

# **SAFEGUARDING BOARD FOR NORTHERN IRELAND**

## **Introduction**

Since the establishment of the office in 2003 concerns about promoting and safeguarding children's rights to life and to protection from violence, abuse and harm have been a priority in the Commissioner's work. As part of Northern Ireland's safeguarding arrangements, Area Child Protection Committees (ACPCs) were established in the early 1990s as a key mechanism for coordinating child protection practice. However, concerns about the operation of committees here and in other jurisdictions had given rise to calls for a clear legislative mandate for the bodies. In a former role as an MLA the Commissioner, Patricia Lewsley-Mooney, in 2002 planned to introduce a Private Members Bill to place ACPC's on a statutory footing but this process was halted following the suspension of the Assembly.

In 2006, as part of a package of measures to improve child protection standards the Department for Health, Social Services and Public Safety (DHSSPS) proposed to establish a regional Safeguarding Board for Northern Ireland (SBNI) to replace the Regional Child Protection Committee which had superseded ACPCs. The purpose of SBNI is to coordinate and ensure the effectiveness of its members in relation to safeguarding and promoting the welfare of children. NICCY has supported the development of the Board and provided ongoing advice under its duty to review the adequacy and effectiveness of law, services and practice throughout the development of SBNI.

## **Development of SBNI primary legislation**

NICCY formally responded to DHSSPS's policy proposal to set up SBNI in 2007 and in a number of meetings with officials discussed the development of the Board. As the proposals came before the Assembly Health Committee for their consideration in 2010, NICCY provided written evidence on the policy highlighting the Commissioner's support for the Board but noting the need to address issues such as, ensuring a duty to cooperate was placed on SBNI members, that the Board had appropriate membership, was independently chaired and that it engaged with children and young people.

Following the introduction of the SBNI Bill to the Assembly by the Minister for Health, NICCY provided more detailed clause by clause written and oral evidence during the

Health Committee's scrutiny of the draft legislation, as did a range of other stakeholders. At this stage of legislative consideration NICCY drew attention to a number of ongoing concerns, which included those areas highlighted above as well as other issues, such as, ensuring operational independence from DHSSPS and setting out robust Case Management Review (CMR) and child death review functions.

These concerns sought to highlight areas where the underpinning of primary legislation required further clarification or strengthening in order to establish a body which could be fully effective. For example, in terms of membership NICCY advised that the Board should engage with the medical profession and judiciary which play central roles in safeguarding decisions about children and in regard to independence noted that SBNI should not be required to have Departmental approval to publish material. NICCY also drew attention to concerns regarding the initial recruitment process for the Chair emphasising that it had to be capable of attracting candidates of appropriate expertise and experience.

During the Committee scrutiny process a number of important amendments or commitments requested by the Committee were agreed by the Health Minister and Department. For instance, it was agreed that secondary legislation would include a mechanism to ensure medical representation on the Board, clauses outlining the relationship between the SBNI and the Department were amended to enable the Board to publish material 'subject to consultation' with the Department rather than being required to have approval and a commitment was given that the Board's annual report would list all directions DHSSPS had issued to SBNI.

NICCY had also highlighted the importance of placing a strong positive duty on the Board to engage directly with children whose protection was at the centre of their statutory objective and at the request of the Committee, the Department agreed to amend the clause so that SBNI "must promote communication between the Board and children and young persons" rather than simply take reasonable steps to do this. Other commitments made included the Minister in moving the Consideration stage of the Bill in the Assembly stating that in relation to Case Management Reviews regulations would specify the threshold for these and the requirement for action planning and implementing learning from cases. The Department also initiated a second recruitment process for the independent chair at a revised scale.

It is important to draw attention to the central role of the Health Committee throughout this process and the commitment and resource the Committee dedicated to considering evidence from stakeholders with the purpose of examining and strengthening the legislative basis of SBNI. Indeed, amendments were proposed across 10 of the 17 clauses of the Bill and following detailed discussion, were accepted by DHSSPS or provided for in other commitments. It is also important to recognise that both Committee Members and other stakeholders, particularly children's non-governmental organisations, also identified and raised many of the concerns highlighted by NICCY. The Safeguarding Board Act (Northern Ireland) received Royal Assent on 10 February 2011 and was commenced on 14 September 2012, with the exception of the function relating to the review of information relating to child deaths.

### **Further developments**

NICCY has continued to engage in developments to establish and embed the Safeguarding Board and its work. This has included providing extensive advice to DHSSPS on the Board's secondary legislation which was subject to a targeted consultation in November 2011 with The Safeguarding Board for Northern Ireland (Membership, Procedure, Functions and Committee) Regulations (Northern Ireland) coming into operation on 17 September 2012. NICCY also provided the Department with detailed advice on the draft statutory guidance for the Board which was circulated in June 2012 with the final Guidance to the Safeguarding Board for Northern Ireland being issued to SBNI in December 2012.

The SBNI Chair Designate was appointed in July 2011 and NICCY has had regular meetings with the Chair to discuss the full range of SBNI functions and to develop a protocol which recognises that the Board is a 'relevant authority' for the purposes of NICCY's powers and duties. Particular areas of engagement in this period have been focused on those SBNI statutory duties that are not within the remit of other bodies, such as, Case Management Reviews and the review of child deaths. NICCY remains concerned that an effective structure must be put in place to implement learning from CMRs and other reviews and that the child death overview function should be commenced as a matter of urgency.

## Conclusion

NICCY, in recognising that robust child protection measures must be in place to ensure children and young people can access their most fundamental rights, made use of duties to review the adequacy and effectiveness of law to advise on legislative arrangements for the Safeguarding Board. While it is important to assess how effectively the duties and powers of the Safeguarding Board Act (Northern Ireland) 2011 are used in practice by the Board, the work that was undertaken by the Health Committee, NICCY and other key stakeholders was critical in enhancing the primary legislation and building a strong foundation from which SBNI should be well placed to act independently and effectively to safeguard children.

Reflecting on this example of providing advice highlights the importance of influencing primary legislation as secondary legislation (and statutory guidance) may not be subject to the same level of scrutiny in the legislative process. It also draws attention to the pivotal role of Assembly committees throughout this process. In moving forward, it is now important to ensure that the principles embedded in the Safeguarding Board's primary legislation flow through to the operation of the Board and properly safeguard children and young people's rights and best interests.