

Submission by the Northern Ireland Commissioner for Children and Young People to the Committee for Health, Social Services and Public Safety on the Safeguarding Board Bill

Introduction

The Office of Commissioner for Children and Young People (NICCY) was created in accordance with 'The Commissioner for Children and Young People (Northern Ireland) Order' (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland.

Under articles 7(2)(3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. In determining how to carry out her functions, the Commissioner's paramount consideration is the rights of the child and NICCY is required to base all its work on the United Nations Convention on the Rights of the Child.

As we noted in our February 2010 submission to the Committee, NICCY is very supportive of the creation of a Safeguarding Board for Northern Ireland. Indeed, in her previous role the Commissioner, Patricia Lewsley, sought to place the work of the Area Child Protection Committees on a statutory footing by sponsoring a Private Members Bill, prior to the suspension of the Northern Ireland Assembly in 2002.

In considering the role of the Safeguarding Board, NICCY would highlight that while this will provide a new strategic focus on the protection of children; this represents only one aspect of strengthening safeguarding arrangements and practices in Northern Ireland. Other areas to be addressed include the history of under investment in personal and social services, responding to increasing referral rates to social services and providing early intervention and prevention services.¹ We would also note that all parts of government, including departments, must work collaboratively in order to ensure that children and young people are safeguarded and their welfare is protected.

NICCY is keen to ensure that the principles and spirit of the Department for Health, Social Services and Public Safety policy proposals are embedded in both primary and secondary legislation relating to the Safeguarding Board. While our

¹ NICCY, DFP, OFMdFM (2007) An Analysis of Public Expenditure on Children in Northern Ireland, (Belfast: NICCY).



submission supports much of the detail of this primary legislation, we also raise substantive concerns which the Commissioner would welcome the opportunity to discuss directly with the Committee.

Clause 1 Safeguarding Board for Northern Ireland

NICCY has strongly endorsed the principle within the Departmental policy proposals to ensure the Safeguarding Board has an independent Chair selected through the public appointments process. The independence of the Chair must go beyond the appointments process and we would draw attention to the need for the Chair to act as a 'critical friend' to government and statutory authorities.

To ensure the effectiveness of the Safeguarding Board, members must carry the delegated authority to speak on behalf of their organisations while also drawing on a robust knowledge and understanding of safeguarding practice. The role and responsibilities of members that will be detailed in Partnership Agreements will be central to establishing clear and appropriate working relationships.

NICCY appreciates the need to secure representative membership of the Safeguarding Board while ensuring it operates an effective working forum. However, we are concerned that where there are significant absences in representation, mechanisms are developed to address this. For example, in relation to the judiciary and Courts Service, medical profession and adult mental health services. It is also important that links are made with authorities in relation cross-border and UK border concerns, such as the UK Border Agency.

NICCY would highlight the importance of ensuring that the membership of the Safeguarding Board, as well as its overall effectiveness is reviewed.

Clause 2 Objective of the Safeguarding Board

We welcome the objective of co-ordinating and ensuring the effectiveness of what is done by each person or body represented on the Safeguarding Board for the purposes of safeguarding and promoting the welfare of children. We believe the establishment of a Safeguarding Board provides an opportunity to strengthen safeguarding arrangements and ensure the highest standard of protection is afforded to children, young people and families.

NICCY is of the view that the establishment of the Safeguarding Board should be placed in the context of the United Nations Convention on the Rights of the Child and reflect the obligations on the UK Government, including Northern Ireland, as a



signatory to ensure that the rights and best interests of children and young people are upheld.

Our understanding is that the establishment of the Safeguarding Board will not impact on the Scheme of Delegation which currently operates between the Department, the Health and Social Care Board and Health and Social Care Trusts. We do however feel that greater clarity should be provided regarding the remit of the Safeguarding Board and agencies that hold inspection and quality assurance roles, such as the Regulation, Quality and Improvement Agency.

Clause 3 Functions of the Safeguarding Board

NICCY welcomes the range of functions outlined for the Safeguarding Board but would highlight the importance of the Board maintaining a clear focus on its 'core business' of child protection before expanding into its wider functions relating to safeguarding.

In relation to the remit to develop safeguarding policies and procedures it is important for the respective roles of the Safeguarding Board and the Department in this area to be clarified. In considering the function outlined in 3(2), effective communication mechanisms must be developed to ensure the Safeguarding Board informs operational matters and frontline practice. In regard to reviewing the effectiveness of each member, again appropriate mechanisms must be developed to achieve this.

NICCY welcomes the statutory responsibility placed on the Safeguarding Board in relation to Case Management Reviews (CMRs) and the review of information regarding child deaths. We would highlight that these critical areas of work, which will in large part be conducted by Panels, will be resource intensive. We hope that a review of the CMR process will be completed and informed by research undertaken by Queen's University and the NSPCC.² In relation to child deaths, we would expect that the child death review protocol will be operational and that arrangements for cooperation with agencies, such as the Coroners Office, will be in place.

We draw attention to the importance of the Safeguarding Board monitoring the implementation of CMR action plans and assessing information from child deaths in order to ensure lessons about weaknesses and failures in the protection of

² Lazenbatt, A., Devaney, J, and Bunting, L. (2009) An Evaluation of the Case Management Review Process in Northern Ireland, (Belfast: QUB, NSPCC).



children and young people are learned. It may helpful for the legislation to place a positive duty on the Safeguarding Board to review the implementation of CMR action plans. Indeed, due to our concerns in this area NICCY has agreed a protocol with the Health and Social Care Board to allow us to monitor progress in relation to CMRs.

In relation to the Safeguarding Board's role in advising others, provided for in 3(6) and (9), it may be helpful to place this function within one sub clause. We would also make clear our concern that an aspect of 3(9) requires that Departmental approval be given prior to any publication by the Safeguarding Board. We are of the view that this raises concerns about the capacity of the Safeguarding Board to operate independently and to function effectively and suggest that this provision is both unnecessary and unhelpful.

We welcome the duty placed on the Safeguarding Board in 3(7) to promote communication with children and young people and were supportive of the Departmental policy proposal to establish a Young Person's Safeguarding Forum. However, we consider that engaging with children should be an active duty placed on the Safeguarding Board. We note that suggested guidance to LCSBs states that the voices and experiences of young people should strongly inform their work programme.³ We would also highlight the role of the Safeguarding Board in communicating with parents, carers and families and note our expectation that the Board will become a designated body in relation to Section 75 of the Northern Ireland Act 1998.

It would be helpful to have greater clarity in regard to the Safeguarding Board function of 3(8) in making arrangements for consultation and discussion and we are unclear if this refers to the Safeguarding Regional Forum detailed in the Departmental policy proposal. The Safeguarding Board must ensure there are effective mechanisms in place to engage with the community and voluntary sector which provide many services and supports for children, young people and families.

Clause 4 Directions to the Safeguarding Board

NICCY acknowledges the need to ensure that appropriate oversight structures are in place for the Safeguarding Board and appreciates the line of accountability that must run from the Safeguarding Board, to the Department and the Minister. We

³ Department for Children, Schools and Families (2010) Local Safeguarding Children Boards: Practice guidance for consultation, (London: DCSF).



would however also highlight the importance of ensuring there are strong links between the Safeguarding Board to government departments and the Ministerial Sub-Committee on Children and Young People.

Governance arrangements for the Safeguarding Board must be proportionate and we would voice concerns that the provision for the Department to give general or specific direction to the Safeguarding Board in relation to any of its function, with or without consultation must be carefully considered. Such a provision raises questions about the capacity of the Safeguarding Board to operate independently and function effectively and we suggest that this provision is both unnecessary and unhelpful. We note that an equivalent clause has not been included in either the Children Act (2004) or The Local Safeguarding Children Boards Regulations (2006) in regard to the establishment and functioning of LSCBs.

Clause 5 Functions of the Safeguarding Board – general

We note that clause 5 requires the Safeguarding Board in exercising its functions, to have due regard to any guidance given to it for the purpose by the Department. We raise concerns that this may impact negatively on the capacity of the Board to operate independently and effectively.

In reference to our concerns in regard to the provisions of clauses 4 and 5 it may be helpful for the legislation to clarify the status of the Safeguarding Board in relation to its independence in meeting its objective of co-ordinating and ensuring the effectiveness of what is done by each person or body represented on the Board for the purposes of safeguarding and promoting the welfare of children.

Clause 6 Annual report of the Safeguarding Board

We welcome the requirement that an annual report is laid before the Assembly. The annual report should provide an assessment of the activities of the Safeguarding Board but must also offer an analysis of progress made and challenges that remain in improving the safeguarding of children and young people. Reporting should reflect key areas of its responsibilities, such as, the learning from the review of child deaths and the implementation of CMR action plans.

We would welcome an approach that mapped the work of the Safeguarding Board directly to the outcomes of the Children's Strategy and to Children's Services Planning processes.



Clause 7 Committees and sub-committees

NICCY welcomes the establishment of Safeguarding Panels, the CMR Panel and the Child Death Overview Panel. We would highlight the importance of the appointments process for Panel chairs and the need to ensure there is a direct link between chairs and the Safeguarding Board itself to ensure strategic coherence. It is important that Panels maintain a strong focus on child protection functions, particularly in the transition and bedding down period of the new structures.

We welcome the provision that will enable committee and sub-committee membership to go beyond that of the Safeguarding Board and note that consideration must be given to ensuring that membership reflects the significant role of voluntary and community sector organisations in working with children, young people and families.

Clause 8 Functions of committees and sub-committees

The structure of the Safeguarding Board will result in significant areas of work being undertaken by Panels, committees and sub-committees and NICCY acknowledges the pivotal role that regulations and guidance will have in prescribing their functions and working arrangements.

We accept that it is in keeping with clear governance for Panels, committees and sub-committees that they have due regard to guidance provided by the Safeguarding Board but raise concerns it is not necessary for this to also apply to the provision of guidance by the Department.

Clause 9 Annual reports of committees

We welcome the requirement for committees and sub-committees to complete an annual report for the Safeguarding Board. It would be helpful for these reports to be incorporated into the Safeguarding Board's annual report.

Clause 10 Duty to co-operate

NICCY welcomes the duty to co-operate placed on the Safeguarding Board and its members. We would hope that the spirit of this duty will also be evidenced in the co-operation demonstrated between government departments in working collaboratively in relation to safeguarding and promoting the welfare of children and young people.



We are disappointed that the provisions for the Safeguarding Board do not directly address its relationship with the outcomes of the Children's Strategy and the Children's Services Planning process.

Clause 11 Supply of information requested by the Safeguarding Board

It would be helpful if these provisions made reference to information being supplied in a timely manner as this may impact on the functioning of the Safeguarding Board, for example, in relation to CMRs.

Clause 12 Arrangements to safeguard and promote the welfare of children

It would be helpful to have greater clarity in relation to how this clause is differentiated from the provisions of clause 2 whereby the Safeguarding Board must ensure the effectiveness of its members for the purposes of safeguarding and promoting the welfare of children and clause 4 in relation to having due regard to Departmental guidance.

Clause 13 Ancillary and transitional provisions etc

NICCY would again highlight the importance of ensuring that a strategic and operational focus is maintained on child protection during the transition to and consolidation of the new arrangements of the Safeguarding Board. This may include bodies running in tandem or shadow form for a period of time.

Clause 14 Regulations

We have previously noted the important role that regulations will play in directing the arrangements and working of the Safeguarding Board and welcome the provision that these will require Assembly approval. We would highlight the importance of ensuring the broader engagement of stakeholders and agencies in this process.

Additional comments

The resourcing of the Safeguarding Board will be critical to its performance in strengthening arrangements to protect and safeguard children and young people. The Departmental policy proposals indicate that monies will be ring-fenced for the Safeguarding Board and we note that these funds must be protected from budgetary cuts.





During our submission we have referred to the important role of other agencies, such as, voluntary and community organisations, the Court Service and medical profession in safeguarding and promoting the welfare of children and young people. The Safeguarding Board must ensure it meaningfully engages with and draws on the experience of all sectors.

We would expect that the Safeguarding Board will be regarded as a relevant authority in relation to Article 4(1) (c) of 'The Commissioner for Children and Young People (Northern Ireland) Order' (2003).

Patricia Lewsley
Commissioner for Children and Young People
30 July 2010.

