

Child Care Policy Directorate
DHSSPS
Room 1.4
Castle Buildings
Stormont Estate
Belfast
BT4 3SQ

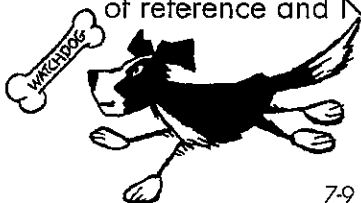
10 June 2013

To whom it may concern

As Commissioner for Children and Young People it is my principal aim, as set out in legislation, to promote and safeguard the rights and best interests of children and young people in Northern Ireland. As the Department will be aware, NICCY has actively engaged in all stages of the development of primary and secondary legislation as well as statutory guidance for the Safeguarding Board for Northern Ireland (SBNI) and I welcome the opportunity to input to the current consultation.

In considering the proposed amendment, precipitated by the establishment of the Historical Institutional Abuse (HIA) Inquiry, to restrict the capacity of SBNI to undertake Case Management Reviews (CMRs) prior to 1996 a number of concerns must be carefully assessed. Primarily, it is important to acknowledge the respective statutory objectives of each body and NICCY notes the distinct purpose of HIA Inquiry processes into the abuse of children in residential institutions during the 1922-1995 period through its statutory inquiry panel and/or acknowledgment forum. In turn, the separate remit of SBNI is to coordinate and ensure the effectiveness of those bodies which are its members in safeguarding and promoting the welfare of children and young people, including in regard to its duty to conduct CMRs in prescribed circumstances.

NICCY acknowledges that cases of historical institutional abuse prior to 1996 are clearly within the remit of the HIA Inquiry while the review role of SBNI is intended to be concerned with more recent cases. It is though important to note that the range of limits and exclusions to the scope of the HIA Inquiry have raised a number of serious concerns across stakeholders concerning cases which are not within the Inquiry's terms of reference and NICCY highlights the need for government and relevant statutory



authorities to ensure there is an appropriate response to those cases which are excluded from the HIA process. However, such a response must not detract SBNI from its statutory objective and duties or fragment its aim of ensuring the effectiveness of safeguarding as practiced by its members today. This point is of particular importance as the Board is a newly operational body, currently in its first year and must maintain a focus on establishing effective processes to fulfil its 'core' child protection remit at this time of significant change and transition in safeguarding arrangements for Northern Ireland.

Indeed, NICCY recognises that the policy intent of establishing SBNI and prescribing specified functions, including those relating to case review, was that the Board should attend to current safeguarding concerns and that it was not established with a historical remit or resourced to undertake such work. Further to this, in considering the purpose of CMRs we note that they are most often concerned with single cases and are not conducted to establish responsibility or culpability of individuals or organisations which is the role of other processes, such as, criminal investigations and disciplinary proceedings. Indeed, as set out in Departmental guidance, CMRs and associated action plans are "a mechanism for reflecting on practice, identifying the learning from practice ... and disseminating that learning" in order to strengthen arrangements to safeguard children.

However, NICCY notes with concern the limitations that will be placed upon SBNI if a timeline before which the CMR function cannot be considered is designated. While we are aware from our work with the Health and Social Care Board concerning CMRs, that the vast majority of reviews undertaken have not predated the early 2000s, the Board should be able to undertake reviews which include a retrospective element prior to 1996 where it considers this appropriate. For example, this may be assessed as necessary in occasions where cases involve a multiple of family members or number of children cared for in the same setting where the circumstances reviewed span a significant period of time and meet the specified criteria for CMRs.

As referenced in our responses to the Department's regulations and guidance consultations, we would also highlight the Board's 3(10) function to engage in any other activity conducive to its objective noting this may allow SBNI to conduct thematic, overview and other forms of review that do not fall within the scope of the CMRs. Indeed, concerns that legislative provision should enable the Board to undertake a range of reviews concerning the effectiveness of child protection and safeguarding arrangements were discussed during the development of the primary legislation.

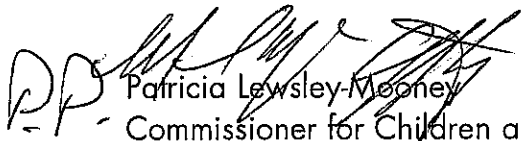
NICCY is not aware of any Departmental intention to specify a timeline restricting this or SBNI's 3(5) function which is also concerned with the review information, with this duty relating to the deaths of children in Northern Ireland.

This consultation and ongoing public debates concerning the HIA Inquiry reinforces the importance of ensuring clear protocols and an effective working relationship is in place between SBNI and the HIA Inquiry. This should, for instance, prevent case duplication particularly in the period across the 1990s and ensure there is appropriate information sharing between the bodies including SBNI being alerted where the HIA Inquiry is made aware of information which is of contemporary relevance to the effectiveness of SBNI's member bodies. As NICCY has noted in previous correspondence to the Office of the First and deputy First Minister and its respective Assembly Committee, it remains of concern that the HIA Inquiry terms of reference do not require the Inquiry to issue recommendations to prevent future failures in safeguarding or to assess learning from the Inquiry against current law, practice and services to safeguard children and young people.

In conclusion, while recognising the importance of seeking to clarify the respective roles and remits of SBNI and the HIA Inquiry, NICCY is of the view that establishing a date from which SBNI's CMR function can be undertaken does not address the broader issue of the Northern Ireland Executive effectively responding to the concerns of individuals and groups whose circumstances are not within the scope of the Inquiry. It is a matter of urgency that this is resolved and that appropriate direction and guidance is provided to agencies, groups and individuals affected by these serious matters.

Do not hesitate to contact my office if you require any further information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Patricia Lewsley-Mooney', is written over a printed name and title. To the left of the signature, there are handwritten initials 'P.L.M.' and a small mark.

Patricia Lewsley-Mooney
Commissioner for Children and Young People

Copied to Maggie Smith OFMDFM