

Response by the Northern Ireland Commissioner for Children and Young People (NICCY) to the DHSSPS Consultation on 'The Establishment of a Regional Safeguarding Board for Northern Ireland'

1.0 Introduction and Background

1.1 The role and function of the Northern Ireland Commissioner for Children and Young People (NICCY) is set out in legislation of the same name, passed in 2003¹. NICCY's main aim is to safeguard and promote the rights and best interests of children and young people. The Commissioner is tasked with advising Government on the adequacy and effectiveness of law and practice relating to children and young people.

1.2 In her previous role the current Commissioner, Patricia Lewsley, was instrumental in drawing attention to the need to improve the work of Area Child Protection Committees (ACPC) prior to the suspension of the Northern Ireland assembly in 2002, by sponsoring a Private Members Bill to place them on a statutory footing. NICCY is therefore pleased at the principles behind this consultation document and offers a range of comments that in our view would strengthen the proposals outlined within it.

2.0 Children's Rights

2.1 NICCY welcomes the approach taken by DHSSPS to place the proposals to establish Safeguarding Boards within a Children's Rights framework, however there are particular rights which need clearly stating to ensure full compliance and understanding. In preparing this response NICCY has carried out a Children's Rights Impact Assessment of the consultation document. The jurisprudence of the Committee on the Rights of the Child (CRC), the monitoring body for the United Nations Convention on the Rights of the Child (UNCRC), suggests that State Parties can use Child Impact Assessments as a means of going some way towards fulfilling their obligations under Articles 3 and 4 of the UNCRC². In 2003, the Committee published comments on 'general measures of implementation' of the UNCRC, stating that:

¹ The Commissioner for Children and Young People (Northern Ireland) Order 2003

² Article 3: The best interests of the child should be paramount; Article 4: all rights of the UNCRC should be made available to all children



“Ensuring that the best interests of the child are a primary consideration in all actions concerning children (art. 3(1)), and that all the provisions of the Convention are respected in legislation and policy development and delivery at all levels of government demands a continuous process of child impact assessment (predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights) and child impact evaluation (evaluating the actual impact of implementation). This process needs to be built into government at all levels and as early as possible in the development of policy.”³

2.2 NICCY would therefore draw to DHSSPS’s attention the need to incorporate the UNCRC, in particular the following Articles, not simply as statements within the document, but as underlying principles for Safeguarding Boards and their work in protecting children:

- Article 3 – In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. *This includes the actions of members of the Safeguarding Board, whose primary focus must be on protecting children. The importance in explicitly stating this stems from concerns about the dysfunction of current ACPCs.*⁴
- Article 6 – State Parties shall ensure to the maximum extent possible the survival and development of the child.
- Article 12 – States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. *NICCY notes the proposal to develop young people advisory groups and will offer comments on this later in our response. At this stage, there should be recognition that Safeguarding Boards have a role in ensuring that “safeguarding” is not something ‘done’ to children and young people, but ‘with’ them in ways in which they can feel empowered. This would mean a review of the current child protection processes, including case conferences.*⁵
- Article 19 – State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all

³ General Comment No. 5, *General measures of implementation of the Convention on the Rights of the Child* (arts. 4, 42 and 44, para. 6) CRC/GC/2003/5 at para 45.

⁴ SSI Inspection Report

⁵ Ibid



forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

3.0 Comments

3.1 NICCY accepts the rationale set out at paragraphs 1.4 and 1.6 of the consultation document for the need to strengthen current arrangements. All agencies, including the Office of the Commissioner for Children and Young People, must avail of every opportunity to ensure the protection of children and young people, particularly the most vulnerable who have no voice and power to protect themselves. Improved governance and accountability arrangements are critical in this process.

3.2 Working Together

Area Child Protection Committees as they are currently constituted and function do not provide a robust strategic oversight of child protection; it is timely therefore that they are to be replaced. Considerable change is now necessary in relation to role, function, leadership and accountability and these issues will all be addressed by NICCY below.

3.3 The Proposal

NICCY welcomes the proposal to establish a regional Safeguarding Board through statutory provision. The legislative basis should authorise members to carry out their duties with the primary concern of safeguarding children and young people. Given the demographics and geography of Northern Ireland, it is appropriate that there is strong central management by way of membership and accountability. The previous experience of four Boards resulted in inconsistencies in approach and delivery.

3.4 Safeguarding Children

The consultation document states that safeguarding incorporates preventable harm, including accidental injury, but does not elaborate on the role of the Safeguarding Board within this context. If having a monitoring role over



accidental injury is to be within the legislative remit of the Safeguarding role, NICCY believes the remit needs to be very clear; confusion in relation to this could be damaging to children and young people, and could quickly swamp the agenda and duties of the Board.

3.5 Proposed Role and Scope

NICCY has already stated that we agree with the proposal to establish one Regional Board. However, given the proposals under RPA, we recommend that further thought is given to the relationships with the range of authorities with statutory responsibility for children, including those charged with community planning across Northern Ireland. As it stands, the current document does not take into account the important structural changes in terms of community planning under RPA.

3.5.2 The current document is vague in terms of what it is the Board has statutory responsibility to do. NICCY strongly recommends therefore that before identifying the objectives, DHSSPS set out in the first instance the specific aim of the Safeguarding Board. We would further recommend that the objectives are more strategic with a rights focus. Given their nature, the objectives should be set tri-annually and reviewed on an annual basis.

3.5.3 Specifically with regards to the proposals set out on page 10 of the consultation, NICCY believes greater clarity is required in relation to:

- The plan to include all statutory and voluntary agencies that provide services; this is very broad as it includes all education, child care and indeed a wide range of government agencies such as environment, culture arts and leisure etc. In NICCY's view, it would be a very large and unwieldy group if constituted in this fashion. Given the specific remit of the Safeguarding Board and the legislative requirement on the members, further thought needs to be given to this proposal.
- In relation to forging effective links with external bodies, the terminology within this paragraph is unclear. Is it the role of the Safeguarding Board to address the "impact on the lives and well being of children" in Northern Ireland? If so this is a hugely broad responsibility, and specifics around the Board's role in relation to "well being aspects of children's lives "need clarifying, is the role to help prevent abuse or does the Board have a strategic role in ensuring the well-being of children and young people?



- It is NICCY's view that the focus should be on safeguarding and that the proposals set out on page 10 should be reframed into principles. For example, the Safeguarding Board should establish fundamental principles to ensure the protection of children in Northern Ireland, to include liaison and open communication with other strategic bodies that have a responsibility to protect and prevent harm to children, for example those charged with tracking and managing sex offenders within and outside Northern Ireland.
- In terms of a single database for child protection, NICCY would like to be assured about issues in relation to confidentiality and access to information. Unfortunately some information sharing databases in England have not respected the right of the child to privacy, as provided under Article 16 of the UNCRC.

3.6 Scope (p.10)

NICCY has already referred to the need to be specific about the aim of the Board and this clearly relates to the issue entitled 'scope' within the consultation document. NICCY notes that the scope identified here concurs with safeguarding board procedures in England and Wales. They of course are based on 'Every Child Matters' and the 5 outcomes for children within those jurisdictions. It would be appropriate to set out the strategic context of Safeguarding Boards within the Children's Strategy and the relevant outcomes identified for children in Northern Ireland at this juncture in the document. This is of particular importance as the Children's Strategy has a Rights based focus as well as seeking greater emphasis on outcomes. In addition, given the proposed structural changes under the Review of Public Administration, it would be important to include aspects of planning for safeguarding/child protection within the scope of the Board.

3.7 Appointment of the role of chairman of SBNI

NICCY supports the plan to appoint an independent chairperson and that the appointment will be transparent, following criteria of the public appointments process. We are unclear what is meant by "lay people" and would like greater clarity on this, their purpose being beyond that of statutory and voluntary representatives. NICCY is further unclear as to why the post is required for 3 days per week; is it the role of the chair to manage the safeguarding board? It might be more appropriate to differentiate the role of chair from that of managing the functions of the Board, which we do agree is a



substantial job. If the Board is to take on responsibility for the effective co-ordination of safeguarding children in Northern Ireland, this is a considerable task. There will be a requirement to produce a business plan with Smart objectives and this should be supported by a secretariat and have a budget to fulfil the objectives set.

3.8 Operation of SBNI

In terms of membership, NICCY would encourage inclusion of organisations who advocate on behalf of the most vulnerable groups of children and young people, for example, those with disabilities/living with parents who misuse alcohol and other substances; and those who do not have a voice such as children whose first language is not English/from Travelling communities.

3.9 Young People's reference group

NICCY is very pleased to read proposals to consult and engage with children and young people. However, the establishment of a reference group may not be the most effective means of doing so, given that those most confident and able to participate may not necessarily be those whose experience includes an awareness of safeguarding issues. Ensuring the voice of the child is critical, and material will need to be produced in formats acceptable to all children and young people. NICCY strongly recommends that in addition to the creation of a reference group, other creative mechanisms for listening to and enabling the views of the child are considered and developed by the Board as it establishes its objectives.

3.10 Policy and Procedures

The Safeguarding Board and DHSSPS will need to review existing policy and procedures under Co-operating to Safeguard Children in light of the administrative changes and establishment of the Board itself.

3.11 Safeguarding Panels

NICCY supports the establishment of the Panels. We recommend that clear lines of accountability for action and to the Safeguarding Board are established



in order to ensure that the Panels do not develop into “talking shops” without responsibilities for action within the locality.

3.12 Serious Case Reviews

NICCY believes that greater clarity is required in relation to this aspect of the Boards functions and that identified by bodies sighted in an earlier consultation document from DHSSPS in relation to Child Death Reviews. For NICCY’s views see our response to the DHSSPS consultation on ‘Regional multi-agency procedures to be followed in cases of sudden or unexpected child deaths’.⁶

3.13 Communicating and raising awareness

NICCY would like to be assured that in planning to raise awareness and communicate messages about safeguarding children, that children are included in the audience and that all information is written in easy to read, child-friendly language.

4.0 Conclusion

NICCY is very supportive of the principles behind the proposals contained in this consultation document. NICCY is however concerned to ensure there is maximum clarity about the role and functions of this key body in the protection of Children and Young People. We have above outlined those areas where we feel further clarification is required.

NICCY believes there is a unique opportunity to develop a strategic body with a clear and unambiguous focus and with specific accountability to co-ordinate agencies whose responsibility it is to safeguard children and young people in Northern Ireland from harm. Clearer plans need to be agreed prior to the establishment of a Board and we believe that at present these proposals do not have a clear framework. We look forward to hearing the results of this consultation in due course and offer the opportunity of further discussion if this would be of benefit.

⁶ Full response available at www.niccy.org/research/consultations

