



## **Guidelines for Prosecuting Cases involving Electronic Communications: Draft for Consultation**

### **Summary of Consultation Responses**

The Public Prosecution Service's consultation on its Guidelines for Prosecuting Cases involving Electronic Communications was issued on 15 November 2021 for a period of 12 weeks. The aim of the consultation was to seek a wide range of views to inform the development of the Guidelines. The final closing date was 28 February 2022.

One response was received from the **Children's Law Centre**. We have provided feedback and a summary of the points raised are set out below.

<b>Children's Law Centre</b>	
<b>Comment</b>	<b>PPS Response</b>
<p><b>International Human Rights Standards</b></p> <p>CLC welcome the reference to Article 3 of the United Nations Convention on the Rights of the Child within the draft guidelines. The UNCRC, in its entirety, should be used as a guiding document when considering the position of children.</p> <p>It is also important to take into consideration the UNCRC General Comment No. 25 (2021) on children's rights in relation to the digital environment in the context of developing guidelines for prosecuting cases involving electronic communications.</p>	<p><b>Partially accepted</b></p> <p>It should be noted that these guidelines set out the approach taken by the PPS when considering <b>all</b> cases where it is alleged that criminal offences have been committed by the sending of an electronic communication, and do not specifically relate to cases involving children and young people. The guidance should be read in conjunction with the PPS Guidelines on the Prosecution of Young People, the PPS Code for Prosecutors and the PPS Guidelines for Diversion.</p> <p>All PPS guidance is informed by international Human Rights law and practice, including the European Convention on Human Rights and all aspects of the United Nations Convention on the Rights of the Child (UNCRC).</p> <p>The Service is committed to ensuring the principles as set out in the UNCRC are adhered to, and that the special considerations which apply to cases involving children and young people are enshrined in our working practices.</p>
<p><b>Communications Act 2003</b></p> <p>The Communications Act 2003 may require substantial amendment. Many of the commonly used social networking services were not in existence at the time of the enactment of the legislation, e.g., Facebook 2004, Snapchat 2011 and WhatsApp 2009. Electronic communications are rapidly changing, and young people have greater access to a wider variety of mediums and most of them are available on a standard mobile</p>	<p><b>Accepted</b></p> <p>PPS recognise that the way in which we communicate has fundamentally changed over the last two decades, and the suite of criminal offences concerned with communication has, by comparison, changed very little. The existing criminal offences are considered to be inadequate to the task of protecting people from harmful communications.</p>

phone. It is a very different communications world for young people than when the legislation was originally enacted.

There are two main offences under the Communications Act 2003. The first where messages are grossly indecent, obscene or menacing the second where there is a persistent use of the public electronic communications network to cause annoyance, inconvenience or needless anxiety. It is recognised that either offence can cause extreme concern to the victims.

However, prosecutors must be aware of the nature of social media, to young people social networks can feel impersonal, they have an instantaneous nature and, in our experience, matters begin as an innocent conversation or joke but may have unintended consequences, especially if a matter trends or is shared. We would like to see a specific section in the PPS guidance to its prosecutors to examine the situation in a careful light when considering cases involving children as either the alleged offender or as a potential victim.

This issue has been considered by the Law Commission of England and Wales, who recently carried out a review of the communication offences. In their final report, 'Modernising Communications Offences', the Commission recommended a number of criminal law reforms designed to ensure that the law addresses genuinely harmful behaviour, whatever the form of technology used, and better protects freedom of expression.

The Law Commission made a number of recommendations in relation to new or reformed criminal offences.

The UK Government accepted the Law Commission's recommendations to reform the communications offences. It intends to include new offences in the Online Safety Bill which is due to be introduced formally in the coming weeks.

**New Offences:**

1. A new harm-based communications offence to replace the offences within section 127(1) of the Communications Act 2003 and the Malicious Communications Act 1988.
2. A new sending knowingly false messages offence.
3. A Threatening Communications Offence.

PPS policies and guidance will be amended to reflect the relevant legislative changes upon commencement of the new provisions in Northern Ireland.

PPS agree with the points raised in relation to the nature of social media. The Service also recognises the importance of context when taking decisions in electronic communication cases involving both children and adults. This is reflected at paragraphs 1.1.3 and 2.1.5 of the guidance as follows:

*1.1.3 These guidelines cover the offences that are likely to be most commonly committed by the sending of electronic communications and in particular those sent by text or by using social media. The offences may apply in respect of an original communication and also any resending of communications, for example 're-tweeting'. However, for reasons set out below, the context in which any communication is sent will be highly important."*

*2.1.5 "The context in which interactive social media dialogue takes place is quite different to the context in which other communications take place. Access is ubiquitous and instantaneous. Banter, jokes and offensive comments are commonplace and often spontaneous. Communications intended for a few may ultimately reach millions. Such interactions have been likened to "...contributions to a casual conversation (the analogy sometimes being drawn with people chatting in a bar) which people simply note before moving on; they are often uninhibited, casual and ill thought out; those who participate know this and expect a certain amount of repartee or 'give and take".*

Decisions in cases involving young people are taken by specialist youth prosecutors, who are keenly aware of the issues associated with offences committed via social media. Prosecutors are aware of the sensitivities involved in taking decisions in

	<p>such cases and are keen, where possible, to avoid the criminalisation of young people. In taking decisions, prosecutors will take account of all of the facts and circumstances of a particular case.</p>
<p><b>Training for Legal professionals</b></p> <p>The consultation document recognises the need for offenders to obtain legal representation at an early stage of the process. However, there is a need for specific training for members of the legal profession, not only on representing children in criminal justice proceedings where they are either victims or defendants, but also on the types of media available, its uses and limitations and how a young person could potentially commit an offence, even unwittingly.</p> <p>There are currently no social media/electronic communications training available for members of the legal profession that we are aware of in the context of representing young people. A system similar of that operated in respect of lawyers representing in Children (NI) Order cases should be considered. Such training and accreditation should apply to both prosecuting and defence solicitors and barristers. The same level of training may be required for the judiciary in the use of social media and electronic communications. In addition, lawyers representing children involved in such cases and the Judiciary should be Access NI checked.</p>	<p><b>Not Accepted</b></p> <p>Training in relation to various aspects of youth justice has been delivered to all prosecutors.</p> <p>Youth prosecutors have quarterly meetings at which policy, operational and practical issues are discussed. Additional training needs are often identified in this particular forum.</p> <p>Training is reviewed on a regular basis and is provided as and when the need is identified.</p> <p>Training in respect of online electronic communications will be reviewed as part of the Service's response to the Online Safety Bill and related policy development.</p> <p>PPS are unable to comment on the training requirements of Defence practitioners or the Judiciary.</p> <p>Access NI checks in respect of Criminal Defence practitioners and members of the Judiciary are not a matter for the PPS.</p>
<p><b>Young people</b></p> <p>CLC is pleased to note that the consultation document has a specific</p>	<p><b>Not accepted</b></p> <p>Chapter 7 of the Guidance, 'Victim and Witness Care', relates to all victims and</p>

focus upon support for victims and witnesses of offences committed using electronic communications. There should be specific reference to child victims and witnesses in the policy. There may also be a requirement for PPS staff to have specific training in dealing with both child offenders and child victims, including when making prosecutorial decisions. Special consideration should be given in the prosecution decision to the age, understanding and type of alleged offence when the PPS are considering the prosecution of a minor. We are particularly concerned with prosecutions involving young people where they may not have knowingly committed an offence nevertheless have in fact done so e.g., by re-Tweeting.

The consultation document has a very short section covering young people. The document defines what is meant by a young person and provides a statement that: "The PPS is committed to ensuring that the Best Interests of the Child Principle, as set out in Article 3(1) of the United Nations Convention on the Rights of the Child, is adhered to, and that the special considerations which apply to cases involving a young person are enshrined in its working practices." Whilst we welcome the recognition of the best interests' principle, the UNCRC should be used as a guiding document in its entirety when considering the position of children. We would like to see more emphasis on children and young people in the PPS guidelines, especially covering children with special needs, disabilities and mental health needs, refugees and asylum-seeking children, trafficked children and

witnesses. These guidelines should be read in conjunction with the PPS Victim and Witness Policy, the Victim Charter and the PPS Code for Prosecutors.

All prosecutors have received training in various aspects of youth justice. Prosecutors have also received victim and witness training, with a refresher session having been delivered in autumn 2021. PPS continue to identify and address training needs on an ongoing basis.

When taking decisions in relation to young people, prosecutors take a range of factors into consideration, such as the age of the young person and the type of offence alleged. The weight to be attached to a particular factor will vary depending on the circumstances of each case.

All PPS guidance pertaining to young people is informed by international Human Rights Law and practice, including all aspects of UNCRC.

PPS accept the section relating to children and young people is relatively short, however, this is not a policy specific to this particular group and should be read in conjunction with the PPS Guidelines for the Prosecution of Young People, the Code for Prosecutors, PPS Guidelines for Diversion and the PPS Policy for Prosecuting Cases of Modern Slavery and Human Trafficking.

<p>care experienced children, both as victims and as defendants.</p>	
<p><b>Freedom of Speech</b></p> <p>It is a welcome development that the guidelines recognise the need to balance the protection of individuals with the human rights of everyone, including the right to freedom of speech. We would however welcome information being given to children and young people, preferably online, informing them of the limitations of their freedom of speech and making it clear when matters have the potential to cross-over into the criminal world. This should be done a cross Departmental basis including Department of Health, Department of Education, PSNI and the PPS.</p>	<p><b>Not accepted</b></p> <p>The policy contains the following general guidance in relation to freedom of speech at page 13:</p> <p>“The Communication offences will often engage Article 10 of the European Convention on Human Rights and care should be taken to interpret the provisions consistently with the freedom of speech principles in Article 10”.</p> <p>“Freedom of expression and the right to receive and impart information are not absolute rights. They may be restricted but only where a restriction can be shown to be both necessary and proportionate. These exceptions, however, must be narrowly interpreted and the necessity for any restrictions convincingly established.”</p> <p>It is not, however, possible to be prescriptive and there is no bright dividing line between criminal and non-criminal conduct in this area where the assessment of the relevant conduct will be heavily context dependent. Whilst the policy as drafted, does not contain specific examples of behaviours that will merit prosecution, in such cases, paragraph 2.1.6 of the document provides some general guidance as follows:</p> <p><i>2.1.6 “Prosecutors should only proceed with a prosecution if they are satisfied there is sufficient evidence that the communication in question is more than (i.e. crosses the high threshold necessary to protect freedom of expression, even unwelcome freedom of expression):</i></p>

	<ul style="list-style-type: none"> <li>• <i>Offensive, shocking or disturbing; or</i></li> <li>• <i>Satirical, iconoclastic or rude comment; or</i></li> <li>• <i>The expression of unpopular or unfashionable opinion about serious or trivial matters, or banter or humour, even if distasteful to some or painful for those subjected to it; or</i></li> <li>• <i>An uninhibited and ill thought out contribution to a casual conversation where participants expect a certain amount of repartee or ‘give and take.’</i></li> </ul> <p>PPS would respectfully suggest that any educational initiatives in this regard would be matters in which other agencies should take a lead, such as the Department of Education, the Department of Justice and PSNI.</p>
<p><b>Public Interest</b></p> <p>When assessing whether a prosecution is required in the public interest, prosecutors must follow the approach set out in the Code for Prosecutors and also have regard to the guidelines. In the case of a child, it is important that the prosecutor fully consider whether a prosecution is both necessary and proportionate. The guidance recognises that each case must be considered on its own particular facts and merits.</p> <p>It has been the experience of CLC that many young people commit what on the face of it is an offence, but who at the time of the matter did not know that they were in breach of the criminal law. Young people live their lives online, and every effort must be made to educate young people about the pitfalls of online activity. Prosecutors should look at the circumstances of each case and consider if a prosecution of such a young person is</p>	<p><b>Partially accepted</b></p> <p>Prosecutors will consider all information available to them when taking a decision. Prosecutions are initiated or continued by the PPS only where it is satisfied that the test for prosecution is met.</p> <p><i>The test for prosecution is met if:</i></p> <ul style="list-style-type: none"> <li>(i) <i>The evidence which can be presented in court is sufficient to provide a reasonable prospect of conviction – the Evidential Test; and</i></li> <li>(ii) <i>Prosecution is required in the public interest – the Public Interest Test.</i></li> </ul> <p><i>This is a two-stage test and each stage of the test must be considered separately and passed before a decision to prosecute can be taken. In any case where the evidential test is met, the public interest must be considered</i></p>



in the public interest or not. Especially if efforts have been made by the young person to mitigate the matter such as the post being taken down, or the matter being forwarded or retweeted by a third party after it having been created for a private audience by the young person.

The guidelines recognise that such an approach may be important where the defendant is young or immature person and may not have fully appreciated what they wrote. It is of course recognised that there may be circumstances where a prosecution is unavoidable depending upon the content and the manner of electronic communication, such as the motive for sending same.

*with care before a prosecution can be commenced.*

PPS agree with the points made in relation to the consideration of public interest factors in such cases. Paragraphs 3.1.1 - 3.1.3 of the guidance refer:

*3.1.1 When assessing whether a prosecution is required in the public interest, prosecutors must follow the approach set out in the Code for Prosecutors and also have regard to these guidelines.*

*3.1.2 As noted above, since section 127 of the Communications Act 2003 (and potentially some of the other offences considered below) will often engage Article 10 of the European Convention on Human Rights, the prosecutor needs to consider whether prosecution is both necessary and proportionate.*

*3.1.3 Each case must be considered on its own particular facts and merits. Circumstances which will militate against prosecution or which point towards the use of a diversionary disposal include where:*

- (a) The suspect has swiftly taken action to remove the communication and/or expressed genuine remorse.*
- (b) Swift and effective action has been taken by others, for example, service providers, to remove the communication in question or otherwise block access to it, thereby limiting the harm or damage actually caused.*
- (c) The communication was not intended for a wide audience, nor was that the obvious consequence of sending the communication; particularly where the intended audience did not include the victim or target of the communication in question.*

	<p><i>(d) The suspect's age or maturity. This may be relevant where a young or immature person has not fully appreciated what they wrote.</i></p> <p><i>(e) The circumstances of and the harm caused to the victim.</i></p>
<p><b>'Sexting'</b></p> <p>Adults can use electronic communications to commit a number of offences involving images captured, made or distributed using computers or other electronic devices. The Protection of Children (NI) Order 1978 deals with indecent images of children and the Coroner and Justice Act 2009 contains provisions in respect of prohibited images of children. Section 51 of the Justice Act (Northern Ireland) 2016 creates an offence of disclosing a private sexual photograph or film of an individual who appears in the photograph or film, without their consent, and with the intention of causing that individual distress. These are serious offences and in addition to a custodial sentence may require the defendant to be placed upon the sex offender's register.</p> <p>When the defendant and the victim are both children, where a child has sent an indecent image of themselves to another child, often referred to as "sexting", it is important that a prosecution decision balances all public interest considerations, and all the circumstances surrounding the matter. This could include the age and maturity of both parties, any learning difficulties, what the recipient did with the images, such as forwarding them and the motivation behind sending the image in the first</p>	<p><b>Partially accepted</b></p> <p>Prosecutors are aware of the issues associated with 'sexting' and where the activity occurs between peers, efforts are made to avoid the criminalisation of children and young people involved in this type of activity.</p> <p>Paragraph 4.3.3 of the policy deals with the issue of sexting:</p> <p>4.3.3 Therefore, in taking a prosecutorial decision in cases where, for example, a child has sent an indecent image of themselves to another child, a practice that is increasingly common and sometimes referred to as 'sexting', prosecutors must identify and weigh all relevant public interest considerations. Such considerations may include the age of the children involved, the relationship that exists or existed at the time, the number of images, the nature/category of the image(s), whether the recipient distributed the image(s) and whether this was with or without the consent of the sender.</p> <p>'Sexting' is also referred to in the PPS's Guidelines for the Prosecution of Young People (Chapter 7 refers).</p> <p>PPS recognise the merits of educating children in relation to the issues referred to. However, it is not considered to be the role of the PPS to do so.</p>

<p>place. It is very important to educate children regarding the practice of sexting, both to prevent images being shared in the first instance and to ensure that the child recipient knows what to do if they receive such an image. It has been our experience that young people generally do not realise the importance of not taking, sending and sharing such images and so we would encourage education for young people around such matters.</p>	<p>It should be noted that separate guidance is available which deals with how those who lead on safeguarding in schools and education establishments should respond to incidents involving sexting. This includes guidance produced by the UK Council for Internet Safety, working in collaboration with the Safeguarding Board for Northern Ireland, which sets out the circumstances in which the police may need to become involved.</p> <p>Information is also available on the PSNI website.</p>
<p><b>Victim and Witness Care</b></p> <p>The Victim and Witness Care Unit (VWCU) is a dedicated Unit made up of specially trained staff from the PPS and PSNI. It is important that staff within this unit have training on working with young people who are the victims of crime and that young people who are victim and witnesses are fully informed of what is happening regarding the case. The unit should be able to make referrals for child victims to other essential supports. Young people must be provided with support to complete victim statements and it is encouraging that the guidelines refer to the need for prosecutors to make special measures applications for children who are the victims of offences.</p> <p>It is the policy of the PPS is to give victims reasons in all cases where a decision is made not to prosecute, it is important that when dealing with children such reasons are provided in child friendly language and young people are supported to understand why a decision not to prosecute has been taken, and</p>	<p><b>Noted</b></p> <p>All staff in the Victim and Witness Care Unit (VWCU) have received training in respect of victim and witness issues. Guidance for staff in this regard is also available in the PPS Victim and Witness Policy and the Victim Charter.</p> <p>Victims and witnesses will be kept fully informed of the progress of their case in correspondence issued by the VWCU. Cases are allocated to a specific Case Officer within VWCU. This provides a point of contact for victims and witnesses who have any queries regarding their case. The VCWU can also make referrals and signpost to other service providers if additional support is required.</p> <p>Further support is provided to victims and witnesses by the Investigating Officer and the Young Witness Service.</p> <p>Support in completing Victim Personal Statements is provided by Victim Support Northern Ireland.</p>

where a meeting is offered young people should be supported to attend. Young people should be given information about their right to seek a review and should be supported should they wish to pursue this option.

Comments in relation to applications for special measures are noted.

PPS decision-making guidelines are published and can be accessed in the PPS Code for Prosecutors.

The giving of reasons to victims for not prosecuting is an important and sometimes complex issue.

As outlined at page 28 of the Code for Prosecutors, it is the policy of the PPS to give victims reasons in all cases where a decision not to prosecute is made. A two-tier approach applies. In a wide range of cases which might be classed as more serious, either due to the nature of the offence or the vulnerability of the victim, detailed reasons will automatically be given for the decision not to prosecute and a meeting offered. Where detailed reasons are given, the PPS will consider what information about the decision may be provided to the victim, balancing the interests of all parties with any other considerations which seem material to the particular facts and circumstances of the case.

In all other cases reasons are given in general terms. This will involve explaining whether the decision not to prosecute was based on evidential or public interest grounds. All victims are entitled to receive more detailed reasons for the decision taken and will be advised of that entitlement when general reasons are provided.

All victims will also be informed of their right to seek a review when notified of the decision not to prosecute, whether they receive detailed or general reasons. It may be that the provision of detailed reasons will assist a

	<p>victim in deciding whether they want to pursue a review.</p> <p>PPS have commenced a review of all correspondence issued to young people in relation to their case, in order to ensure that the language used is accessible and as child friendly as possible. Unfortunately, work has progressed more slowly than anticipated due to the impact of the pandemic. It is our intention, however, to reconvene a working group to continue with this piece of work in the near future.</p>
<p><b>Section 75</b></p> <p>CLC is disappointed and concerned to note that there is no evidence that this guidance has been assessed for its impact on the promotion of equality of opportunity through equality screening and equality impact assessment (EQIA). CLC has not been consulted in respect of either screening or an EQIA. CLC requested a copy of documentation relating any equality screening or assessment that has been undertaken in relation to developing these guidelines via email on 7 December 2021, but did not receive a reply. CLC would be grateful if the PPSNI could clarify how it has or intends to fulfil its statutory equality obligations under section 75 of the Northern Ireland Act 1998 in respect of developing guidelines for prosecuting cases involving electronic communications.</p> <p>This is clearly a new policy with potential for differential adverse impact on a range of grounds including age and therefore subject to section 75 statutory equality obligations including in this instance a full</p>	<p><b>Partially accepted</b></p> <p>These Guidelines were screened in advance of their release for consultation and an Equality Impact Assessment was not considered to be necessary.</p> <p>Whilst the screening exercise was completed in advance, due to an oversight the screening outcome was not uploaded to the PPS website. We apologise for this and can confirm that the document has now been made available.</p> <p>As stated above, this is not a policy aimed specifically at children and young people. Whilst we did not consult directly with children and young people in the development of this particular guidance, direct consultation was carried out with a range of young people between 2019 and 2022 as part of the drafting exercise relating to the guidelines for the prosecution of young people. Examples of the consultation are detailed below:</p> <ul style="list-style-type: none"> <li>• PPS prosecutors consulted with a range of mixed ability students aged 15-18 at Hazelwood Integrated College, Belfast regarding the content and format of the</li> </ul>

EQIA. Section 75 of the Northern Ireland Act 1998 applies to the 'policies' of designated public authorities, including the PPSNI. The Equality Commission has stated that the term 'policies' covers all the ways in which an authority carries out or proposes to carry out its functions relating to Northern Ireland. This definition is intentionally very wide and in practice "policy" has tended to cover most, if not all work undertaken by designated public authorities. The PPS's approved Equality Scheme also recognises the importance of consultation in all aspects of the implementation of the statutory equality duties and makes a commitment to carrying out full, meaningful and open and inclusive consultation in line with Equality Commission's Guiding Principles with individuals of the section 75 categories. The Equality Commission for NI, in their Guidance for Implementing Section 75 of the Northern Ireland Act 1998 clearly states that: "Whatever status or label is accorded to an amended or new policy.... The equality and good relations implications must be considered in terms of assessing the likely impact of a policy and the Commission recommends applying the screening procedure and, if necessary, subjecting the policy to an equality impact assessment."

The PPS are clearly required to assess and consult on the likely impact of new and amended policies on the promotion of equality of opportunity. In order to assess the impact of a new policy on the promotion of equality of opportunity among members of the nine section 75 categories, public authorities must firstly screen the policy to determine whether

policy document. A presentation on sexual offences (including those committed via electronic communications), cyber-bullying, mental health difficulties, and prosecution decision-making processes was given, followed by informal group discussion. Positive feedback was received.

- PPS prosecutors met with several groups of children who were care experienced, and obtained their views via informal discussion, in relation to both the policy document and associated information booklets. In addition to receiving positive feedback from the groups, we were also provided with very helpful suggestions for improvement which were adopted and helped shape the final version of the documents.
- PPS prosecutors also attended the Lakewood Centre in Bangor and met with members of staff, Directors of the Trust and clinical psychologists and psychiatrists. The opportunity to speak with prosecutors in relation to the guidance was welcomed. Positive feedback was received in addition to some suggestions for improvement, which were subsequently incorporated in the guidance.

As outlined above, information booklets were provided in addition to the main policy document. These have been divided into a number of short, more accessible documents, dealing with different sections of the guidelines. These are available on the PPS website [here](#).

there is potential for adverse impact on any members of the nine groups and where there is potential for adverse impact, an EQIA should be carried out.

Furthermore, central to compliance with the statutory duties imposed under section 75 is the concept of increased participation in policy making and development. The Equality Commission's guidance states that consultation must be meaningful and inclusive, in that all persons likely to be affected by a policy should have the opportunity to engage with the public authority. It also states that targeting consultation at those most affected by particular policies is also beneficial, in terms of identifying any adverse impact of policies or proposed policies at the earliest possible stage.

The Equality Commission's Guidance for public authorities on implementing Section 75 of the Northern Ireland Act 1998 is very clear with regard to the need for designated public authorities to carry out screening at the beginning of the process. It states that: "...effective assessment of the equality implications of a policy includes screening of all policies (see Annex 1 of this Guide) and consideration of undertaking an equality impact assessment... Section 75 is important to policy formulation (new or proposed policies) and policy review (existing policies). It is important that public authorities use the assessment of policies for impact on equality of opportunity, including screening and equality impact assessment, as part of their policy development process, rather than as an afterthought when the policy has been established."

We also note that the PPS's Equality Scheme makes a commitment to carrying out screening exercises and EQIA's in line with the Equality Commission's Guidance. We believe that the failure to screen constitutes a breach of the statutory duties under section 75 of the Northern Ireland Act 1998 and the PPS's Equality Scheme. Given CLC's concerns outlined above, we request PPS comply with its obligations under section 75 of the Northern Ireland Act 1998 and their Equality Scheme as a matter of urgency and before implementing these Guidelines, by carrying out a screening exercise on these proposed guidelines, and if the potential for differential adverse impact or ways to greater promote equality of opportunity are identified to, as we believe to be the case in this instance, carry out a comprehensive EQIA in compliance with the Equality Commission's Guidance and the PPS's approved Equality Scheme, including direct consultation with children and young people as per the Equality Commission's Guidance.

CLC would also seek further details vis-à-vis direct consultation with children and young people that the PPSNI has carried out, or intends to carry out in relation to developing this guidance. These proposals directly affect children and young people and so children and young people must be consulted in relation to them. Failure to consult with children and young people in a breach of section 75 of the Northern Ireland Act 1998, Article 12 of the UNCRC and the PPS's Equality Scheme. Direct consultation should involve not only the routine production of



child accessible documentation, but also face to face engagement.

We also suggest that in carrying out any direct consultation with children and young people in compliance with section 75 of the Northern Ireland Act 1998, the PPS should take cognisance of the Equality Commission's Guidance for Consulting with Children and Young People, "Let's Talk, Let's Listen" which provides that: "Children and young people have particular needs concerning information and to take part in consultation and decision-making processes, especially on issues that affect them. It is particularly important that you consider which methods are most appropriate for consulting children and young people. You should also make sure that you provide information which is clear, easy to understand and in an appropriate format, to make sure there are no problems preventing you from consulting children and young people.