonomy and Accountability

The review team was interested in understanding the system of management oversight and quality assurance of Guardians Ad Litem reports, before they are sent to the courts. The Guardian is an independent officer of the court and the review team found that the issue of accountability to the Agency, in terms of the quality of court reports, and the quality assurance process is unclear. The Guardians advised that no-one checks or edits reports before they are sent to the courts.

The review team was advised that whilst the Agency cannot interfere with the Guardian's assessment and professional judgement in respect of an individual case, Assistant Directors can and do offer advice and guidance, when requested, in respect of a complex issue. Guardians stated that as they become more experienced they are expected to be solely responsible for the reports they produce, however the review team remained concerned that no system existed to assure the Agency that all reports filed with the court were of a sufficiently good standard.

Guardians stated that if an Assistant Director on behalf of the Agency wished to look at a particular report, they would have the ability to do so, as all reports are saved on an electronic case management system. Guardians advised that if a report was not of an adequate standard they would be subject to challenge from the judiciary and that the judiciary would also contact the Agency to highlight inadequacies in court reports. However this would be following the proceedings, meaning any deficits in Guardians' practice would not be addressed in advance which, ultimately, could have an impact on the best interests of the child.

If a Guardian seeks support from their line manager in respect of a draft report or a complex case, the Assistant Director/line manager can, for example, identify issues which may arise in court. The Assistant Director may also encourage the Guardian to consider other options. They cannot, however, direct a Guardian to recommend to the court a specific option as a preferred way forward. The Assistant Director may signpost the Guardian to other more experienced staff with specific knowledge or expertise in complex cases. The review team is concerned that this approach to professional accountability risks failing to ensure that all social work practice meets minimum standards as described in Northern Ireland Social Care Council Codes of Practice.¹²

The Agency relies upon a system of quality assuring cases which have had a final hearing, utilising formal supervision and appraisal processes. Assistant Directors have access to information on live cases from the Guardian Case Information System (GCIS) system, but do not quality assure or exercise professional oversight of the approaches taken by individual Guardians in a live case. The review team was concerned that the current approach to supervision does not facilitate quality assurance of live case reports. While the Agency feels it is important to avoid any perception of possible interference with the independent position of the Guardian in live proceedings, a failure to assure the quality of court reports prior to filing risks the Agency failing to identify and remedy work that does not meet established

¹² Northern Ireland Social Care Council Codes of Practice for Social Care Workers and Employers of Social Care Workers (September 2002)

professional social work standards. The current practice of quality assuring a sample of court reports retrospectively risks the unintended outcome that deficits in practice, which could impact on the best interests of children, are only addressed after the court has concluded its deliberations.

An Agency standard requires that when a case is closed it must be closed on the GCIS system within 3 days; case notes must also be completed and handed in within 3 months. There is an expectation that case recording is accurate and kept up to date. It was reported that currently all case files are reviewed once closed. The Guardian is asked to respond to specific questions relating to quality assurance. The Quality Assurance and Training Manager reviews each closed file, focusing on the report format, content and punctuation.

Guardians stated that they are primarily accountable for their decisions to the courts but would acknowledge that they are also accountable for their practice to the Agency. The review team recognises that there is an important distinction between the independence of the Guardian in arriving at a determination and recommendation in respect of an individual case and the employer's duty to quality assure systems and processes, including the quality of court reports prepared by individual Guardians as employees of the Agency. In a recent court ruling¹³ the judgement established that in the event of a disagreement between an individual Guardian and the authority, in this case Children and Family Court Advisory and Support Service (CAFCASS), the issues should be placed transparently and fairly before the court and the court's decision on them invited.

Solicitors' Panel

The Agency recently recruited a Solicitors' Panel to represent the Agency in court proceedings (an action commended by the access to justice report)¹⁴.

Previously the Agency had relied upon the Law Society Children Order Panel. The main criterion for appointment to the Solicitors' Panel included previous experience of family law and membership of the original Children Order Panel. The Agency wished to be confident of appointing solicitors who have relevant and recent experience of family law and wished to build effective professional working relationships with the solicitors appointed to the new panel.

The Agency plans to convene workshops and joint training initiatives with members of the new panel. The Agency is also revising its procedure for the appointment of solicitors to individual cases. A reference group will be set up with joint membership of Guardians Ad Litem and solicitors to build a collaborative approach to issues of mutual interest and concern. The reference group will coordinate feedback from solicitors and from Guardians in an effort to improve systems and processes in the best interests of children and young people.

The Agency stated that the Solicitors' Panel will be reconstituted no later than April 2015, although the NIGALA reserves the right to discharge the panel and reconstitute it at any time and by whatever means it considers appropriate. It also recognises the need for an interim evaluation after the first year of existence. The

¹³ County Council v K & Ors (By the Child's Guardian HT) [2011] EWHC 1672 (Fam)

¹⁴ Access to Justice Review Northern Ireland Report, August 2011

Agency has already identified a potential area for review around adequate geographical spread, with some districts having fewer solicitors available. Another important issue that will need to be evaluated during the first year of implementation is the system of redress when work is not of a sufficient standard.

Recommendation 4:

NIGALA should keep under review the format of court reports to make sure they are sufficiently analytical and provide only relevant information in a format which is both succinct and proportionate to the complexity of the case. NIGALA should introduce a system of quality assuring live court reports produced by Guardians Ad Litem.

Recommendation 5:

The NIGALA complaints policy and procedure and the associated Panel Regulations should be revised to bring the process of complaint investigation and resolution more into line with the HSC framework for the investigation of complaints.

Recommendation 6:

NIGALA should ensure that whenever existing policies are due for revision that staff are consulted about proposed changes and have an opportunity to suggest amendments, and that awareness sessions are available to staff, once the revised policies and procedure has been approved by the NIGALA Board.

Recommendation 7:

NIGALA should undertake an internal in-depth evaluation of the effectiveness of the Solicitors' Panel after its first full year of operation and outline the improvements/developments for the children and young people.

5.4 Focusing on the organisation's purpose and outcomes for citizens and service users

This principle is about ensuring that the organisation's core values, corporate and business plans and objectives remain focused on Ministerial and Departmental requirements. It is also about ensuring that appropriate mechanisms are in place to obtain robust feedback on outcomes from service users and using that feedback to secure improvements.

The Agency's Board has overall responsibility for oversight of this principle and for ensuring it is reflected in the remit of Board committees, corporate and business planning and also policy formulation. Responsibility for operational delivery has been delegated to the Chief Executive and team.

The Agency has a responsibility to provide an efficient and effective service within an inter-agency and multidisciplinary environment including the judiciary, HSC Trust social workers, solicitors, barristers and expert witnesses.

The Agency's management team has a collective responsibility to ensure the best outcome for children in adoption and public law proceedings. Each line manager has a responsibility to ensure that staff understand their specific responsibilities when working with children, families and other agencies as part of the family proceedings system.

Public Participation; Feedback from Children and Young People

Guardians Ad Litem outlined the processes in place to secure feedback from children. They indicated that responses are recorded on the GCIS system. Whilst children are asked for feedback they do not always wish to participate. An Assistant Director holds specific responsibility for feedback and the outcomes are reflected each year in the Agency's annual report.

The Board indicated that feedback from children and young people is important to the Agency. The Voice of Young People in Care (VOYPIC) has been engaged to assist in obtaining views and feedback. The Agency has a service level agreement with VOYPIC as part of its service evaluation system. The Agency provides contact details of any young person who wishes to complete an evaluation; a VOYPIC staff member provides advice and support in assisting the child or young person to complete the survey, either online or in hard copy. The survey software and data is supported by the Viewpoint¹⁵ system which enables the Agency to produce reports on the feedback obtained. As an incentive to participate in feedback, children and young people completing the survey are given a gift voucher (£10), funded by the Agency. During feedback, should a child or young person raise any safeguarding concerns VOYPIC would implement the appropriate child protection procedures. Some Guardians commented that delays in seeking feedback can result in the child or young person becoming less motivated and felt that a better response rate would be achieved if the request for feedback was timed more appropriately.

¹⁵ Viewpoint online consulting and consultancy software, <http://www.vptorg.co.uk/>

The Agency described how feedback is used to improve performance. A special interest group of Guardians, the Children's Participation Group, has been established to look at the effectiveness of the tools used to obtain feedback, with a view to ensuring that children feel listened to and understood.

During feedback some young people expressed uncertainty about how their wishes and feelings are conveyed to the court within the Guardian's report. The Agency stated that it intends to introduce a child friendly report tool, for children who are old enough to understand the process, to have sight of the relevant section of report.

VOYPIC has facilitated a children's participation group to consider the views of young people using the Guardian Ad Litem service. Feedback from this group helps to improve future practice. However, this task is not without difficulties, as children and young people may be reluctant to engage. However, the review team considered that it is important to engage directly with children and young people who are subject to care proceedings, and would encourage its continuation.

The Agency invited VOYPIC to identify two young people who had experience of being in care to be members of a recruitment and selection process for the Solicitors' Panel. This was a significant commitment and feedback from the young people was very positive. The Agency stated that this brought added value to the selection process, in particular with regard to the solicitors' interpersonal skills as they engaged directly with the young people during the evaluation process.

In September 2012, the Agency co-hosted an international conference with the theme of young people's participation in family proceedings. The Agency invited young people with experience of care to share their views on participation and to bring these to the attention of a wider audience.

The review team concluded that a reference group involving children and young people would be advantageous in seeking views on a range of relevant issues, including service delivery. Such a group would help to ensure that the views of children and young people are used to inform planning as the Agency moves forward. The Children and Family Court Advisory and Support Service (CAFCASS) in England has established a Young People's Board to give young people a direct say in how CAFCASS is run and on the service it provides to children, young people and their families. The young people on the Board have direct experience of both CAFCASS and the family courts, having either been through divorce or separation, having lived in care or having been adopted. They offer their views into the ways in which CAFCASS can develop, for example, helping to shape CAFCASS's response to the Family Justice Review consultation and have helped to deliver training to CAFCASS staff. The review team recognised the challenges of constituting such a group and while the Agency explained that they felt they could best manage these difficulties by inviting VOYPIC to obtain the views of children who have been in contact with a Guardian, further consideration of a young people's group may still be of value in the long term.

Added value of the Guardian Ad Litem

The review team considered the 'added value' that the Guardian Ad Litem brings to adoption and family law proceedings. The role of the Guardian is to be child focused and to bring challenge where challenge may be in the best interests of the child. Guardians are uniquely placed to identify additional or alternative interventions which may result in a better outcome and improve the longer term life chances for the child.

The involvement of independent expert witnesses in family law proceedings tends to be expensive and can delay the decision making process. The Guardian may determine the need to involve additional expertise; however the final decision on the necessity for an expert witness must lie with the court. Guardians indicated that if an expert witness is to be engaged it is often the Guardian who must formulate the relevant questions and letter of instruction, and the outcome of the case can depend on the expert's responses and recommendations.

Request for engagement of expert witnesses may also come from the legal teams representing the interests of parents, particularly where parents do not agree with the case direction from the Guardian. This can result in delay in bringing matters to a satisfactory conclusion.

Guardians commented that assessments undertaken by HSC Trust staff before proceedings commence may not be considered appropriately completed or up to date by the court, which may result in these assessments having to be repeated, thus prolonging proceedings. The Agency expressed the view that the Guardian should become involved in family law proceedings at an early stage and that a single evidence based initial analysis report, providing direction, should be submitted to the court. It is important that Guardians can challenge care plans that do not set out a sufficiently clear pathway for the child for the foreseeable future. If trusts' assessments are deemed to be of poor quality and creating a delay in proceedings, this matter should be brought to the attention of COAC in order that delay can be avoided.

It is anticipated that Guardians will be expected to provide expert advice to courts if use of expert witnesses is diminished in the future. Guardians therefore need to ensure that their knowledge of research and evidence based practice is up to date in relation to different approaches and interventions in terms of the needs of the child. If Guardians can clearly cite the extent of their body of research evidence in court reports, this should help Guardians to challenge the need for further expert opinion. If however, an expert opinion is requested, the judiciary will be better placed to identify the specific aspects of the care plan requiring expert consideration.

Guardians informed the review team that increasingly they are being asked to manage and direct cases, taking on the responsibility for co-ordinating the timescales of the case. The Agency is considering the use of evidence based pathways, with a view to reducing the timescales for care proceedings. There are occasions when differences of opinion do emerge, particularly when the judiciary directs an intervention which the Guardian may not consider necessary or appropriate. If a Guardian's input is continuously questioned without reasonable

justification, the Guardian is encouraged to bring this to the attention of the Agency. In such circumstances the Agency will raise the matter through the appropriate channels in an attempt to have the matter resolved to the mutual satisfaction of all parties.

Delays in proceedings

Guardians Ad Litem advised the review team that delays tend to be prevalent in relation to residential assessments, as residential centres have long waiting lists. Guardians felt that more assessments could be carried out by social workers in the child's own home but they recognised that social workers are often reluctant to do so, particularly where there are significant concerns in respect of safeguarding and child protection matters.

Guardians identified use of specialised residential assessment centres outside Northern Ireland as a cause of additional delays in care proceedings. Arrangements need to be made for the child or parents to move to and reside in these units. Specialised assessments need to be approved in advance, placements sourced and travel arrangements confirmed through social services, resulting in many additional factors which need to be taken into consideration when arranging such assessments.

Guardians indicated that children often spend a considerable length of time in a temporary foster placement. Guardians felt strongly that, in order to minimise delays, there should be more dual approved foster placements for children i.e. foster carers recruited and trained to be able to both potentially become the child's adoptive parent while still having the skills to return the child home if that is the outcome of the proceedings

Delays in completing care proceedings were also discussed with administrative staff. Legal aid forms always have to be signed by the specific Guardian assigned to the case. However, the Guardian may not be available to come to the office to sign the forms. As an alternative, administrative staff have suggested that Assistant Directors could sign the forms on behalf of the Guardian. This proposal is currently receiving due consideration.

Guardians indicated that another way to address delays could be to move towards consolidated proceedings, where a placement for a child is to be made permanent through adoption. Trusts are reluctant to consolidate proceedings, where separate social work teams are dealing with the care order and the freeing proceedings nevertheless Guardians may recommend consolidation when this is an option, and the court may agree this approach.

The Agency noted that in England and Wales the Children and Family Court Advisory and Support Service (CAFCASS) and CAFCASS Cymru have adopted a different approach to public law cases with a view to shortened proceedings, but Guardians expressed a desire to retain the existing approach in Northern Ireland. Guardians recognised that if the workload continues to increase a different approach will be required. Guardians qualified this by stating that any such change should continue to uphold the principle that the welfare of the child is paramount.

Redefining the role of the Guardian Ad Litem

The role of the Guardian Ad Litem is enshrined in legislation but the Agency has indicated that a proposed review of the Children (NI) Order 1995 may enable a parallel review of the role of the Guardian Ad Litem.

The Family Justice Review¹⁶ states that children's interests are central to the operation of the family justice system. The review reaffirms a commitment to delivering the best possible outcomes for children who come into contact with the family justice system, with a particular focus on reducing delay. The review team acknowledges that a delay can significantly impact on the life experiences for the child, for example a child who is 18 months old at final hearing, which has taken 55 weeks to resolve would have been waiting more than half their life for a decision about securing their future permanency.

The Agency continues to see changes in terms of demographics, with a notable increase in the number of non UK nationals who require access to a Guardian. This brings additional pressures such as providing translation and working with interpreters.

Overall growth in demand is likely to become increasingly problematic in the future. The Agency intends to address this in part by redefining the role of the Guardian. The Case Management Guide¹⁷ states that the Guardian should do whatever is required for the child; however, expectations need to be managed in a realistic and balanced way, in line with the resources available.

A paper outlining proposals for refining the role of the Guardian in public law proceedings within the current statutory definition was recently presented to the Agency's Board. The paper sets out a proposed strategic change in the role of the Guardian. The Agency recognises that it must work in partnership with other agencies to ensure that all parties understand and subscribe to the proposed role redefinition and to encourage collaborative working practices in order to obtain the best result for the child.

Whilst the Agency recognises the importance of re-defining roles and responsibilities, it accepts that this must be undertaken as part of a wider review of the family justice service in Northern Ireland. In the meantime, the Agency must continue to work to its existing mandate.

The Agency is willing to embrace change which is achievable within its current mandate and would have a positive impact on the quality of the work undertaken by Guardians Ad Litem, reducing delays and improving outcomes for children.

¹⁶ Access to Justice Review Northern Ireland Report, August 2011

¹⁷ Public Law Outline, Guide to Case Management in Public Law Proceedings, April 2008

Recommendation 8:

NIGALA should continue to maintain a focus on communicating findings and recommendations of the Guardians Ad Litem to children and young people, using age appropriate materials and publications.

Recommendation 9:

The DHSSPS should establish an inter-agency working group to consider the future role of the Guardian Ad Litem in both private and public law cases in Northern Ireland.

5.5 Developing the capacity and capability of the governing body to be effective

This principle is about how the Agency has developed an effective governance framework as a means of ensuring that governance arrangements are fit for purpose and which supports the organisation in the effective achievement of its objectives.

The Agency's Board has overall responsibility for oversight of this principle and for ensuring it is reflected in the remit of Board committees, corporate and business planning and policy formulation. The Board has responsibility for ensuring that the Agency functions as efficiently and effectively as possible, within the HSC and in the context of the wider public service environment.

Responsibility for operational delivery is delegated by the Board to the Chief Executive and management team. The management team has a corporate and collective responsibility for the development of the capacity and capability of the Agency to be an efficient and effective organisation.

Staffing Structure

The Agency was established in 1996 and over the intervening years has developed a workforce of 72 staff, including 51 Guardians Ad Litem (8 self-employed), 6 managers and 15 administrative staff. During the past year additional non recurrent funding was provided allowing 6 new Guardians to be recruited. The funding is provided until 2014 on a non-recurrent basis. A copy of the Agency's organisational chart is attached at Appendix 3.

Staff Induction

The review team explored the arrangements in place for induction of new Guardians Ad Litem. The Agency outlined the induction programme which had wide coverage of a number of relevant areas including the role and purpose of the organisation, information governance, IT skills, and records management sessions. Induction also includes sessions with other Guardians and with line managers.

In relation to the application of information technology the Agency has implemented an integrated case management system (GCIS) where care records are instantly updated at the point of contact.

Newly appointed Guardians are advised that the Agency has a standard report template to reflect each type of proceedings. They have access to peer support and are able to view sample reports on an anonymised basis. The Agency has a mentoring scheme for newly appointed Guardians which includes peer support from other Guardians who have knowledge and expertise in particular areas. The availability of peer support allows newly appointed Guardians an opportunity to seek advice and guidance from colleagues regarding the role and responsibilities of being a Guardian, and helps provide clarification of the boundaries within which they must operate.

The Agency stated that the induction process introduces new staff member's to the organisation's core values and the principles underpinning professional practice.

Staff are made aware of the Agency's policies and procedures during induction and are encouraged to attend court, with their peer mentors, to experience court proceedings at first hand. Feedback from the courts is used to provide Guardians with guidance on presenting reports and responding to questions from court officials, including from the judiciary.

Supervision

The Agency described a system of on-going professional development and learning, managed via the supervision and appraisal process. These systems are in place for all staff, including managers, administrative staff and Guardians Ad Litem.

While it is for the Guardian to independently represent the best interests of the child within proceedings, it is reasonable and appropriate for the Agency to quality assure professional practice which underpins decision making.

Guardians are regarded as 'independent' but regular supervision is accepted as an integral aspect of effective oversight of the work of the Agency. Professional supervision is provided by Assistant Directors employed by the Agency. Newly appointed Guardians receive monthly supervision, which changes to quarterly once the Guardian is established in post. The Agency's supervision policy (March 2004) sets out the purpose and principles of supervision and describes the duties and responsibilities of the supervisor and supervisee. The policy states that supervision has four core functions: management, education, support and mediation. Supervision within the Agency must be conducted so that within each of the four functions the professional independence of the individual practitioner is not unduly influenced by the supervisor. Whilst the policy makes provision for discussion of all open cases the review team was advised that Guardians are not expected or required to discuss live cases, and Guardians confirmed that supervision is not directive.

Supervision must be structured in a way which ensures that the Agency recognises and supports the principle that the Guardian has an independent voice within proceedings. At the same time, supervision must also be effective in holding individual Guardians to account for their professional practice and performance, and in maintaining the integrity of the performance of the Agency as a whole.

Supervision enables the Assistant Director to be kept informed of the workload that each Guardian is carrying. Supervision provides an opportunity to advise, guide and support Guardians when dealing with difficult or complex issues. The Assistant Director also plays an important role in providing feedback from courts on procedural matters, and matters of law, which helps ensure clarity of roles in respect of individual cases. A formal record of each supervision session provides a summary of the key issues discussed.

Supervision can help the Agency to reach an informed view of the current issues emerging from the entire caseload which will assist in the identification of training needs and help to shape the training programme for the Agency as a whole.

Guardians told the review team that in addition to formal supervision they rely on peer support on a regular basis. However, Guardians feel that the nature of their job means it is sometimes difficult to participate in peer support. Others described occasions when they were too busy to offer peer support, and expressed a concern that they were not always available to do so. Remote workers are less able to access peer support and believed that this was a disadvantage. However, professional development groups are considered to be beneficial in providing emotional and practical support for those who participate.

Guardians have access to other forms of support. The Assistant Directors adopt an open door policy, and are accessible to support Guardians in difficult and complex matters. This includes an opportunity for Guardians to debrief on complex cases.

Guardians described supervision as a means of ensuring best outcomes for children. They are encouraged to reflect on individual cases, the opinion and the ethical and legal dilemmas in each case, and how the learning could be usefully applied to other live cases.

The review team considered that supervision should be used as part of a reflective process of shared learning, with a focus on developing and enhancing performance, based on up to date research and best practice. The review team would recommend that the Agency reviews the supervision process in order to ensure consistency of approach, the dissemination of best practice and best outcomes for children and young people.

Appraisal

NIGALA operates a personal performance appraisal scheme for Guardians Ad Litem, administrative staff and managers. The centre point of the process is an annual appraisal meeting between the staff member and their immediate line manager.

Guardians stated that appraisal is a formal and structured process which includes a review of selected case files. Guardians complete a self-reflection on the selected cases and the Assistant Director leads a discussion on relevant matters. As a result of appraisal, areas for improvement are identified within the individual's personal development plan.

As part of the appraisal process the Quality Assurance and Training Manager meets with each Guardian to draw up a personal development plan, based on individual training or development needs identified. Through this process, common training opportunities are identified for the whole organisation, alongside the identification of individual training needs and requirements.

The Agency is planning to introduce a new performance appraisal system in April 2013. This is in response to the growing complement of Guardians needing to be appraised by the team of three Assistant Directors. This new system will bring appraisal into line with the requirements for the Agenda for Change Knowledge and Skills Framework (KSF).

Guardians confirmed that there is an annual appraisal system in place which takes account of individual training and development requirements. During appraisal, Guardians are required to evidence work against standards which are relevant to the Agency. Guardians indicated that preparation for the annual appraisal can be time consuming, with some Guardians describing appraisal as becoming forensic in nature.

Training

Guardians Ad Litem appointed to the workforce have a professional social work qualification and a minimum of five years post qualifying experience. The Agency has completed a needs analysis of the training requirements for both social work and non-social work staff.

The Agency affords equal weight to the provision of training for social work and non-social work staff. Mandatory training, linked to a statutory requirement, is afforded priority. The review team confirmed that the Agency's training programme covered all staff groups.

The Agency, the Guardians and key stakeholders, such as the judiciary reported that the Guardians have a good knowledge of social work theory and practice, but need to keep their knowledge base up to date via a robust training and development programme. Best practice in a social work agency such as this would include routine sharing of knowledge and expertise across the workforce. This helps to ensure that children subject to court proceedings receive the highest quality of service from their Guardian.

The Agency has established a training reference group with representation at Assistant Director and Guardian Ad Litem level. This group considers the training needs for the organisation as a whole. All training programmes are co-ordinated via the Quality Assurance and Training Manager.

Guardians indicated that training and staff development are of a high standard. The Agency is keen for staff to avail of training and Guardians described having access to a library of electronic journals and relevant research, which are often referenced in their reports. Guardians described how the judiciary expects the Guardian to be well informed of current research and would consider them as experts in respect of best practice in child care and child development. The Guardians told the review team that some judges rate them highly and value their contributions in assisting the court to make informed decisions.

The quality of training is monitored via evaluation forms. The Agency uses an electronic database (SDMS) to record this information. The Quality Assurance and Training Manager can access reports of training undertaken by individual Guardians. The Agency has approval from the Northern Ireland Social Care Council (NISCC) to use this system as an alternative to the individual training record in support of professional revalidation. Guardians can also access this information and, in addition, can record self-studies on this training record system.

The annual report details the training provided by the Agency in response to assessed needs.

Professional Development Groups

Professional development groups are a forum for peer learning support, where Guardians Ad Litem can consider issues of general interest or concern. These events are held quarterly and the topics covered are determined by the Guardians who also chair the group. The majority of the Guardians would support reflective practice, and there is a willingness to learn from one another. The review team considered that a shared formal minute of the professional development groups would be one effective way of communicating the learning to those that are unable to attend.

Investors in People

The review team was advised that the Agency has recently completed its third Investors in People (IIP) review. This review scrutinises two main themes

- staff training and development
- how people are valued in the organisation

The IIP report outlined the organisation's strengths but has also identified areas for improvement, including induction arrangements and the operation of professional development groups. It is recognised that in conjunction with the outcomes from the Investor in People review, there will be additional learning from the RQIA review. The Agency has expressed the desire to integrate the learning from both reviews and to ensure that actions will be taken forward in a co-ordinated manner in consultation with the Guardians Ad Litem, to ensure continual improvement.

Staff Retention and Absenteeism

The review team noted the low levels of sickness absence and low staff turnover. The Agency is seen as an attractive place to work and an organisation where there is a high level of job satisfaction. Senior staff stated that there is a real commitment from Guardians Ad Litem to ensure the best interests for the child.

Staff retention is high but there is a challenge in respect of career progression and ensuring an appropriate work/life balance. The opportunities for career progression within the Agency are limited. The Agency is preparing a human resource strategy to ensure a better pathway for career development, including staff development opportunities outside the Agency, and a mentoring scheme.

The review team reflected that the Guardians described an effective system of working where they are given a high degree of autonomy and, in return, are trusted to get the job done. The review team concluded that whilst this approach was good for staff morale it needed to be underpinned by a more robust accountability framework.

IT and efficiency

The Agency has considered how to improve systems and processes internally to increase productivity by changing that which is within immediate control. The Agency has embraced the use of information technology in day to day working and has promoted ICT skills for the workforce. The Agency recognises the need to ensure that people manage information to its best advantage. Some staff have accepted the new technology and this allows for information to feed into other

areas, such as the monitoring of lone working, but information technology needs to be embraced by all if it is to bring about greater efficiency.

The GCIS case management system commenced in 2008 and has evolved further to the extent that Guardians Ad Litem now interact directly with the system via the use of digital pens and laptops. As an example, Guardians can use a digital pen which transmits information, over an encrypted network, to populate the electronic case management record directly. Despite this, the review team was advised that some court reports continue to be hand written by a minority of Guardians and brought into the office for administrative staff to type up.

Digital reports are turned around more quickly, and productivity is improved in that Guardians no longer have to visit the office to update case records. This has resulted in the Agency becoming less reliant on paper records. All hard copy mail is scanned and held within the GCIS system electronically. Court reports or documents received from HSC Trusts, and reports from expert witnesses are held in paper files. These files are retained in hard copy format as the case record may be selected for review.

Administrative support

The review team found that administrative support is particularly important in supporting the work of the Agency. The administrative team assists Guardians Ad Litem in preparing reports and maintaining case records. Completed documents are prepared from handwritten copy or from pre-recorded dictation form, whilst face to face contacts and interventions are usually recorded directly onto the case record by the individual Guardian via the use of the digital pen. During the course of proceedings the Guardians receive direction from courts to provide reports within specific deadlines and the administrative staff assist the Guardian, in working towards the court directed timetable by maintaining close communication with Guardians at all times.

Guardians often work to tight deadlines. Administrative staff do not have access to schedules of hearings or reviews, however, Guardians will indicate the timeframe in which a particular report is to be produced. The administrative staff described a working environment where they support each other, with flexibility across the team to assist colleagues when necessary. A system for administrative staff to track report lodgement dates, would help improve resource management in what is a demand led service.

Administrative staff indicated that the draft reports they receive from the Guardians often only need to be formatted. Once a report is typed it is passed to the individual Guardian for accuracy checking. A final version is then securely e-mailed by the administrative team to the courts and to solicitors as required.

Administrative staff believed that in order to reduce delays reports could be shorter. They also considered that any delays should be flagged by the GCIS system so that all staff would be aware of this immediately. Documents from other sources often come in hard copy, which are scanned and uploaded to the IT system. However, it would reduce delay further if these documents were sent by e-mail. Newly

appointed Guardians tend to have better IT skills; it would ease the administrative workload on the Agency if all Guardians had an appropriate level of IT skills.

Recommendation 10:

NIGALA should ensure that Guardians Ad Litem have access to supervision which is appropriate to their needs and requirements, recognises their responsibility to be an independent voice for the child, but holds them to account for the quality of their professional practice and performance.

Recommendation 11:

NIGALA should facilitate a structured system of peer support for Guardians Ad Litem which is underpinned by robust management oversight of social work practice standards.

Recommendation 12:

All Guardians Ad Litem should have access to enhanced IT skills training so that they are enabled to prepare draft reports using the appropriate format.

5.6 Taking informed, transparent decisions, supported by robust financial controls and risk management

This principle describes how the Agency, through the process of risk governance and financial governance, ensures the delivery of information in an accurate and timely manner to support effective decision making by the Board and Executive Team.

Risk governance is integrated into the overall governance framework. The Agency determines the nature and extent of the significant risks which impact on the delivery of the Agency's stated objectives.

Risk governance within the Agency involves the following elements:

- commitment from the Agency's Board and Executive Team
- the Agency's Risk Committee meets quarterly and reviews the entire risk register
- regular reports to the Executive Team, Audit Committee and Board
- each risk has a named individual and an associated assessment and action plan
- the top five risks are reviewed by the Executive Team on a monthly basis
- reporting the risk action plan, risk register and risk assurance framework as standing agenda items on each audit committee.
- annual review of the risk management strategy and policy
- updating of risk management to staff via the staff newsletter, quarterly staff meetings and the staff website.
- sharing serious incidents and risks with stakeholders and sponsoring body for wider dissemination and identification of appropriate action plans.

Financial Resources

The Agency provides a demand led service, the primary user of which is the Northern Ireland Court Service (Family Division) which generates the workload for the Agency. The Agency uses trend data to project future workload in respect of demand and capacity analysis and is recording a significant increase in care related cases over recent years. Despite this, the forecasts used to underpin the business planning process have always turned out to be lower than the actual demand experienced.

The Agency has experienced a 14% increase in workload in 2011/12 compared with the previous year and whilst the Agency had expected a potential reduction in workload, as demonstrated in Great Britain, this reduction in demand has not materialised in Northern Ireland.

The Agency described the challenge of securing additional financial resources from the DHSSPS, based on a mutual understanding of the workload and the pressure of demand faced by the Agency. The Agency is further required to provide assurance to the DHSSPS, on an annual basis, that it is working at maximum efficiency.

As a way of dealing with increased demand the Agency has removed two senior administration posts and diverted the resources towards providing additional Guardians Ad Litem, however this was only a partial solution to closing the widening gap between supply and demand.

Increasing Workloads

During the past year the increasing workload trends were brought to the attention of DHSSPS and a business case for additional funding was made. The business case was agreed and additional non recurrent funding was provided, this will be reviewed in 2014.

This increase in workload is illustrated in the graphs below.

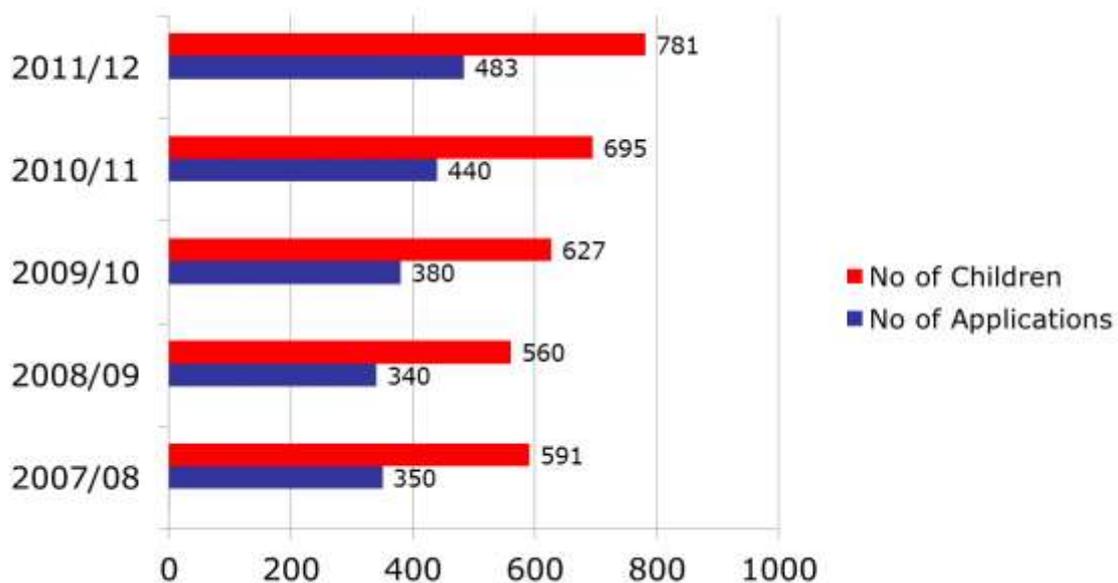


Figure 1: Trend in Guardian Ad Litem Appointments in Public Law 2007/8 – 2011/12 in N. Ireland (Source NIGALA Annual Report 2011/12)

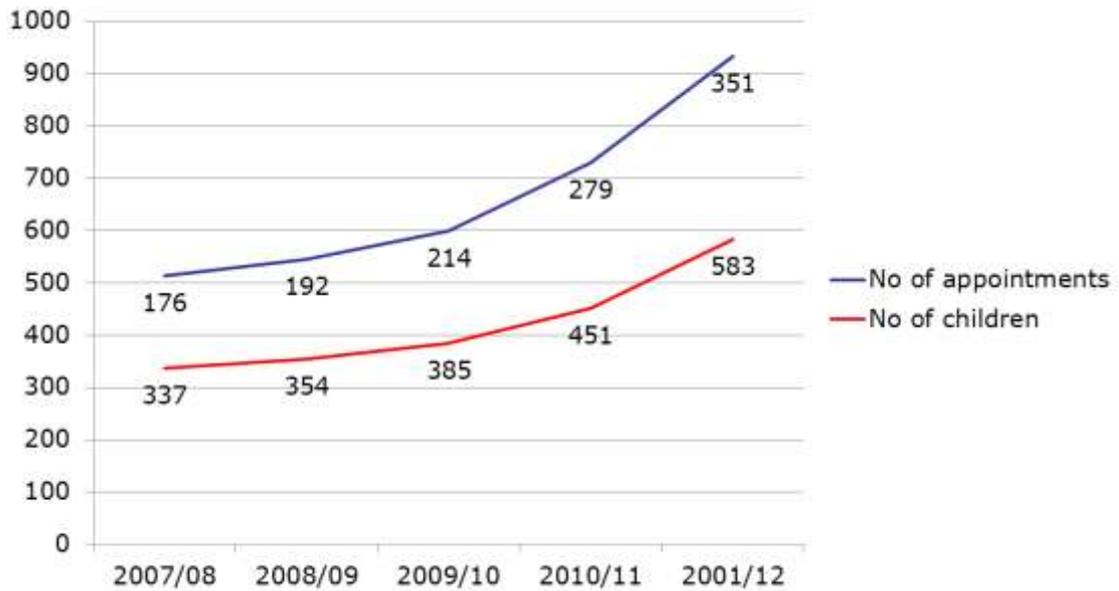


Figure 2: Trend in Guardian Ad Litem Appointments in Care Proceedings 2007/8 – 2011/12 in N. Ireland (Source NIGALA Annual Report 2011/12)

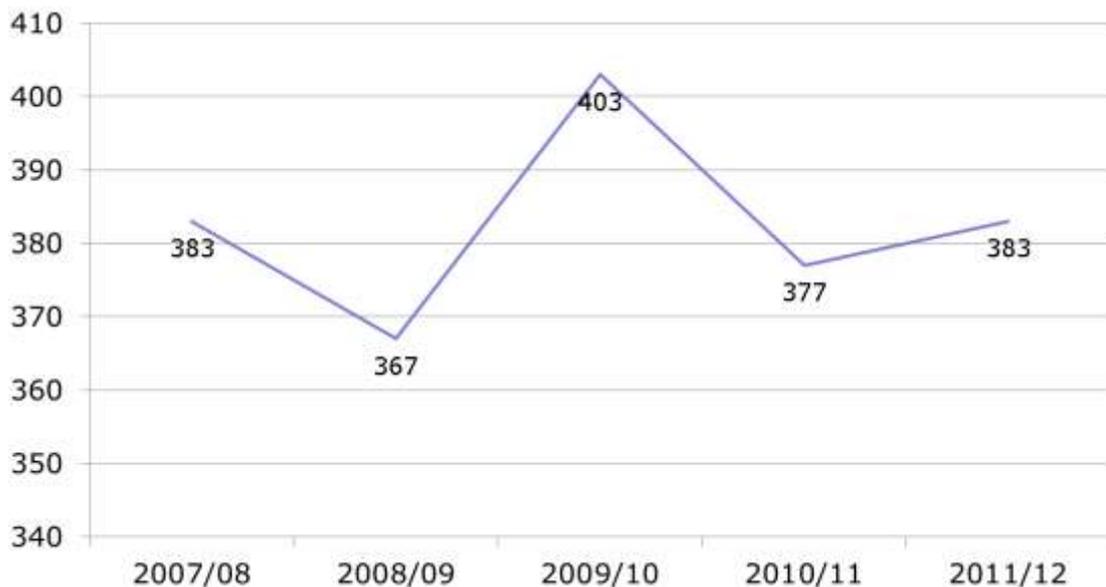


Figure 3: Trends in the average duration of Care Proceedings 2007/8 – 2011/12 in days (Source NIGALA Annual Report 2011/12)

The Agency indicated that the additional funding would have a direct impact on the current waiting list, which, at the time of the review, stood at between 30-40 cases.

A total of 6 new Guardians Ad Litem have been recruited and it is expected that by March 2013, when they have built up to their full caseload capacity, the impact will be a marked reduction in the waiting list. However, this remains dependent on other factors such as the volume of referrals remaining constant.

The funding is provided until 2014 on a non-recurrent basis. The Agency recognises the need to work alongside stakeholders to more efficiently and effectively manage cases in the family justice system. Work on this has already commenced via COAC and the Agency will review progress in autumn 2013 to allow time to make a case for recurrent funding into 2014 and beyond.

Whilst it is clear that workload has been increasing over the past 5 years, the reasons for this increase are less apparent. The Agency's governance committee has examined factors leading to the increase and has also met with representatives from the 5 HSC Trusts and with the HSC Board.

The Agency advised that it is difficult to establish exactly why referrals are increasing, although it was reported that thresholds for intervention used by the trusts have changed. There is less appetite for risk and a view that it may be more appropriate to bring matters to court, particularly where intensive and high cost interventions are required to protect children. The Agency is working towards refining the role of the Guardian to ensure they are being used appropriately.

The Agency reported a decreasing number of private law cases, where a Guardian is required under Article 56 of the Children (NI) Order 1995. Guidance on the appropriate use of Article 56 was produced by COAC. While Article 56 is not being overused at present; the Agency remains vigilant and will continue to engage with the judiciary to manage its response to private law cases.

The review team suggested that collaborative research could be a potential area for future development, which may assist in understanding the issues behind the increasing referral rates.

As shown in the Agency's Annual Report (2011-12), Table 7, the strong correlation between the recommendation in relation to initial applications and Court Orders granted suggests that the courts are in general accepting the view of the Guardian and that cases which proceed to court do so appropriately. However, the threshold for appointment of a Guardian needs to be considered further in respect of the need to make sure that this highly skilled resource is applied only in circumstances where it is warranted, and where it has the potential to make a real impact on the outcome for the individual child or young person concerned.

Effecting Change/Modernisation

The Agency recognises that the solution to the demand and capacity analysis may be related to thresholds for intervention. There is recognition that the duration of some cases can be reduced which will allow for increased productivity; however this requires all parties involved being receptive to a culture shift.

The Agency's vision would include improved assessment by HSC Trusts using the Understanding the Needs of Children in Northern Ireland (UNOCINI)¹⁸ model, a quality assurance of assessment by social workers and tighter scrutiny by the courts of the requirement for additional expert assessments. The Agency would

¹⁸ http://www.dhsspsni.gov.uk/microsoft_word_-_unocini_guidance_revised_june_2011_inc_mh_domain_elements.pdf

prefer for a Guardian Ad Litem to be appointed to complex cases at the outset however they advised that this was not always achievable, due to current demand and the waiting list situation.

Case management is the responsibility of the judiciary but relies on an effective partnership between the courts and the Agency. All parties need to recognise the need for change. Previous research¹⁹ under the public law outline has identified four areas which still need to be addressed.

- Pre-proceedings
- Earlier intervention and earlier analysis by Guardians Ad Litem
- Use of expert witnesses
- Judiciary

The Public Law Outline Guide to Case Management in Public Law Proceedings²⁰ document was introduced in 2009, having been developed on a multiagency basis, co-ordinated by the Children Order Advisory Committee. Initially the guidance had the effect of reducing the duration of cases slightly, but progress was not maintained and the duration has returned to previous levels. Guardians, who spoke with the review team, stated that the case management guidance are not implemented in full, primarily due to preferences of some members of the judiciary. However, in order for this to be effective, it is essential that all parties adhere to the case management guidance.

The Children's Order Advisory Committee (COAC) was described as the primary multiagency forum and vehicle for change; this is currently chaired by the senior judge from the family court division. A paper outlining proposals for refining the role of the Guardian in public law proceedings has recently been brought to the Agency's Board which proposes changes to working practices within the Agency to reduce delay and eliminate waiting lists. Support for these proposals will be sought via COAC to ensure buy in from all stakeholders. The Agency will continue to rely on COAC as an appropriate forum to examine issues around delays in proceedings and, in the longer term, the Agency will examine the potential for the changes in legislation to help reduce the time taken for care proceedings.

Allocation of Cases and Caseload Management

The review team explored the system of caseload allocation within the Agency. All new referrals are received electronically, via a secure link with the courts, and any supporting material or papers are processed onto the system by the administrative team.

The allocation manager is responsible for following up on any gaps in the information provided in the initial referral. Once a new case is placed onto the electronic case management system it is flagged as a case requiring allocation. Administrative staff confirmed this procedure and added that once completed they

¹⁹ Public Law Outline, Guide to Case Management in Public Law Proceedings, April 2008

²⁰ [http://www.courtsni.gov.uk/en-](http://www.courtsni.gov.uk/en-GB/Publications/Family_Law_and_Childcare_Literature/Documents/Guide%20to%20Case%20Management%20in%20Public%20Law%20Proceedings/Guide%20to%20Case%20Management%20in%20Public%20Law%20Proceedings.html)

[GB/Publications/Family_Law_and_Childcare_Literature/Documents/Guide%20to%20Case%20Management%20in%20Public%20Law%20Proceedings/Guide%20to%20Case%20Management%20in%20Public%20Law%20Proceedings.html](http://www.courtsni.gov.uk/en-GB/Publications/Family_Law_and_Childcare_Literature/Documents/Guide%20to%20Case%20Management%20in%20Public%20Law%20Proceedings/Guide%20to%20Case%20Management%20in%20Public%20Law%20Proceedings.html)

prepare a hard copy folder which the Assistant Director can then pass on to the allocated Guardian Ad Litem.

Assistant Directors are responsible for the management of the waiting list and the associated risk, and for the allocation of cases on an alternating monthly basis. At each rotation there is a full system of handover of all unallocated cases.

In terms of managing the waiting list and allocations the Assistant Directors advised that they needed to have a sense of the requirements of all cases and be able to understand the priorities within the waiting list. The Agency has an allocation policy and there are a number of factors which inform prioritisation of allocation, including the nature of the appointment, the level of risk to the child or the need for secure accommodation. The level of risk to the child is the predominant factor when allocating a case; if there is an emergency it will be dealt with immediately.

When allocating cases the Assistant Directors take into consideration the capacity of individual Guardians, as well as other factors such as current caseload, previous involvement and geographical location. When the review team spoke with the Guardians they described caseload allocation as a negotiated process which gave consideration to the relevant factors described above. Some Guardians indicated that on occasions an element of choice may apply but they cannot express a preference as to which cases they are allocated.

Once the case is allocated it becomes the responsibility of the individual Guardian, who must be aware of and responsible for all due dates and deadlines. The Assistant Directors described how they attempt to allocate cases as quickly as possible, to allow the Guardian to liaise with the courts and the appointed solicitors regarding timetabling of proceedings. Sometimes timescales are identified before the case has been allocated. In such circumstances the Guardian may be obliged to ask the court to review the existing timetable.

Guardians reported that some cases can remain unallocated for too long. If such a case is allocated to a Guardian who has insufficient time to prepare a report, it leaves the Guardian ill prepared and may result in the child being poorly represented in court. This needs to be addressed by ensuring that cases are allocated without undue delay.

The electronic case management system (GCIS) builds a picture of caseload weighting without any onerous inputs on individual Guardians. Caseload weighting includes a scoring of the interventions and the activities of the case. The system provides real time information as to which Guardians may have capacity. The GCIS system was described by some Guardians as being effective but only when used correctly. It was noted by all staff, including the Guardians, that any system is only as good as the information provided and, due to other constraints, information is not always processed in a timely fashion.

The aim of the Agency is to ensure maximum productivity, and a live caseload update is provided for the Board at every meeting. Key Performance Indicators (KPI's) are real time indicators; each Guardian knows that performance is monitored against the stated target. If an individual Guardian is performing

consistently below target this may be due to planned or unanticipated down time, for example linked to training and development or related to sickness absence. Guardians indicated that a mechanism is in place to challenge under performance, if required.

The review team was advised that the Agency involves the Guardians in case allocation. Where possible this includes considering current caseload and the complexity of new referrals when asking Guardians to take on additional work. Guardians indicated that recently there has been increased pressure because of the waiting list, which requires a degree of flexibility regarding case allocation. However, the review team considered that overall, the Agency is operating a fair and collaborative approach to case allocation.

Demand, Capacity and Productivity

The review team explored the current capacity of Guardians Ad Litem against the caseload key performance indicator (KPI) of 10 live cases. The Chief Executive described recently revised this performance indicator to 10.5 live cases. On average a Guardian Ad Litem is expected to carry 10.5 live cases at any given time. A case might involve one child or a group of children linked by family relationships or by a single application.

In 2011/12 the Agency allocated 626 cases involving 963 children, compared with 549 cases involving 829 children in the previous year. The increase in the number of allocated cases (14%) corresponded to an increase (16%) in the total number of children.

In 2012/13 the Agency received an additional non-recurring allocation of £180,000 to assist in reducing the waiting list. This has resulted in the appointment of 6 additional Guardians which has had a significant impact on performance. However, the Agency indicated that it must use the benefit of this non-recurrent allocation to transform current working practices in a way that will bring lasting improvement to workflows, reduce waiting lists and make sure that in future all new referrals are allocated in a timely manner.

Guardians advised the review team that a typical caseload tends to be around 12 live cases. However, it is not unusual for some Guardians to be responsible for as many as 14/15 live cases, which Guardians advised was not a manageable caseload. When handling a large caseload some Guardians described how they were not able to visit children as often as they should, and how they were not able to devote sufficient time to preparing themselves appropriately to handle complex issues such as the need for expert witnesses.

Guardians told the review team that in some cases they feel obliged to carry out time consuming interventions, such as observation of contact visits, if only to avoid being challenged by the court. Guardians expressed the concern that not all parties are persuaded that time management of individual cases must be reasonable, proportionate and justified.

The Guardians described how their role had changed and evolved over time and how it is now driven more by targets and time constraints than a desire to secure

quality outcomes for children. This has, in turn, led to less time to read background paperwork and to undertake essential observed contacts.

The court is increasingly looking to the Guardian for guidance and direction for case management and there is often an expectation that Guardians will convene meetings between HSC Trusts and other parties in an effort to resolve complex or contentious issues. The review team recognises the important contribution that a Guardian can make in resolving complex issues through negotiation. However, Guardians must make decisions about the effective use of their time and, as such, must be entrusted to decide when it is appropriate for them to take the lead in such negotiations. The review team recognises that in some circumstances the timely intervention of the Guardian will have the effect of bringing complex matters to a point of resolution, thereby reducing delays in proceedings. Managers should ensure that they use the supervisory process to monitor progress of individual cases with regard to the Guardians involvement, given the trusts role in assessment and care planning.

Self-employed Guardians reported that they feel the pressure of the growing caseloads, and some stated that they could be used to better effect in assisting the Agency with waiting list management and in dealing with workflow issues. The review team recognises that there are benefits in having both directly employed and self-employed Guardians. The review team would encourage the Agency to undertake an evaluation of its current approach for recruitment and retention to determine the best way forward.

Risk and Risk management

The Agency has a robust committee structure in place which includes the

- NIGALA Board
- Audit Committee
- Remuneration Committee
- Social Care Governance Committee
- Information Governance Committee

The Agency's Board has overall responsibility for oversight of risk management ensuring it is reflected in the remit of Board committees, corporate and business planning and also policy formulation.

The Chief Executive and management team have a collective responsibility for the management of risk and it is the responsibility of each management team member to ensure that all decisions are clear and transparent and based on good quality factual information.

The management team has responsibility for ensuring that the Board receives information in a timely and accurate manner. Information should be presented in an agreed format to facilitate clear decision making at Board level. The Board review the corporate risk register on at least a monthly basis, with a complete review of the risk register by the risk management committee on a quarterly basis. The Agency's Board and Risk Management Committee have currently identified and assessed 14 risks which are subject to regular monitoring and review.

Staff are given updates on risk management via the staff newsletter, quarterly staff meetings and the staff website. The Agency shares serious incidents and risks with stakeholders and sponsoring body for wider dissemination and identification of appropriate action plans.

Over the past three years the Agency has led on the introduction of a secure e-mail system across all court services, social workers and Guardians Ad Litem. This has resulted in a new secure system for sharing information between these parties. The electronic system is linked to the Criminal Justice Secure Information Management System (CJSM). This is a free system, provided by Cable & Wireless which does not require very sophisticated software. The CJMS system secures the message and the route of the information; therefore there is no need to actively encrypt the message. Set up costs for this system were primarily resource based rather than a hardware/software cost.

The recent establishment of the Solicitors' Panel will mean that it is mandatory for solicitors to apply to join CJSM, and providing they meet the appropriate credentials, will be able to send and receive information over this secure network. Administrative staff in the Agency expressed a desire to extend the secure network to solicitors as it is time consuming to password protect and encrypt every document being e-mailed under the present arrangements.

Recommendation 13:

NIGALA should review its current operating systems and processes, to make sure that it is applying its existing resources to best effect in meeting the current demands on the Agency.

Recommendation 14:

NIGALA should make best use of the additional non recurrent funding to improve response times and reduce the waiting list for allocation of cases. NIGALA should demonstrate to the DHSSPS how the additional non recurrent funding has been applied to transforming systems and processes for workload management.

Recommendation 15:

The NIGALA Board should review the key performance indicator in respect of caseload management to ensure that Guardians Ad Litem have a manageable workload and that the Agency maximises productivity. Guardians Ad Litem should update the GCIS system in a timely fashion to facilitate effective case allocation and to ensure an equitable distribution of cases.

Recommendation 16:

NIGALA should ensure that the system of case allocation takes into account the number and complexity of cases being managed overall.

Recommendation 17:

NIGALA should work with the panel of solicitors to ensure that a CJSM secure e-mail address is in place to enable the efficient and secure transfer of confidential information between both parties.

6. Conclusions

RQIA, as part of its agreed 3 Year Review Programme, carried out a review of the corporate governance arrangements within the Guardian Ad Litem Agency in Northern Ireland. The review team used the Agency's six principles of good governance and Theme 1 of the HPSS Quality Standards for Health and Social Care in respect of corporate leadership and accountability to examine the effectiveness of leadership, professional and corporate accountability. RQIA looked for evidence of the effective implementation of the 23 governance recommendations made by Capita Management Consultancy following a review of the Agency in 2004 (Appendix 1). During the course of this review RQIA sought verification of the actions taken by the Agency in respect of the Capita recommendations. This review has identified 17 additional recommendations for consideration by DHSSPS and the Agency, which provide a framework to further strengthen and improve governance arrangements across the organisation. The conclusions of the review team are reported under the following headings:

Engaging Stakeholders and Making Accountability Real

The Agency is an active member of the Children Order Advisory Committee, and has used this Committee appropriately to draw attention to their concerns, about the impact for children, of an average 55 week delay in care proceedings.

The Chief Executive of the Agency has developed an effective relationship with members of the Judiciary and in view of his planned retirement, it is imperative that the Agency sustain and build on the established links, both with the judiciary and the court service.

The Agency actively seeks the opinions of others about the quality of its work. Stakeholders interviewed by RQIA found the Agency to be responsive and child centred. Continued creative efforts will be required to ensure effective engagement with young people in the future.

The review team noted that the feedback provided to the Agency from solicitors and parents was mostly positive. RQIA consulted members of the judiciary about the Agency's performance and one area that was identified for improvement concerned the formatting of court reports.

The review team recommended that in the future the Agency should introduce a system of quality assurance of court reports produced by the Guardians Ad Litem to ensure reports are sufficiently analytical and provide relevant information, in a format which is both succinct and proportionate to the complexity of the case.

Performing Effectively in Clearly Defined Functions and Role

The review team found that the Agency achieved substantive compliance with the controls assurance standards for governance, risk management and financial management. The Agency is undergoing major change at both Board and senior management level and they recognise the importance of ensuring continued leadership and strategic oversight of its core functions and legislative responsibilities. Guardians Ad Litem generally reported good communication and feedback from management but reviewers noted that demands

on time mean that managers do not always get the time to share information with Guardians.

The review team discussed the term 'Guardian Ad Litem' with a range of stakeholders and considered that it conveyed little or no meaning to children, who are the main users of the service. The review team recommended that DHSSPS should consider making an amendment to statute to enable a more meaningful term, such as 'Children's Guardian', to be used.

Promoting Values for the Whole Organisation and Demonstrating Good Governance through Behaviour

The review team considered how the Agency applied the Nolan Principles and reviewed the communication by the Board and officers of the values and principles, in its planning and policy formulation. The review team found that the Agency's values and principles are outlined clearly in their corporate governance manual and business plan and both the Board and the senior management team have tried to embed the values of the organisation to all staff. The review team noted that the Agency has an agreed policy framework in place.

The organisation has a low level of complaints; only 3 complaints were noted in the 2011/12 period but the complaints policy has not been updated since 2009. The associated regulations were reviewed and staff interviewed by the review team found the application of the procedure to be cumbersome. These regulations should be revised in line with the HSC framework for the investigation of complaints.

The review team examined the system of management oversight and quality assurance of Guardian Ad Litem reports before they are sent to courts and were concerned that no formal system of quality assurance of live cases report exists. Although Assistant Directors have access to information on live cases they do not appear to have authority to access or quality assure the work of an individual in a live case. The review team recommended that the Agency provides regular supervision on a monthly basis, as part of the responsibility and accountability framework for professional practice and performance. This would allow for a more reflective process of shared learning, with a focus on developing and enhancing effective practice skills based on up to date research and would assist in providing a foundation for the continuing professional development of staff. The Agency, in order to ensure effective legal representation has recently recruited a new Solicitors' Panel, an action commended by the Access to Justice Report. The review team recommended that this panel is evaluated for its effectiveness and improvements to the process following its first full year of operation.

Focusing on the Organisational Purpose and Outcome for Citizens and Service Users

The review team found that the management team of the Agency has tried hard to ensure the best outcomes for children in public law proceedings and adoptions.

A service level agreement is in place with VOYPIC as part of the Agency's service evaluation system, supported by Viewpoint, (a system that enables the Agency to progress reports as feedback obtained). Delays in seeking feedback can occur and result in a

child/young person becoming less motivated. Guardians Ad Litem interviewed by the review team supported the view that a better response rate would be achieved if the request for feedback was timed more appropriately.

A Children's Participation Group has been established to review the effectiveness of the tools used to obtain feedback, which is commendable. In addition, the review team were pleased to note the inclusion of two young people in the selection process for the appointment of the Solicitors' Panel.

The review team considered the added value that a Guardian brings to adoption and public law proceedings. The review team was advised by Guardians that increasingly the courts are looking to them to provide direction, however their primary role is to provide the independent voice for the child and not to take the lead in case management.

The review team also noted the volume of increased cases, and the recent appointment of 6 new additional Guardians to cope with demand. Some Guardians perceived that their work is now driven more by targets and time constraints than delivering a quality outcome for children. Self-employed Guardians believe they could be used to better effect in assisting the Agency with waiting list management and in dealing with workflow issues.

The review team noted that papers outlining proposals for redefining the role of the Guardian and for reducing delay in public law proceedings were brought to the Agency's Board, setting out a proposed strategic change in the role of the Guardian. The review team believe that the Agency will need to continue to work closely in partnership with other agencies to ensure that all parties understand and subscribe to any proposed role redefinition and that any future decision should be undertaken as part of a wider review of the family justice system in Northern Ireland.

Developing the capacity and capability of the governing body

Since its inception in 1996 the Agency's workforce has grown and developed to include 72 staff. The review team considered the arrangements for staff induction, monitoring of new Guardians Ad Litem, appraisal, supervision, training and professional development of staff and found these to be robust.

Professional development groups are used as a forum for peer support but the review team considered that a formal minute of these groups could be a more effective way of communicating learning for all staff, together with the introduction of a more structured system for peer support.

Whilst staff absenteeism was noted to be low, concerns were raised by some staff about workload pressure and the consequence for work life balance.

A human resources strategy is required to ensure a pathway is available for career development in the future.

Whilst staff largely work autonomously in the Agency, the review team suggested this needs to be underpinned by a more robust accountability framework.

The administration staff were noted by the review team to be very motivated to assist staff and considered that the workload of the Agency could be eased further, if all Guardians had an enhanced level of IT skills.

Taking Informed, Transparent Decisions, Supported by Robust Financial Controls and Risk Management

The review team found that the Agency has incorporated risk governance into their overall governance framework quite well. The increasing workloads continue to be reviewed and the Agency remains vigilant in its management of private law casework.

The review team also considered the methodology used by senior management regarding the allocation of cases and found that the Agency is operating a fair and collaborative approach to case planning.

In order to reduce their waiting time further, a non-recurrent allocation of funding has been provided by DHSSPS. The review team considers that the Agency must use this allocation to transform working practices in a way that will reduce waiting lists and facilitate timely allocation of new referrals.

However, the review team noted from discussions with Guardians Ad Litem that the judiciary decide on how courts are organised and managed, and it appears that no hearing appointment system exists. The Agency is only one of a number of stakeholders that are impacted by waiting times in court. The review team was advised that the case management guidance introduced in 2009 is not being consistently applied throughout Northern Ireland. The review team suggested that the Agency, through its representation on COAC, continues to press for the full implementation of the case management guidance.

The review team noted that substantial progress has been made by the Agency to comply with the majority of the previous recommendations made by Capita Management Consultancy (reference Appendix 1). The review team suggested however that similar to the recommendation made by Capita Management Consultancy in 2004, that collaborative research could be undertaken to assist the Agency in understanding better, the reasons for the continuing increase in referral rates. The review team suggested also that the appointment of a Guardian needs to be considered carefully in respect of the application of this resource to cases where it has the potential to make a meaningful impact on the outcome for the individual child/young person.

We thank all those individuals, organisation and staff who facilitated this review through the provision of information, participation in interviews or the review validation visit.

7. Recommendations

Engaging stakeholders and making accountability real

Recommendation 1:

NIGALA should continue to engage directly with the multi-agency Children Order Advisory Committee (COAC). NIGALA should work with COAC to identify and address issues of common interest and concern, reduce waiting lists and maximise response times for the care pathway, ensuring that proceedings are expedited in a reasonable timeframe.

Performing effectively in clearly defined functions and roles

Recommendation 2:

Consideration should be given by DHSSPS to changing the name of the 'Guardian Ad Litem' and the title of the organisation 'Guardian Ad Litem Agency' to make the role and purpose of the Guardian and the Agency more meaningful to children and young people.

Recommendation 3:

A programme of induction and appropriate skills training should be provided to the new Board members, including the new Chief Executive who will commence in 2013.

Promoting values for the whole organisation and demonstrating good governance through behaviour

Recommendation 4:

NIGALA should keep under review the format of court reports to make sure they are sufficiently analytical and provide only relevant information in a format which is both succinct and proportionate to the complexity of the case. NIGALA should introduce a system of quality assuring live court reports produced by Guardians Ad Litem.

Recommendation 5:

The NIGALA complaints policy and procedure and the associated Panel Regulations should be revised to bring the process of complaint investigation and resolution more into line with the HSC framework for the investigation of complaints.

Recommendation 6:

NIGALA should ensure that whenever existing policies are due for revision that staff are consulted about proposed changes and have an opportunity to suggest amendments, and that awareness sessions are available to staff, once the revised policies and procedure has been approved by the NIGALA Board.

Recommendation 7:

NIGALA should undertake an internal in-depth evaluation of the effectiveness of the Solicitors' Panel after its first full year of operation and outline the improvements/developments for the children and young people.

Focusing on the organisation's purpose and outcomes for citizens and service users

Recommendation 8:

NIGALA should continue to maintain a focus on communicating findings and recommendations of the Guardians Ad Litem to children and young people, using age appropriate materials and publications.

Recommendation 9:

The DHSSPS should establish an inter-agency working group to consider the future role of the Guardian Ad Litem in both private and public law cases in Northern Ireland.

Developing the capacity and capability of the governing body to be effective

Recommendation 10:

NIGALA should ensure that Guardians Ad Litem have access to supervision which is appropriate to their needs and requirements, recognises their responsibility to be an independent voice for the child, but holds them to account for the quality of their professional practice and performance.

Recommendation 11:

NIGALA should facilitate a structured system of peer support for Guardians Ad Litem which is underpinned by robust management oversight of social work practice standards.

Recommendation 12:

All Guardians Ad Litem should have access to enhanced IT skills training so that they are enabled to prepare draft reports using the appropriate format.

Taking informed, transparent decisions, supported by robust financial controls and risk management

Recommendation 13:

NIGALA should review its current operating systems and processes, to make sure that it is applying its existing resources to best effect in meeting the current demands on the Agency.

Recommendation 14:

NIGALA should make best use of the additional non recurrent funding to improve response times and reduce the waiting list for allocation of cases. NIGALA should demonstrate to the DHSSPS how the additional non recurrent funding has been applied to transforming systems and processes for workload management.

Recommendation 15:

The NIGALA Board should review the key performance indicator in respect of caseload management to ensure that Guardians Ad Litem have a manageable workload and that the Agency maximises productivity. Guardians Ad Litem should update the GCIS system in a timely fashion to facilitate effective case allocation and to ensure an equitable distribution of cases.

Recommendation 16:

NIGALA should ensure that the system of case allocation takes into account the number and complexity of cases being managed overall.

Recommendation 17:

NIGALA should work with the panel of solicitors to ensure that a CJSM secure e-mail address is in place to enable the efficient and secure transfer of confidential information between both parties.

Appendix 1: Update on Capita Review (2004)

The Agency was asked how, when progressing the implementation of the 6 principles of good governance, they have addressed the recommendations from the Capita Review of the NI Guardian Ad Litem Agency (2004). Below is a summary of the actions taken:

Recommendation 1: Retention of special agency status

This remains the case.

Recommendation 2: Increase in size of NIGALA Board

The Agency's Board was increased from 3 to 5 members, this allowed for incorporation of additional perspectives.

Recommendation 3: Incorporation of additional perspectives to NIGALA Board

The Agency's Board was increased from 3 to 5 members, this allowed for incorporation of additional perspectives.

Recommendation 4: Clarity on the role of NIGALA Board

The Agency's Framework document and financial memorandum was reviewed in 2008, this includes clarification on the role of the Agency's Board.

Recommendation 5: Revision of NIGALA committee structures

The Agency's standing orders updated with detail of each Board committee and terms of reference. An accountability chart was put in place showing the relevant governance committees and their reporting arrangements.

Recommendation 6: NIGALA framework and guidance

The Agency's Framework document and financial memorandum was reviewed in 2008, this includes clarification on the role of the Agency's Board.

Recommendation 7: Reciprocal feedback arrangements

The Agency has put in place annual feedback arrangements with the Judiciary and Solicitors. An Agency initiative to implement reciprocal feedback with HSC Trust social workers and Guardians Ad Litem has proved difficult to introduce due to Trade Union opposition. The Agency plans to reinstate reciprocal feedback between solicitors and Guardians following commencement of the new Solicitors' Panel.

Recommendation 8: Approach to training and development

A Quality Assurance and Training manager was recruited in 2006 and the post is a key element of the senior management team.

Recommendation 9: Expert witnesses and 'expert Guardians Ad Litem'

The Agency has developed and maintained a small group of Guardians who have particular expertise in international adoption. All Guardians Ad Litem have been encouraged to develop individual areas of expertise.

Recommendation 10: Future of office accommodation

The Agency and the DHSSPS convened an accommodation committee to look at accommodation arrangements. The Agency conducted a workplace survey and utilised the introduction of remote working and new ways of working to ensure accommodation space provided better added value. No additional accommodation space has been purchased since the CAPITA report.

Recommendation 11: Recording of agency financial transactions

The Agency has put in place an accounting package called Quickbooks which has managed all financial transactions and monthly reporting for SMT and the Board. A service level agreement with BSO finance has been in place and is reviewed annually. This will be changing with the introduction of the BSTP systems in November 2012 which will provide the Agency with a more efficient shared service.

Recommendation 12: Exploring the potential to implement an appointment system for court hearings

The process of court appointments and organisation are the responsibility of the Courts and Tribunals Service Business operations. At present the culture is one where the judge decides on how their courts are organised and managed and no consistent method of hearing appointment exists. The Agency is only one of a number of stakeholders that are impacted by waiting in court. The Agency has been advised by the judiciary that a case by case appointment system is inoperable in a busy court. However the Agency has sought and achieved agreement on a 'slot' for public law cases in some courts outside Belfast and in one other court an appointment system is largely operated

Recommendation 13: Guardian Ad Litem time recording and self-employed Guardians Ad Litem

A new time recording system was implemented for all Guardians as part of GCIS implementation.

Recommendation 14: Future reporting

The Agency has undertaken a number of report reviews including a recent review of report formats following the introduction of regional Case Management Guidance.

Recommendation 15: Recording of withdrawals of cases

The new case management system allows Guardians Ad Litem to record the reason for case withdrawal.

Recommendation 16: Candidate indicators for complexity

The Agency has completed a review of case complexity and built this into the case weighting system which forms part of GCIS.

Recommendation 17: Process implications

The case allocation process system has been integrated into GCIS and is now 'work flowed' as part of the case management system.

Recommendation 18: Establishing the feelings and understandings of children

The Agency did not accept that there was evidence to support a view that the deficit model may have existed in the Agency in 2005. All of the Agency training in eliciting children's wishes and feelings has embraced the competence model and the methodologies introduced by the Agency in respect of communicating with children should demonstrate that the competency model is firmly entrenched.

Recommendation 19: Viewpoint survey of young people

The Agency has reported annually on the age and gender of children involved in children's feedback. An additional method of feedback has since been introduced which includes face to face interview.

Recommendation 20: Performance management and reporting

The Agency has been using SMART objectives and has introduced the Business Scorecard as part of its annual business plan production.

Recommendation 21: Added value of Guardians Ad Litem on a case by case basis

Since 2006 there has not been any funding available for research. The impact of Guardians in cases has been monitored by the management team and Board via the GCIS table 7 report in terms of outcome and they have also introduced a quality assurance check against quality standards on each case.

Recommendation 22: Replacement of GALPAS

The Agency completed a business case in January 2006 for funding to implement a replacement system for GALPAS. In September 2007 the DHSSPS informed the Agency that funding was available but needed to be spent by March 2008. The Agency tendered, designed and implemented the new GCIS system which was operational by May 2008.

Recommendation 23: Electronic transfer of case files to courts service

The Agency and the court service have agreed a protocol for the sharing of case related information electronically. The protocol which was put in place in 2007 has been operational since. The protocol is now being reviewed to enable additional multidisciplinary parties to share information electronically with the courts. The Agency has been central to the promotion of secure electronic transfer of information between all parties involved in family proceedings and has made it a condition of membership of the new solicitor panel that each solicitor should have a CJSM secure e-mail address. The Chief Executive has taken a central regional role in this regard.

Appendix 2: Stakeholder Engagement

RQIA met with representatives from the following organisations:

DHSSPS/Child Care Policy Unit

Health and Social Care Board

Directors of Social Services, HSC Trusts

Principal Practitioners, HSC Trusts

Family Care Society

Fostercare Network

The General Council of the Bar (NI)

Northern Ireland Courts Service

The Northern Ireland Children's Commissioner

Adoption Routes

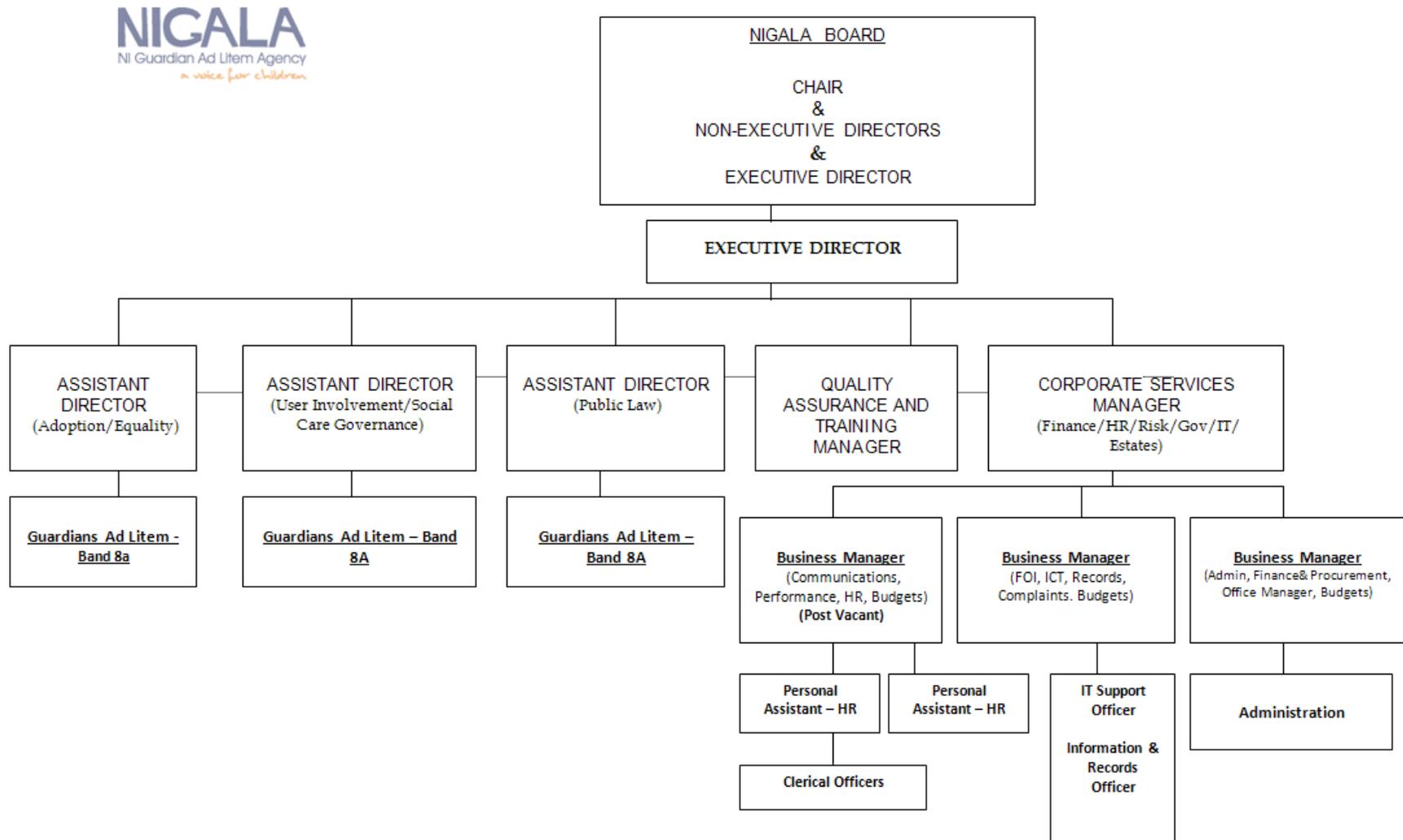
Voice of Young People In Care

Law Society of Northern Ireland

Official Solicitor, Royal Courts of Justice

British Association for Adoption and Fostering

Appendix 3: NIGALA Organisational Chart



Appendix 4: References

Children (Northern Ireland) Order 1995 (Article 60)

Article 66 of the Adoption (Northern Ireland) Order 1987 (Article 66)

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The Regulation and
Quality Improvement
Authority

The Regulation and Quality Improvement Authority
9th Floor
Riverside Tower
5 Lanyon Place
BELFAST
BT1 3BT

Tel: (028) 9051 7500
Fax: (028) 9051 7501
Email: info@rqia.org.uk
Web: www.rqia.org.uk

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