

SAFEGUARDING BOARD FOR NORTHERN IRELAND / DETAILED POLICY PROPOSAL

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The Role of the RQIA:

The Regulation and Quality Improvement Authority (RQIA) is the independent body responsible for monitoring and inspecting the availability and quality of health and social care services in Northern Ireland, and encouraging improvements in the quality of those services.

The RQIA's main functions are:

- to inspect the quality of health and social care services provided by Health and Social Care (HSC) bodies in Northern Ireland through reviews of clinical and social care governance arrangements within these bodies; and
- to regulate (register and inspect) a wide range of health and social care services delivered by Health and Social Care bodies and by the independent sector. The regulation of services is based on minimum care standards, which ensure that service users know what quality of services they can expect to receive, and service providers have a benchmark against which to measure quality.

The RQIA's responses to the issues you have raised regarding the Safeguarding Board for Northern Ireland (SBNI) is set out in the attached paper.

Glenn Houston
Chief Executive

Key Issues that the Committee for Health and Social Services and Public Safety have Raised with the RQIA

Potential Key Issues

1. What are the essential elements that you would like to see to ensure a fully integrated and co-ordinated response to Safeguarding of children?

The protection and safeguarding of children requires a multiagency, multifaceted response, and no single agency can provide a fully integrated and coordinated response without reference to others. It is important that the structural arrangements for the coordination of Safeguarding at both a strategic and operational level are clear, as this plays a key role in the development of policy, delivery of safe and effective services and, ultimately, in the protection and safeguarding of children. Leadership across a range of organisations, and a commitment to working together, can assist in delivering safer systems to safeguard and protect children. The proposed SBNI, by placing an emphasis on safeguarding, as opposed to solely child protections should facilitate a more strategic focus on prevention.

At Para 18.4 the proposal quotes from Lord Laming's report into the death of Victoria Climbié: "The single most important change in the future must be the drawing of a clear line of responsibility and accountability from top to bottom without doubt or ambiguity about who is responsible at every level for the wellbeing of vulnerable children." While Lord Laming's comment refers to the working of individual agencies, it is critical that the principle is taken into account and promoted by the SBNI.

Individual agencies have specific roles and responsibilities for the protection and / or the Safeguarding of children, and all parties need to be clear as to how each agency will link with the proposed SBNI.

Currently in Northern Ireland, there is a statutory scheme of delegation between the DHSSPS; the Health and Social Care Board and the five Health and Social Care Trusts. The Scheme of Delegation deals with functions within the Children (NI) Order 1995, the Adoption (NI) Order, Mental Health Order (1986) and the Children (Leaving Care) Act 2002. It is not entirely clear from the proposals how the new SBNI will impact on the Scheme for the Delegation of Statutory Functions. There is currently an unbroken professional line of accountability, from the point of referral, to the Minister, for the discharge of statutory functions. The operation of the new Safeguarding Board will need to reflect and underpin these arrangements, whilst at the same time, being able to scrutinise the effectiveness of arrangements in place, both within and between organisations, for the safeguarding of children.

The five health and social care trusts are accountable to the Health and Social Care Board, for the ongoing discharge of the delegated statutory functions for child protection and children in need. It will be important to be clear as to the nature of the intended links, between each of the five individual trusts' Safeguarding Panels and the SBNI, and the Health and Social Care Board. Other agencies also have statutory functions e.g. the PSNI and NSPCC. Clarity will also be required in terms of how statutory functions will be discharged and monitored by the respective parent bodies

and the intended links with the proposed SBNI. The RQIA believes this matter may need further articulation in the run up to the establishment of the new Safeguarding Board. It will be important for example, to be clear about the limits of the authority of the SBNI and to make sure that it does not duplicate the role of other agencies, or give rise to any ambiguity regarding where statutory responsibility rests.

Previous Judicial Review Hearings, (particularly in respect of the non availability of secure care accommodation beds for young people at risk), sought to obtain clarity in respect of the role of the HSC Board, Trust and Department, particularly in relation to the operation of Schemes of Delegation. This was a costly and time consuming process for all agencies concerned. It would be prudent, therefore, to ensure that clarity on the role of the SBNI in respect of other organisations with responsibility for child protection functions across Northern Ireland is provided as early as possible.

The Independent Chair of the SBNI will report directly to the Minister of Health, Social Services and Public Safety. It may be helpful to have enshrined within the proposal a written commitment from other Ministers and Government Departments to act upon findings raised by the Safeguarding Board, in respect of their particular areas of responsibility (e.g. police and education).

RQIA would suggest that consideration is provided within the policy proposal to the lead in time required for the revision of Cooperating to Safeguard Children, and the associated Regulations and Guidance, especially as some of the above tasks will fall to the SBNI. There is potential for delay, in revising and delivering these products and in providing associated training to the relevant staff.

2. Are the functions of the SBNI as outlined in Chapter 3 of the Policy Document adequate?

RQIA is concerned about the breadth of functions outlined in Chapter 3 in terms of the capacity of the proposed SBNI to discharge all of the functions listed, especially given the volume of work arising from case management reviews, near misses and the amount of monitoring required to ensure the implementation of resultant action plans by the various agencies working to protect and safeguard children.

Additional work will be required to fully implement the Child Death Review Protocols, also referred to within the policy proposals. This is a demanding, challenging, and resource intensive agenda, for any organisation to perform efficiently and comprehensively.

The SBNI is also to have a number of functions associated with the establishment of policy and procedures and in influencing commissioning decisions. RQIA also notes that the SBNI will have a challenge function. It is unclear how these two elements of the proposed role will operate in practice. The SBNI will have a direct line of accountability to the Minister and whilst this is appropriate, there is no information within the proposal about how the SBNI will be regulated or held to account for its day to day operations. Some further detail in this regard would be helpful.

3. Given that one of the roles of the SBNI is to secure accountability, how can one Panel member hold another to account?

The members of the SBNI will be drawn from a range of agencies involved in child protection and safeguarding children. Each member will have its own statutory requirements and priorities, and the question of accountability is a significant issue, particularly as the SBNI cannot hold other agencies to account directly, nor manage or direct their decisions. As the proposed SBNI has no budget to support its proposed accountability role in relation to other agencies, it is difficult to know how it will be able to discharge this function, other than by a process of mutual agreement.

Governance arrangements are built into the proposals in a variety of ways, including the fact that agencies represented on the SBNI will audit and report on their safeguarding practice. It is good to note that involvement of other stakeholders has been considered, with the provision of e.g. a Safeguarding Forum for young people and an interface with the Patient and Client Council etc.

Constituent members' agencies will be required to have robust accountability arrangements in place and the SBNI may be assured by the accountability and governance arrangements in place within these organisations rather than having to exercise this function in its own right. The proposed SBNI could call for and receive copies of assurances undertaken by its constituent agencies, in order to fully discharge its oversight role.

4. How representative is the proposed membership; are all aspects of Child Protection covered, i.e. what about the Courts and Judiciary? Does the essential wide representation come at the cost of unwieldiness? What level of seniority of staff should be represented?

Having a Regional Body must not compromise the work of individual organisations involved in the protection and safeguarding of children. The intention to limit membership to avoid the proposed SBNI being too large is understandable. A review of membership will be required at appropriate intervals to ensure a truly representative SBNI. One option might be to review membership arrangements after the first twelve months and thereafter on a biannual basis.

RQIA notes that the proposed membership excludes; faith based organisations, the NI Ambulance Trust, paediatric or CAMHS input, housing, road services and Early Years organisations. The Safeguarding Board may require representation from various interest groups and should be free to invite such submissions as and when required.

Access to sound legal advice from those who have particular expertise in family law would be essential and could be provided via the Business Services Organisation / Directorate of Legal Services. Information on the Public Law Outline issues might also be provided via the Guardian ad Litem Agency.

In relation to seniority of members, the proposed SBNI has an oversight and strategic role, members could be at Director or Assistant Director level, although a method should then be developed to provide members with resolved professional advice at practitioner / expert level from across the membership. It is important that whoever is

nominated to represent an agency has the capacity to make strategic decisions for and on behalf of the parent body, and is empowered to commit resources, as necessary, from the parent organisation.

In relation to transparency and objectivity, particularly regarding the findings of Case Management Reviews (CMRs), external professional validation of findings would be helpful in assisting the SBNI's review of the CMR process. This function, may be appropriate for the RQIA, as a similar role is provided in relation to Serious Case Reviews (SCRs) by Ofsted. This proposal is congruent with RQIA's current approach to reviewing child protection governance arrangements across each of the statutory health and social care bodies in Northern Ireland.

5. How should the Chairperson of the local Safeguarding Panels be appointed and should these be paid posts?

The Chairs of the proposed SBNI and the five Trust Safeguarding Panels will be critical to the success of these organisations. These positions ideally should be selected on the merit principle, via the public appointment process. Selecting persons with the appropriate skills will be challenging, particularly, if appointees are required to have knowledge of child protection and safeguarding issues. Other members in attendance from constituent organisations will be salaried and will attend during working hours.

6. How clear is the interaction between the DHSSPS, the Health and Social Care Board and the Trusts, and the SBNI, regarding who will have primacy on issues / policy areas, and who does what?

The DHSSPS, Health and Social Care Board and health and social care trusts will continue to retain their respective levels of responsibility for issues set out in the statutory schemes of delegation; it is less clear how the SBNI will relate to these arrangements. The SBNI is e.g. described as a co-ordinating strategic body responsible for child protection.

It is critical to the protection and safeguarding of children that there is a clear line of responsibility for the development of children's policy issues and service delivery. It is also important that all participating agencies, are clear as to the extent of the roles and functions of the SBNI.

7. Should there be a legal duty on relevant agencies to co-operate, as well as safeguard?

It would be important to be clear about the impact of the current legal duties on relevant agencies to co-operate in respect of children in need and children in need of protection, as set out in the Children (NI) Order 1995 (Articles 44 and 66). Recent learning from case management reviews and any deficits identified in these reviews in respect of cooperating to protect children across agencies should be considered by the proposed SBNI before decisions are taken in respect of any proposed changes to the legal responsibilities of individual agencies.

In terms of the SBNI legislation, it is proposed by the DHSSPS that a duty, similar to Section 11 of the Children Act 2004 in England *to make arrangements to safeguard and promote the welfare of children* would be created, but not one relating to Section 10 (of the Children Act 2004), which deals with the requirement on a range of agencies *to make arrangements to improve the wellbeing of children*, relating to their higher level outcomes.

RQIA would suggest that it would be important to link the safeguarding agenda to the regional children's services planning framework and also to the six high level outcomes of the OFMDFM Strategy for Children and Young People. In addition, it may be appropriate for the SBNI to work within a framework of enabling legislation that places the higher level outcomes of the children's strategy onto a statutory basis.

8. Any opinions that your organisation may have on Serious Case Reviews and the single database?

RQIA is supportive of the intention to link the trusts' child protection registers, to provide an early warning mechanism for professionals in A&E, after hours GPs etc. It may be worthwhile considering whether the single database should be a function of the Health and Social Care Board, given its regional role and its remit for child protection under the scheme of delegation of statutory functions.

The proposed SBNI may not have the necessary resources or capacity in relation to the functions proposed for it, in respect of the Case Management Review (CMR) and the learning from near misses. Some 20 CMR Reviews have been carried out, to date, by the four area Child Protection Committees (ACPCs), and these reports are of variable quality.

While CMR reports are about learning, there have been problems in taking a regional approach to the implementation of recommendations. An interface with the Coroner's Court is often required and this has resulted in the attenuation of the time line for the release of some reports. RQIA is aware that research is currently being undertaken on the current CMR process by Queen's University, Belfast. This research may contain recommendations or implications for consideration by the proposed SBNI, in due course.

An alternative approach would be that the proposed SBNI holds the Health and Social Care Board to account for initiating and reporting on the findings of case management reviews. The SBNI could seek regular reports on the implementation of Action Plans from the Health and Social Care Board. Such an approach would serve to strengthen the proposed challenge role of the SBNI and provide an oversight role which it should be capable of undertaking, in terms of its capacity.

9. Where should the SBNI be based? Is the Public Health Agency appropriate?

The proposed location of the SBNI is not critical. However, being hosted by the Public Health Agency could create in the public eye, a view that the SBNI is more concerned with health related concerns.

The critical issue is how the proposed SBNI interacts with other agencies and how a clarity of role and responsibilities can be assured to avoid confusion, duplication and ambiguity.

10. How can potential gaps or slippage between the current Regional ACPC and the newly formed SBNI be avoided?

It is important that there is a clear point of seamless transition of duties and responsibilities from the new established interim Regional Child Protection Committee to the SBNI. RQIA would propose that a project planning approach is taken to ensure smooth transition arrangements are in place.

There is a potential for duplication and / or a conflict of interest between SBNI, the RQIA and other organisations in respect of the reporting of serious incidents. A duty which exists on regulators should not be a duty of the proposed SBNI, as it has the potential to cause role confusion. The SBNI should add value by ensuring that regulators and other organisations have acted in accordance with their respective mandates rather than become the lead agency in such matters. Alternatively there will be a requirement on RQIA to comment on the performance of the Safeguarding Board in respect of any future review of child protection and safeguarding of children across Northern Ireland.

11. Is the funding for the SBNI clearly defined? The Department has indicated that the £750K of funding is supplemented with existing funding; does this kind of arrangement work?

There is clarity regarding the funding of £750K provided for the proposed SBNI. The safeguarding agenda which is wider than the existing child protection duties will not be resource neutral. Para 1.5 states that the wider safeguarding agenda will only be progressed once the core child protection business is secured. As there is an acknowledged 30%+ underfunding of children's social services in Northern Ireland, and in view of the current economic climate, it will be helpful to know if additional resources will be available to the SBNI to enable the wider safeguarding agenda to be progressed.

Any Other Issues that you Feel may be of Interest to the Committee

Comment A

The proposal that the SBNI and Safeguarding Panels will operate through sub-committees, creates the potential for overlap of membership and increased demand on staff working within the child protection and safeguarding arenas. This is a matter requiring attention to avoid duplication of effort by a limited pool of skilled and experienced staff.

Comment B

There is a need for clarity within the wider Safeguarding Proposal that *children in need* are entitled under Article 18 of the Children Order to services. There is the potential

within the proposal that these will be viewed as of lower priority; something which Lord Laming warned against in the Victoria Climbié report.

Comment C

It would be helpful to ascertain if and when the draft protocol on Child Death Reviews will be implemented across Northern Ireland. This was required to be developed as a recommendation to the Inquiry into the death of David Briggs in 2000, but has not yet been fully implemented.

Comment D

There is some evidence of growing concerns relating to trafficking of children and issues in relation to immigration and unaccompanied minors. The proposed SBNI should facilitate a well coordinated regional approach to such issues. The North / South and East / West interfaces in this matter are significant.

Comment E

It is important that the proposed SBNI has a communication and PR strategy, and that it is properly resourced to deal with the need to communicate key messages to the relevant Ministers, Assembly Committees, stakeholders and the wider public.

Comment F

It would be helpful to have arrangements setting out / addressing how conflicts of interest between any agency and the proposed SBNI should be resolved.

Comment G

Arrangements for the management of complaints about any aspect of the work of the Safeguarding Board should also be set out within the proposal.

Comment H

The SBNI proposed role in the developing and disseminating of thresholds for intervention is unclear e.g. will the SBNI concentrate on ensuring other organisations have appropriate arrangements in place and are implementing them adequately. This role may overlap with other bodies ie. the HSC Commissioning Board or RQIA.

Comment I

RQIA will expect to have an oversight of the governance arrangements of the SBNI in accordance with The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.