



Northern Ireland
Assembly

COMMITTEE FOR
HEALTH, SOCIAL SERVICES AND
PUBLIC SAFETY

OFFICIAL REPORT
(Hansard)

**Safeguarding Board Bill:
Evidence Session with the Northern
Ireland Commissioner for Children and
Young People**

30 September 2010

NORTHERN IRELAND ASSEMBLY

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HEALTH SOCIAL SERVICES
AND PUBLIC SAFETY**

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Evidence Session with the Northern Ireland Commissioner for
Children and Young People**

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Members present for all or part of the proceedings:

Mr Jim Wells (Chairperson)
Mrs Michelle O'Neill (Deputy Chairperson)
Mr Mickey Brady
Dr Kieran Deeny
Mr Alex Easton
Mr Tommy Gallagher
Mr Sam Gardiner
Mr Paul Girvan
Mr John McCallister

Witnesses:

Ms Patricia Lewsley) Northern Ireland Commissioner for Children and Young People
Ms Jacqueline Melville)

The Chairperson (Mr Wells):

Some of us have waited a long time for this, although I had the benefit of seeing the Children's Commissioner when she appeared before the Committee for the Office of the First Minister and deputy First Minister. You are welcome back to what was your old stomping ground for many

years, Ms Lewsley. With you is Jacqueline Melville. You know the routine extremely well. You have 10 minutes in which to make a presentation, after which members will ask questions.

Ms Patricia Lewsley (Northern Ireland Commissioner for Children and Young People):

Thanks very much. I appreciate the opportunity to speak to the Committee for Health, Social Services and Public Safety. I will begin by acknowledging the considerable time that members have invested in scrutinising the policy proposals and the primary legislation to establish the safeguarding board for Northern Ireland (SBNI). In July, the Committee received our written submission, which considered each clause of the Bill. My comments today will concern two key themes that have emerged for us. The first is the relationship between the safeguarding board and the Department of Health, Social Services and Public Safety (DHSSPS); the second is the relationship between the board and key stakeholders, including children and young people.

As the Northern Ireland Commissioner for Children and Young People (NICCY), it is my job to promote and safeguard their rights and best interests. It is also my job to monitor the extent to which the Government act, or fail to act, to promote children and young people's rights and best interests. One of the most fundamental rights that should be afforded to all children and young people is that they are protected from harm, neglect and abuse. The development of a safeguarding board for Northern Ireland represents an important opportunity for government to strengthen safeguarding arrangements and ensure that the highest standard of protection is afforded to children and young people.

NICCY supports the establishment of such a body. As some of you may know, in my former capacity as an MLA, my private Member's Bill did not, unfortunately, reach the Floor of the Assembly because of suspension. The aim of that Bill was to put area child protection committees (ACPC) on a statutory footing. Although it is about six and a half years later, it is pleasing for me to see the safeguarding legislation coming to fruition.

We are keen to ensure that the principles and spirit of the Department's policy proposals are embedded in the legislation and regulations and that the issues that we raise today reflect those areas in which the primary legislation does not achieve that fully. As I said, my first concern relates to the independence of the board and its relationship with the Department. NICCY acknowledges the need to ensure that appropriate oversight structures are in place for the safeguarding board, and we appreciate that a line of accountability must run from the board to the

Department and the Minister. We welcome the commitment that the safeguarding board will have an independent chairperson, selected through the public appointments process. The independence of that chairperson must, of course, go beyond the appointments process. We draw attention to the need for the chairperson to act as a critical friend to government and statutory authorities.

However, we have a number of concerns about other related clauses that require departmental approval prior to the safeguarding board's publication of material. We are concerned about the Department having the capacity to give general or specific direction to the safeguarding board on any of its functions, with or without consultation. We also have concerns about the board, in exercising its function, being required to have due regard to any guidance from the Department. Although governance arrangements must be in place for the safeguarding board, those should be proportionate. We have concerns that the detailing of those clauses in the primary legislation raises questions about the ability of the safeguarding board to operate independently and function effectively.

We acknowledge that the Department stated that the legislation is intended to ensure that clear accountability structures are in place so that, for instance, information released by the safeguarding board is factually accurate. However, NICCY is of the view that those clauses should be amended or removed. Clause 3(9)(c), for example, could be revised to reflect that approval is needed only to ensure factual accuracy in publications. Clause 4 could state that the Department will give directions only in exceptional circumstances and that such directions will be documented publicly in, for instance, the board's annual report.

The Bill offers the opportunity to establish a strong and effective body with an independent voice. Our purpose in raising our concerns is to ensure that no provisions in the legislation, either in principle or in practice, would have the capacity to undermine that position.

My second theme is the range and nature of relationships that the safeguarding board will have with other bodies and stakeholders. To be effective in approving safeguarding arrangements for children and young people, the board must ensure that it engages meaningfully with, and draws on, the experiences of all relevant sectors. As our written submission notes, we appreciate the challenge of securing representative membership while ensuring that the board operates as an effective working forum. However, we remain concerned that sectors that play a key role in the

protection and safeguarding of children and young people, such as the judiciary and the medical profession, are significantly absent from the board's membership.

We welcome the duty of co-operation that will be placed on members of the safeguarding board, and we are concerned that the spirit of that duty should also be evidenced in the co-operation demonstrated among Departments and the board. We are particularly concerned that co-operation is secured with the Departments of Education, Justice, and Health, Social Services and Public Safety, which are central duty bearers in delivering services to children, young people and families. Work must be done among the groups of professionals and Departments involved to establish clear and meaningful processes for communication and collaboration.

In addition, the safeguarding board must ensure that effective mechanisms are in place to engage with the community and voluntary sector, which provides many services and supports for children, young people and families, particularly for some of those who are most vulnerable and disadvantaged. We recognise that that engagement may occur through the local panel and subcommittee structure and in the board's arrangements for consultation and discussion. However, we feel that that should be more clearly articulated in the regulations.

In considering the safeguarding board's engagement with children and young people, we welcome the duty placed on the board to take reasonable steps to promote communication. However, we consider that engaging directly with children should be an active duty placed on the safeguarding board and recommend that the relevant clause be amended to reflect that.

Children and young people have talked to me and my staff about child protection processes leaving them feeling powerless and frightened. They have shared their experiences of not understanding what is happening to them and their families and of feeling that professionals and agencies make decisions for them rather than with them. For me, the most poignant example is the McElhill case, which concerned a fire in a house in Omagh, in which a 14-year-old had asked for help. The response involved adults speaking to her parents without anyone ever asking for her opinion about what was going in the house. Perhaps, if somebody had taken the time to speak to that 14-year-old girl, she may have painted a totally different picture of what was happening inside the house than the adults did at the time. The safeguarding board must ensure that it listens and acts on the experiences and views of children and young people who have had contact with the child protection system.

In considering other aspects of the Bill, I have two additional comments. NICCY welcomes the statutory responsibility placed on the safeguarding board in relation to case management reviews and the review of information on child deaths. We draw attention to the importance of the safeguarding board monitoring the implementation of action plans and recommendations that arise from those reviews to ensure that lessons are learned about weaknesses and failures in the protection of children and young people. The primary or secondary legislation should place a positive duty on the board to fulfil that function. The board's work in that area should be documented in an annual report.

Finally, the Committee should note that it is our expectation that the safeguarding board will be regarded as a relevant authority in relation to NICCY legislation.

The Chairperson:

I should have pointed out to the Committee that you are the Northern Ireland Commissioner for Children and Young People. I did not give you your formal title, although we all know who you are and what you do. Jacqueline is the policy and research officer for NICCY.

Thank you for that very helpful contribution. I remember your private Member's Bill. Mr McCallister may be behind the Assembly's first successful private Member's Bill, which is on caravans. It has taken 12 years for that to happen.

Are you content that it is better to have one statutory board for all Northern Ireland rather than placing the local area panels on a statutory footing? Are you happy with the way that that has worked out?

Ms Lewsley:

I am, as long as it is a strong safeguarding board. Northern Ireland is a small place. At the time of my private Member's Bill, the area child protection committees were in place. They were given a statutory footing, and we believed that that was the right way to go. However, I am happy to have a safeguarding board for the whole of Northern Ireland. It will probably have subcommittees that will, I hope, touch on many of the issues that we discuss.

The Chairperson:

Every witness mentioned the problem of independence and the link between the board and the Minister. I am sure that you have been following the thread of our argument that there are concerns about having to refer publications for approval. I like your idea that such referral should relate only to factual accuracy. That is a reasonable compromise, because a purely factual mistake could be made when printing a document. Perhaps a document quotes a figure of £2 million, and the Minister corrects that and states that the figure should be £3 million; that is fair enough. However, we are worried about more critical changes being made.

You also raised the issue of the role of young people. The Voice of Young People in Care (VOYPIC), which is the lead voice in the voluntary sector, suggested the creation of a shadow board. However, the Committee heard evidence from representatives of local safeguarding children boards in England who said that it had been quite difficult to get young people involved and engaged. Even when an offer was made that the chairperson of a shadow board could sit in on the main board, that offer was not taken up. Are you confident that young people feel strongly motivated enough to become involved at the level of a shadow board?

Ms Lewsley:

Yes, I am, because this Government take the participation of young people seriously. We have children's champions in each Department, and they look at how they can participate with children more effectively. Our young people are much more aware of the issue of participation. In this area in particular, we have highly capable young people who could be part of a shadow board.

The Chairperson:

You are an independent commissioner, yet you also have to issue a report to the Office of the First Minister and deputy First Minister (OFMDFM). Have you any evidence of attempts to persuade you to tone down, modify or retract something that you were about to publish?

Ms Lewsley:

Not to date.

The Chairperson:

You have not been aware of any such interference. Why should we fear attempts to try to suppress the safeguarding board from doing something?

Ms Lewsley:

It is better that the prevention be included from the outset, rather than finding that it is needed later.

The Chairperson:

It is more for appearance rather than practicalities. My next question is one that I have asked every witness toady. I almost feel guilty about doing so, but the topic is fresh off the press. What should be the status of the chairperson of the safeguarding board? In the overall scheme of things, from what level of seniority should he or she come?

Ms Lewsley:

The chairperson should be fairly senior, as the post requires a mix of skills. However, the core issue for me is about his or her understanding of children and young people and how the board will engage with them in future. I have seen today's advertisement for the chairperson, and I am disappointed because of the people whom that remuneration will attract.

The Chairperson:

The advertisement has only just appeared in the paper. People have not had a chance to look at it.

Ms Lewsley:

For me, the advertisement reflects the seriousness that the Department accords to the safeguarding board.

The Chairperson:

Is the salary appropriate?

Ms Lewsley:

No.

The Chairperson:

One or two others would agree with you on that.

Mr Gardiner:

It is lovely to see you again, Patricia. Do you know how many young people have come to your office with their problems? Do you break them down into age groups?

Ms Lewsley:

Although I do not have that information today, we hold those details and can provide them to you. We deal with a number of cases across the board. I will write to you with the detailed figures.

Mr Gardiner:

If that information could be broken down into age groups, it would be helpful.

Mr McCallister:

I met you a few weeks ago, and it is good to see you again, Patricia. I want to follow on from my questions to Jan Horwath. Will there be too many agencies with which to engage here? OFMDFM is taking the lead, and, in yesterday's Committee for Education meeting, I discovered that each Department supposedly has a children's champion. However, when I read some of the content of the nought-to-six strategy, I wonder what all those champions have been doing.

If OFMDFM takes the lead in developing children's services and plans while your office engages directly with children, how does that all feed in? How do we get the best out of the safeguarding board and panels? Will we have too many layers of people chasing after things? Who engages with whom, and who decides on the best policy? I am worried that too many people are involved.

Ms Lewsley:

I will clarify something for you. There is the children's strategy, but there are also children's services planners, who are part of the Health Department and are under the aegis of the boards. They would probably have more direct contact with the safeguarding board.

The Chairperson:

Are they under the one board or the five trusts, Patricia?

Ms Lewsley:

I am sorry; they are under the trusts. There is a children's services planner in each of the trusts. I assume that they would have a much closer working relationship with the safeguarding board. The children's strategy is a 10-year strategy on which OFMDFM takes the lead. Those are two separate entities. We are disappointed that the provisions for the safeguarding board do not directly address its relationship with the outcomes of the children's strategy or with the children's services planning process. We want stronger links between the safeguarding board and those two elements.

Mr McCallister:

Is there a danger of doing exactly what was outlined in the previous presentation and that something will fall away?

Ms Lewsley:

What happens is that one element delivers the services planning, while, higher up, is the overarching strategy. When child protection issues are brought to NICCY, our job is to put them through a process that involves the gateway teams, the trusts and others. Mechanisms are in place to help us to avoid duplicating what others do, and there is a clear line of accountability throughout all the organisations. We hope that that line of accountability will extend to the safeguarding board. For me, the strength of the safeguarding board is that it will be able to consider the issues and determine quickly where there are gaps that need to be addressed.

Mr McCallister:

Many people belong to organisations, such as youth groups, in which child protection is an important issue. My background is in young farmers' clubs and in community and voluntary groups. How can issues that affect those groups be fed into the safeguarding board and local panels?

Ms Lewsley:

Each organisation should have a mechanism. First, each should have a child protection policy, such as the one that we have in NICCY. We also have child protection officers. If a child discloses an issue to one of my participation officers, he or she will automatically refer that to a child protection officer who, in turn, will refer it to the gateway team. Organisations such as youth clubs and the Scouts should have those mechanisms in place so that they are familiar with

the line of accountability and know who is responsible and what they need to do.

Mr McCallister:

As things change and the years go by, will the safeguarding board have a role in changing or developing policy?

Ms Lewsley:

Yes. If a number of specific issues are raised with the safeguarding board, it will become involved with policy. That will be the board's opportunity to raise those issues and ensure that any gaps are closed.

Ms Jacqueline Melville (Northern Ireland Commissioner for Children and Young People):

It is important to recognise the opportunity that the Bill provides to establish a body that has not been in place in Northern Ireland before. The board has a region-wide remit and a core function of ensuring the co-ordination and effectiveness of its members in meeting their duty to safeguard children and young people and to promote their welfare. When the safeguarding board beds down and becomes effective and strong, the two key elements that fall into that function should affect practice and policy developments across Northern Ireland. At that stage, the board should ensure effective communication, information sharing and collaborative working across all the agencies with which it is involved. It should also ensure that, through its specific case management review function and in reviewing information related to child deaths, lessons are learned and that recommended actions become embedded in the system. The safeguarding board should be a vehicle for achieving real change as part of child protection arrangements.

The Chairperson:

I will follow on from John's question: do you regard the safeguarding board as a body that will simply review individual cases or as a body that will embark on studies and investigations of its own volition?

Ms Lewsley:

I envisage the board embarking on studies and investigations of its own volition if it thinks that it needs to do so because there is a gap. It is the same in our organisation. We have the right to launch investigations, and we do so where we see fit.

Mr Gallagher:

Thank you, Patricia. You were probably present when the previous witness mentioned the safeguarding boards in England. She gave clearly honest answers about the boards and found it hard to point to any improvements. The boards were set up in England in 2006, and there are, of course, gaps and room for improvement. Bearing that in mind, I presume that you, in common with me and other members, would not like to think that, four years after the establishment of the safeguarding board in Northern Ireland, we will be drifting along without any real improvements to show for our effort. Exactly what improvements would you like to have been made four years after the board's establishment?

Ms Lewsley:

We would like the biggest improvements to have been made in the areas that Jacqueline mentioned: effectiveness, communication and the delivery of services to children and young people who need protection. Northern Ireland is some way ahead of other jurisdictions on child protection, but that is not to say that we do not have more to do. Our area child protection committees were already in place. However, the problem with those centred on the sharing of information and the multi-agency approach. Six years ago, when I was trying to put a private Member's Bill through the House, I identified the need to make people accountable and to make that responsibility much stronger by placing it on a statutory footing. The ultimate aim of the Bill is to ensure that better child protection processes are in place for children and young people.

Ms Melville:

The other point is that the Bill is only one aspect of what Northern Ireland must have in place to reach the highest standards of child protection arrangements. The other issues that need to be considered are the resourcing of personal and social services and the resourcing of services for children, young people and families.

As the Committee is aware, there has, historically, been underinvestment in Northern Ireland. Research by NICCY demonstrated that Northern Ireland has the lowest per capita spend of all the jurisdictions in the UK. NICCY's research with DFP and OFMDFM on the percentage spent on personal social services, which include child protection, demonstrated that 14% is spent on children's social care services in Northern Ireland, whereas 24% and 26% are spent in England and Wales respectively. Therefore, some structural issues of funding and resourcing must be

examined.

The Chairperson:

If more money is wanted for social services and children protection in England, it can simply be added on to the community charge. Here, however, child protection must fight for its share of a bigger block within DHSSPS. That problem will always exist here, because we do not have the option of simply going to the ratepayer. I had heard the figure of 14% being bandied about before, but I did not know that it came from NICCY's research.

Mr Girvan:

Thank you for your presentation. In your July submission, you suggested that issues that were identified in your child strategy were not being addressed through the drafting process and were not being taken on board. How could that be achieved, and how could those issues be included? How do you envisage that fitting in with children's services?

Ms Lewsley:

It is not our children's strategy; it is OFMDFM's children's strategy. It is a question of examining the six core priorities that emerged from that strategy and identifying how they match with some of the issues that the safeguarding board will deal with. It is a matter of joining everything up and ensuring its effectiveness.

Mr Girvan:

You felt that those issues were not being addressed.

Ms Lewsley:

That is what I am saying. We are disappointed that the legislation does not directly address the safeguarding board's relationship with the outcomes of the children's strategy and the children's services planning process. We would like a provision for a much stronger match in the legislation. It is a matter of trying to achieve joined-up government.

Mr Girvan:

How could that be achieved?

Ms Lewsley:

It could be achieved through its being more specific in the legislation.

Ms Melville:

The Children Act 2004, for example, places a duty to co-operate on the safeguarding boards in England to promote the well-being of children and young people, and that related directly to the five high-level outcomes of Every Child Matters, which is the equivalent children's strategy in England and Wales.

Dr Deeny:

Welcome, and thank you for your presentation. Patricia, as has been discussed in previous Committee meetings, we share your concerns about the proposal that the Department will have to give approval to the board and, indeed, that it will be able to dismiss the chairperson and members. In previous meetings, I mentioned two other groups that are within the confines of the Department of Health, Social Services and Public Safety: the RQIA and the Patient and Client Council — I do not like the word “client” in that context. It appears that those groups must also seek, or be given, the approval of the Department, which is worrying.

I am extremely disappointed by the Department's advertisement for the post of chairperson, which I do not think will attract the right candidates.

Patricia and Jacqueline, you said that the whole community must be involved, and so it must. Jan Horwath mentioned the idea of transparency. I hope that the board will work well and result in great improvements in the safeguarding of all children. We need to know about all problems, not only those in the Department. If good work is being done, the public need to know about it, because they are interested in, and concerned about, the issue.

Transparency is important. It appears that almost all of the responsibility is with the Department of Health, Social Services and Public Safety, which must be accountable to, for example, the Health Committee. You mentioned that the Committee could study the annual report. However, once a year is not enough, because the public and Committee members will want to know more. My concern is that the information will stay in the Department of Health, Social Services and Public Safety, but it is our duty and the public's wish that we receive it. If good work is being doing done to protect children, the public want to hear about it. If problems

occur and are identified, the public will want to know how they are being addressed. If we were consulted every three or four months, for instance, we could tell people that the board was doing what it was set up to do.

It is worrying that everything seems to be happening within the Department, yet the Department almost seems to be acting as Big Brother and checking what everybody is saying. You mentioned the McElhill case, which I also mentioned earlier. I will never forget that funeral. We never want that to happen again. We have to reassure the public, because they need to know what is going on.

Ms Lewsley:

Your comments go back to the issue of effectiveness, communication and how the board communicates with the public. That will happen through various strands. One strand will be trying to engage members of the community and voluntary sector and the general public. One aim of such engagement will be to encourage them to come forward to report incidents, as you mentioned earlier.

It is important that people who may have questioned whether they should report an incident have the confidence to do so. There are several important elements in achieving such confidence: the reaction of the board to someone who reports an incident; the feedback that the board provides; and whether the individual is kept informed about the process and what will happen next.

Dr Deeny:

Good. Are you saying that the board can talk to the public through the community and voluntary sector? It will not be allowed to do that unless it has the approval of the Department.

Ms Lewsley:

You are saying that you are worried about the Department's veto or the Big Brother role that it might play by curtailing the board's members and how they engage. It would be much better for board members to report to the Committee or to the Assembly, rather than to the Department. Our situation is the same: we have to report to OFMDFM, yet it also funds us. We would prefer to report to a Committee or to the Assembly, but that would require legislation.

Mr Brady:

Thank you for your presentation. You mentioned that a safeguarding board has never existed in the North before. Do you regard the board's work as complementary to your own?

There are more children-related problems coming down the road. In a report that was published about three years ago, Save the Children stated that 39% of children in the constituency that I represent, Newry and Armagh, lived below the poverty line. As is well documented, we have some of the worst childcare provision in western Europe.

The Welfare Reform Bill will have a huge impact on lone parents and, therefore, a knock-on effect on children. That reinforces the necessity of the safeguarding board, which will work in tandem with your organisation and complement what it does.

Ms Lewsley:

It is our job to monitor and make sure that the government deliver. That is why I said that it was important for the safeguarding board to become one of the authorities under NICCY's legislation, so that we are allowed to scrutinise and monitor it to ensure that it does its job properly. Many organisations, particularly the Department of Health, Social Services and Public Safety, deal with children through child protection services. Although we do not offer such a service, we must ensure that the services are in place. If we find a gap, it is our job to tell the government that it must be filled.

The Chairperson:

When you left the Assembly, the health boards were still in existence. Now, we have trusts; no doubt there will be boards again when you come back. Thank you for your evidence; it has been most helpful. The Committee has benefited enormously from expert witnesses' evidence on what is an important issue.