



Northern Ireland  
Assembly

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COMMITTEE FOR  
HEALTH, SOCIAL SERVICES AND  
PUBLIC SAFETY

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**OFFICIAL REPORT**  
(Hansard)

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**Safeguarding Board Bill**

9 September 2010

**NORTHERN IRELAND ASSEMBLY**

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HEALTH, SOCIAL SERVICES  
AND PUBLIC SAFETY**

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**Members present for all or part of the proceedings:**

Mr Jim Wells (Chairperson)  
Mrs Mary Bradley  
Mr Thomas Buchanan  
Mr Alex Easton  
Mr Tommy Gallagher  
Mr Sam Gardiner  
Mr John McCallister  
Ms Sue Ramsey

**Witnesses:**

Mr Fergal Bradley     )  
Mr Sean Holland       )     Department of Health, Social Services and Public Safety  
Ms Patricia Nicholl    )

**The Chairperson (Mr Wells):**

I refer members to their copies of the Department's briefing on the Safeguarding Board Bill. The witnesses need no introduction to members. Sean Holland has a season ticket to the Committee; he is never out of the place. He will be here for most of the day and is welcome once again. We also have Fergal Bradley, who has appeared before us on numerous occasions, and Patricia

Nicholl. Fergal Bradley is the head of the childcare policy directorate. Patricia Nicholl is on the Safeguarding Board Bill team. They understand what has been debated thus far and the evidence that the Committee has taken on the Bill. They are here to provide an update on and overview of the Bill before the Committee begins taking evidence from stakeholders. As usual, I invite the witnesses to give evidence for 10 minutes, after which the Committee will ask questions.

**Mr Sean Holland (Department of Health, Social Services and Public Safety):**

Following the successful introduction and Second Stage of the Safeguarding Board Bill, Chairperson, we thank you for the opportunity to give evidence. Before I get into that evidence, the Chairperson referred to the written submission that we provided to members. I apologise for an error in that evidence and draw your attention to paragraph 16, in which a reference to clause 3(4) should be corrected to clause 1(4). I apologise for the mistake.

**The Chairperson:**

We all spotted that, Sean, but we did not want to embarrass you by saying so.

**Mr Holland:**

The error was entirely my responsibility, and I apologise. As I said, I welcome the opportunity to provide the Committee with an overview of the Bill and to address, as far as possible, some of the key issues that have been raised. The Chairperson referred to the submissions that the Committee has received from stakeholders. We hope to address some of those issues, and we will come back to the issues of concern, interest and enquiry that were raised by the Chairperson and members when we were most recently with the Committee.

I appreciate the importance of this stage, in that it provides a platform for those issues to be discussed and for us to provide further explanation and, I hope, a rationale, for some of the positions that we have taken. As all members will be familiar with the background of the Safeguarding Bill for Northern Ireland in the legislation, I will not use my precious 10 minutes to revisit that. Rather, I want to highlight areas about which points have been raised.

It is useful to restate that the safeguarding board for Northern Ireland SBNI will, for the first time, bring together on a statutory basis the key operational agencies from the voluntary and

statutory sectors at a strategic level to work together to protect and safeguard children and to promote their welfare. The legislation sets out the key functions of the SBNI: it will develop policies and procedures for safeguarding and promoting the welfare of children in Northern Ireland; it will promote awareness of the need to safeguard children and the need to promote their welfare; it will keep under review the adequacy and effectiveness of what is done by the member agencies in their work to safeguard and promote welfare; and it will undertake case management reviews (CMRs), which will include the dissemination of learning from those reviews to support continuous improvement in practice.

The SBNI will also advise those who commission services to safeguard, particularly the Health and Social Care Board, on safeguarding and the promotion of welfare. It will also review all child deaths in Northern Ireland and identify any lessons to be learned, particularly from sudden or unexpected deaths, with a focus on trying to identify avoidable factors that contributed to the death. That is significant in signalling the move away from a strict child protection agenda to the broader safeguarding agenda that the Bill embodies.

Perhaps most importantly, the functions of the SBNI will be underpinned by a statutory duty to co-operate to safeguard and promote the welfare of children. That duty will apply to all members of the SBNI, including members of committees and sub-committees, as well as those members listed in the Bill.

I now want to address some of the key issues and concerns that were raised with the Committee through written evidence, presentations and in discussion with the Department. For ease of reference, we clustered those issues into four main areas: membership, independence, the role of the chairperson and accountability arrangements.

The core members of the SBNI, as specified in the Bill, are those organisations that deliver services to children. The policy paper agreed by the Executive does not include representation of Departments on the SBNI. That is because after Departments have set the policy in a legislative framework, the purpose of the SBNI is to improve at an operational level how agencies delivering services to children and families work together to protect, safeguard and promote welfare. The real expertise on the delivery of services and how those services can be improved is at the

coalface, typically lying with the agencies that deliver services; not with departmental officials.

Some organisations raised the lack of inclusion of the word “independence” in the legislation. Committee members know that independence is not, and cannot be, absolute when it comes to anyone who is funded from the public purse. There is a clear expectation that such bodies will always be accountable for how they discharge their duties and use public funds. In this instance, the SBNI will be independent of its member organisations, and it will have a chairperson who is independent by virtue of not being currently employed by or affiliated to any SBNI member agency.

The chairperson will have a direct reporting line to the Minister. That provides a line of accountability to this Committee, and, depending on the nature of the issue, to any other Committee. The SBNI will also be subject to annual reporting and accountability arrangements, and its annual report will be laid before the Assembly.

The appointment, experience, competence and role of the chairperson will be dealt with through the public appointments process. We are working closely with the public appointments unit and stakeholders on the reference group to develop a suitable pack for the appointment of the SBNI chairperson. The Department will be happy to share that pack with the Committee at an appropriate juncture in the recruitment process. However, if the Committee wishes to share its views on the competencies upon which the job specification should be based, for example, we will be happy to discuss that. That discussion will shape what goes into the chairperson’s pack before it becomes a public appointment process. The Committee can have an input into and influence on that.

The concept of the SBNI as a critical friend of the Department is fully accepted by the Department. One of the SBNI’s functions is that it must keep under review the effectiveness of what is done by each person or body represented on the board. That will be covered in the SBNI’s annual report. However, on an ongoing basis, the Department will also expect the SBNI as a body, through its chairperson, to highlight any issues with departmental policy, legislation or guidance that it feels should be drawn to its attention. That will include cross-departmental issues that must be considered to improve child protection and safeguarding or the promotion of the

welfare of children.

The issue of whether the SBNI chairperson will hold members of the SBNI to account has also been raised by stakeholders. All SBNI members will sign a membership agreement, which will set out their role and responsibilities in assisting the SBNI in working to improve safeguarding and in exercising its functions under clause 3 and the duties set out in clauses 10 and 12. The chairperson's expectation of members will be set out in the membership agreement, and the chairperson will hold them to account on those matters. The members will be senior representatives of their respective agencies.

Clause 12 requires that member agencies must make arrangements to safeguard and promote the welfare of children. We are aware that concerns have been raised by some organisations about the duty imposed on them by clause 12. For instance, the NSPCC, the Department of Justice and the Department of Education raised concerns about the potential impact of the duty on their agencies. The Department will issue guidance on what it expects of member agencies in delivering on that duty. Such guidance will make clear the requirements under clause 12 and how they relate to existing legislation under which the various agencies operate.

We met officials from the Department of Justice, the Department of Education and the NSPCC. They are content that the requirement of the guidance will complement and not run contrary to existing legislation within their respective agencies. Furthermore, it is proposed that departmental officials will work closely with all SBNI member agencies in the development of the guidance to ensure that any concerns about that issue can be addressed at that stage.

Individual agencies are and will remain accountable to their sponsoring Department and their Minister. That line of accountability extends to the Executive, relevant Committees and the Assembly. Most of the agencies are also subject to ongoing regulation or inspection by several different inspectorates. In our case, the Committee will be familiar with the role of the Regulation and Quality Improvement Authority (RQIA). That will not change. The RQIA will, for example, continue to inspect and review the Government's arrangements to protect and safeguard children in all health and social care bodies. The SBNI will not undermine or supplant any of those existing regulatory arrangements.

The SBNI will be an unincorporated statutory body, which means that it must be dealt with as an arm's-length body. Our view is that, ultimately, the Department of Health, Social Services and Public Safety and the Minister will be asked to account for the effectiveness of the new arrangements. Clauses 3 and 4 are designed to enable the Department to discharge its responsibilities in that respect.

Clause 3(9)(c) requires that the Department must approve any publication of the SBNI. As drafted, it relates to all publications. However, I must emphasise that the approval being sought is not designed to prevent the SBNI from publishing relevant safeguarding matters. It is to ensure that the reports are factually accurate, do not include statements that raise the possibility of any legal challenge and to ensure that the SBNI's annual report addresses all the matters that it should address by reporting on how the board has discharged all of its functions. The provision is not aimed at suppressing the content of a report or publication. All members of the SBNI will be aware of the content of an SBNI publication before it is shared with the Department. The Department does not employ any of the agencies represented on the SBNI, and, in fact, some of them are non-statutory bodies. The Department cannot, therefore, direct how those representatives discharge their roles within their organisations. Although the Department can have sight of a publication before it is published, it can in no way silence SBNI members on its content. Any engagement by the Department with an SBNI publication and the rationale for doing so will be shared with the SBNI as part of the open and transparent departmental approval process.

Under clause 4, the Department may give directions of a general or specific nature to the safeguarding board on the exercise of any of its functions. Again, several organisations have voiced their concern about that clause and its potential to be used to fetter the work of the SBNI. First, we do not expect that power to be used routinely, but under exceptional circumstances. Any directions issued under that clause can relate only to the SBNI's functions, and the legislation requires that the Department will consult the safeguarding board in advance of giving such directions, except in an emergency situation, in which case the Department will discuss that with the SBNI at the earliest opportunity.

The power to direct is not concerned with fettering. Rather, the power will allow the Department to ask the SBNI to examine, for example, an emerging need or issue relating to safeguarding, even if that meant that the SBNI would have to depart from its planned programme of work for the year. The Department could, therefore, say to the SBNI: “This is a matter of public concern and urgency. We know that we have agreed a programme of work with you, but we are using this direction to ask you to examine this specific issue, because we consider it urgent.”

I have tried to concentrate on the key issues that were raised during the previous engagement with the Committee and in the submissions. I hope that that has been helpful. We are happy to answer any questions about those issues or, indeed, about anything else that the Committee wishes to ask.

**The Chairperson;**

Dr Holland, you have certainly —

**Mr Holland:**

I appreciate the elevation, but unlike the new Committee Clerk, I am not a doctor. I am plain “Mr” at best.

**The Chairperson:**

You are one of the few non-doctors to have appeared before us. Therefore, rather than insult anyone, I thought that I would play it safe and call you “Dr”.

**Mr Holland:**

Thank you.

**The Chairperson:**

I have been known to receive letters addressed to “Jim Wells, Minister of Health” and copied to “Michael McGimpsey MLA”.



**Mr Holland:**

I am sure that he appreciates that.

**The Chairperson:**

I am not as forthright as you in pointing out such mistakes.

You have tried to head off at the pass the three or four issues that have, undoubtedly, been a common theme throughout the 21 submissions that we received. I accept your assurance on what could appear to be an attempt to gag the chairperson or the safeguarding board. Your explanation of clause 3(9)(c) is fine and indicates that it will be used only in exceptional circumstances to make certain that the SBNI does not step outside the law or impede an investigation. However, do you accept that, as presently drafted, it could be used by a malevolent Minister, the Chief Medical Officer or the head of social work to gag information about which they feel uncomfortable?

I will give you a couple of hypothetical examples. If the Department was embarrassed because it had not done anything to deal with some cases of clerical sexual abuse, and the board had now got its teeth into that and was extremely unhappy, the present wording would provide a vehicle whereby the Department could intervene to stop the matter going any further. Can that be worded to ensure that it is used only in exceptional and unusual situations rather than as a vehicle or threat by the Minister, who could say: "I know the route that you are going down, and I am not comfortable with it. You might be a critical friend, but you are becoming too critical. In fact, you are no longer a friend. If needs be, I will use my powers to stop you."

Some safeguarding issues could become extremely controversial and difficult for the Department. There have been terrible examples, such as the McElhill case, and we will discuss the Donagh case later. In such instances, I can envisage the Department having readily considered the use of that provision under clause 3 as a good opportunity to stifle the board or its chair and to call them back into line. I cannot understand how the Department will not have the power to do so.

**Mr Holland:**

In a moment, I will ask my colleague Fergal Bradley to expand on that issue. We will take into account any of the Committee's proposals or suggestions on modifying the wording as part of the process to develop legislation. However, as I said in my opening statement, the SBNI will be made up of a number of people, none of whom will be answerable to or employed by the Department. We could use the powers that the Chairperson described to issue a direction to the board, or to enable us to see a publication in advance. I cannot imagine that we could use those powers in the way that the Chairperson has described for the purpose of suppression and secrecy, because SBNI members who are not content with our actions could come straight to the Chairperson of this Committee to voice those concerns. We could not stop them.

You mentioned specifically the Chief Social Services Officer, namely me. If I were to exercise that authority to suppress a matter of public interest that the Department felt was disadvantageous, I cannot imagine the meeting at which the Committee would call me to account for that action, because it would, undoubtedly, do so. We will consider any suggestions about the wording, but I cannot envisage how we could use that power secretly to suppress a matter of embarrassment to the Department.

**Mr Fergal Bradley (Department of Health, Social Services and Public Safety):**

One difficulty with the SBNI is that, as an unincorporated statutory body, it cannot be subject to legal proceedings in its own right. For example, if someone were to take offence at a problematic issue in the SBNI report and began legal proceedings, the buck would, at the end of the day, stop with the Department. We have tried to set out the limited set of circumstances in which we envisage our engagement with the SBNI on one of its reports. However, as Sean said, we will consider any way to provide reassurance through the wording of the legislation. We will consider how to achieve greater levels of openness and transparency in the engagement between the Department and the SBNI on any of those issues, such as directions and our communication with the board about publications.

**The Chairperson:**

Will clause 3(9)(c) not give you powers in the form of a restraining or gagging order to stop any discussion about an embarrassing case?

**Mr F Bradley:**

The position of an official who issued such a direction on that basis would be untenable.

**Mr Holland:**

As I said, if I were to exercise that duty in that way, I cannot imagine how I could account to the Committee. Even if members of the SBNI or reporters did not choose to approach the Committee, it would become apparent on the publication of the annual report.

**Mr F Bradley:**

The nature of such correspondence between the Department and the SBNI would be recorded in the minutes of SBNI meetings. We do not intend it to be delivered in a sealed envelope under the table. Our intention is that the communication process with the SBNI will be transparent and open.

**The Chairperson:**

We might need further to consider the wording to make certain that that is clear in the Bill. When the Bill is debated in the Assembly, the Minister could, perhaps, make a statement of clarification along the lines of your comments.

As a paragon of intellectual ability, virtue and common sense, the chairman of the SBNI must be absolutely top-notch. Do you expect that to be a full-time position? How will you pitch that post, because, as the Bill develops, the role of the chairperson becomes more and more important? Will the appointee work part-time, full-time or on a contract? What are the mechanics?

**Mr Holland:**

I will ask my colleague Patricia to comment in detail. Crucially, the chairperson will be independent. That is one of the SBNI's great strengths compared with the previous process. Previously, those functions were discharged by its predecessor, the area child protection committees, which were chaired, as is the case with the regional child protection committee that exists now, by an employee of the Health and Social Care Board.

That relates also to the point that we have just discussed. A key feature of the position is that the chairperson will not be employed by any organisation that provides services to safeguard and promote the welfare of children. Therefore, the crucial characteristic of the chairperson will be his or her independence.

As for the technical details about remuneration and the number of hours to be worked, it is not envisaged that it will be a full-time post, and we have engaged with DFP about the level of remuneration. With respect to particular competencies and qualities, the person must have experience and be of standing and integrity. As I said in my opening statement, we are more than happy to have detailed discussions with the Committee about any proposals that might shape the selection process. Patricia Nicholl will talk about the characteristics of the chairperson.

**Ms Patricia Nicholl (Department of Health, Social Services and Public Safety):**

It is expected that the chairperson will work for two or three days a week, and he or she will be remunerated accordingly. We took advice from a broad range of stakeholders on the competencies required for the chairperson, and we established those in agreement with the public appointments unit. We also agreed with DFP and the public appointments unit the chairperson's remuneration, which is comparable with that of chairpersons in similar organisations. We are now in a position to recruit a chairperson who will be, as Sean Holland said, sufficiently competent in the range of expertise, skills, experience and background that we expect of a person of that calibre.

We are conscious that the position of chairperson is critical to ensuring that SBNI's core business and functions are carried out. We are delighted that Jan Horwath, professor of child welfare at the University of Sheffield, whom I know has given and will give evidence to the Health Committee, has agreed to sit on our recruitment panel. We hope that we have settled on the correct remuneration and hours — two or three days a week — to apportion to the duties of the chairperson of the SBNI.

**The Chairperson:**

How could he or she be removed from his or her position?

**Ms Nicholl:**

We have set out arrangements for filling the vacancy, the tenure of the position and deputising, in the event —

**The Chairperson:**

I am thinking more along the lines that, if some major controversial issue were raised, the chairperson could be in the vanguard of exposing skulduggery or a lack of professionalism in the Department or in a social services office. The Department might be extremely embarrassed, and suddenly the chairperson announces that he wishes to spend more time with his wife and children, or she with her husband and children. Does the Department have the power to remove a chairperson who has embarrassed it?

**Ms Nicholl:**

The chairperson will be directly accountable to the Minister through the sponsor branch arrangements and through the performance, management and appraisal system undertaken by the Chief Social Services Officer.

**Mr Holland:**

In essence, the arrangements for removing the chairperson will be similar to those for any other arm's-length body. A process will exist, and removing the chairperson will have to be done in accordance with that process. Therefore, it would have to be proven that the chairperson had not conducted himself or herself appropriately for someone holding that position. The matter is not addressed in the Bill; it will be dealt with in the appointment documentation.

**The Chairperson:**

He or she will, therefore, have only a degree of independence, because, at the end of the day, the Minister is responsible for hiring and firing.

**Mr Holland:**

No chairperson of an arm's-length body is totally independent and cannot be removed from their position if, for example, he or she behaves in a way that could be described as constituting gross

misconduct. Such an arrangement does not exist in any arm's-length body.

**The Chairperson:**

It does for judges, of course. There are few circumstances in which a judge can be removed from his or her position.

**Mr Holland:**

Judges are special in many ways.

**Ms S Ramsey:**

It would be remiss of me not to say at the outset that the function, purpose and reasoning behind the Bill must be welcomed. Sean, you spoke about reviewing all child deaths. Will that automatically include deaths in hospital settings?

**Mr Holland:**

It will include all child deaths.

**Ms S Ramsey:**

Why does that not happen now?

**Mr Holland:**

Deaths are reviewed in a number of situations now, depending on the circumstances and the nature of the death, but not all deaths are routinely reviewed through an external process. The death of any child known to social services, for example, is reviewed by a case management review process. The coroner also has a role in reviewing all deaths, including those of children. However, the Bill makes provision for a more rigorous process, which would broaden the focus. As I said in the presentation, the proposed Bill tries to move away from a strict protection agenda to a broader safety agenda. I will ask my colleague Fergal Bradley to expand on that.

**Ms S Ramsey:**

I am more interested in knowing how a review kicks in and how a death is highlighted as a matter of concern. Is it the case that people simply become alarmed by something that has happened,

particularly in hospital settings?

**Mr F Bradley:**

As Sean said, various systems kick in when a child dies, starting with, for example, the registration of a death. Primarily, the SBNI will focus on deaths that are unexpected. That will cover everything, including deaths in a hospital, road traffic accidents and other accidents involving children, such as those related to substance abuse, and so forth. We want the SBNI, through one of its committees, to set up arrangements to work with other agencies so that it receives information about deaths and can consider what issues it wants to examine and how the data should be analysed.

**Ms S Ramsey:**

Could it also highlight malpractice? If a child presents to a hospital with a virus and dies within a couple of days, does a review kick in automatically?

**Mr F Bradley:**

The SBNI will have arrangements in place to examine that death. A death involving social services is subject to a case management review. However, for the sort of case that you mentioned within a hospital, other systems are in place within the hospital setting.

**Ms S Ramsey:**

Not necessarily.

**Mr Holland:**

One point to make is that arrangements exist for any death in which it is believed that foul play, negligence or poor practice has been a contributory factor. The coroner is always concerned about those issues, as might be the police, and, indeed, through the case management review process, we examine those issues when they apply to children who are known to social services. However, there are deaths that are not necessarily caused through negligence, fault or blame, but in which there might have been preventable factors. Those have never been examined in such a systematic way. Although many factors may contribute to the tragic death of a child, the pain and loss are no less when no one is at fault; the child is still dead. The SBNI will seek to learn lessons

from any preventable death.

**Ms S Ramsey:**

That is fair enough. It is useful to put that into the public domain. Following the consultation exercise and the debate in the Assembly, has the Department decided to make any changes to the draft legislation based on the issues that were raised?

**Mr Holland:**

We have been considering several issues. We are going through a process, and detailed changes will be made as we move into the next stage and as we go through the line-by-line consideration of the Bill by this Committee. We are open to considering changes, and we are having discussions with various stakeholders and exploring ways in which assurances can be given.

**Mr F Bradley:**

As part of that process, we will talk to the draftsmen about various issues. We also take cognisance of the information being presented in evidence to the Committee. We will talk to the reference group that we have established, which includes statutory and non-statutory bodies, about our thinking on any amendments to establish their thoughts on same.

**Mr Holland:**

A phrase that Fergal often uses when describing the arrangement is a coalition of the willing, and that is what we hope to achieve. If we can ensure, when introducing the legislation, that as many concerns, hopes and aspirations that people have expressed can, quite rightly, be reflected in the Bill, that will support the concept.

**Ms S Ramsey:**

Further to the Chairperson's points, has the Department, or any other agency under the control of the Department, such as the Public Health Agency, ever introduced a provision similar to that contained in paragraph (c) of clause 3(9)?

**Mr Holland:**

Do you mean about documents being submitted to the Department before publication?



**Ms S Ramsey:**

May I have a copy of the advice that you received on including that provision? It seems to cause great concern. Everyone wants to get to the same page, and no one wants to battle with the community, voluntary or statutory sectors. What advice did the Department receive that the provision had to be included? Is there a precedent in any other Bills?

**Mr F Bradley:**

There is a precedent for DFP guidance on other arm's-length bodies, but that is normally associated with non-departmental public bodies (NDPBs) and often with public information about how they have expended funding. The SBNI, as an unincorporated statutory body, is different from existing arm's-length bodies. An unincorporated statutory body is not a normal way of setting up such a body. It is a way of setting up a body to make it mean and lean, and, by housing it within the Public Health Agency, we were able to do so much more cheaply than had we tried to set it up as an NDPB. It is not a typical organisation. We can find out whether there is a precedent.

**Mr Holland:**

Arrangements are in place for sharing publications with the Department in advance of publication.

**Ms S Ramsey:**

We need the evidence to be sure that there is a need for the provision. To be honest and slightly cynical, I take your point, Sean, but people and officials move on. It concerns me to be told that a possibility exists that reports could be suppressed at ministerial level. Tell me why that is necessary, and show me evidence of where it happens elsewhere. The Chairperson mentioned recent cases, and we will deal with one later today. I am wary that there may be something more to the provision. Convince me that that is not the case.

**Mr Holland:**

We will follow up with a more detailed written response, but I also refer you to the points that we made in the statement that we supplied to you. We will get back to you on the matter.

**Mr F Bradley:**

The particular point that we want to stress is that we have some concerns about publication. We want to ensure that we can go back to the SBNI and ask whether points are factually correct. If there are issues about statements that concern individuals, for example, we must have the capacity to check them. We do not expect that to happen, and we would be surprised if it did. We want the SBNI's the annual report to give an account of all its functions. We suggest — and this might reassure the Committee and others — that to achieve a high level of transparency, the Department must be able to engage with the SBNI.

**Ms S Ramsey:**

If there were a review of a child death, could the report be suppressed through employing the provision in clause 3(9)(c)? Could that report be kept out of the public domain?

**Mr F Bradley:**

I cannot see how, in view of what is published after a child death. Even at the moment, executive summaries —

**Ms S Ramsey:**

Some statutory agencies were at fault in the McElhill case. I said publicly that I thought everyone had done as much as they could as individuals in those organisations. At one level, however, mistakes were made. Through that provision, could such information be kept from the public?

**Mr Holland:**

My first comment on the McElhill case is that I like to think that people respect the position of the Department. The Department took a thorough approach to exposing its failings and those of its agencies. We certainly did not try to hide them; I cannot envisage that we ever would.

Let me go back to the point that Fergal was making. We would be happy to explore any way in which we could ensure that the exercise of the power was transparent, so that we could not use it in secret. If we were to use the power, we would make it clear publicly that we had done so.

**Mr F Bradley:**

One way of exploring the issue is for such engagements to be reflected in the SBNI's annual report.

**Ms S Ramsey:**

I remain to be convinced that the issue should come up in connection with the SBNI.

**Mr Holland:**

As Fergal said, it is reasonable to have some check or balance on a body for which one will be held to account.

**Ms S Ramsey:**

That is the case with the Public Accounts Committee. The Public Accounts Committee does not publish a report until the investigated Department has had a chance to respond to it. Those are the checks and balances. Only then does the Committee publish its report. There are, therefore, mechanisms to allow checks and balances.

**Mr F Bradley:**

The provision is also essential because the SBNI is not exclusively focused on the role of DHSSPS or its agencies. The SBNI's function involves the consideration of a wide range of areas across multiple agencies and Departments. The issues that the SBNI will expose will not necessarily be in health and social care.

**Ms S Ramsey:**

I would like as much information as possible to convince me that it is OK. Convince me that it happens in other Departments.

**Mr Holland:**

If the direction were exercised, it could be recorded in the annual report that will go before the Assembly. That is one possible way of increasing transparency.

**Ms S Ramsey:**

Fair play for bringing the Bill forward; it is a positive step.

**The Chairperson:**

Sean, you tell us that for an independent body to make a report that is critical of a Department and a senior civil servant to bring pressure on that body to change its report would be an impossible scenario.

**Mr Holland:**

I most certainly did not say that.

**The Chairperson:**

That is an 'Alice in Wonderland' situation.

**Mr Holland:**

I certainly did not say that. I said that, if that were to happen, given the particular arrangements for the SBNI, it would be the end of that civil servant's career.

**The Chairperson:**

What would happen if someone had the initiative to expose what was going on through leaked e-mails?

**Mr Holland:**

No member of the SBNI will be employed by the Department. We have no authority or power to stop members talking independently or individually to the press, members of the Committee, or anyone else.

**Mr F Bradley:**

You are talking about the possibility that the Department could suppress the NSPCC or other voluntary sector organisations and prevent them from saying what they wanted to say. That is simply not feasible. No civil servant in their right mind would try to do something like that. In any case, we do not have the power to do that. The power relates purely to matters that concern

the functions of the SBNI. The individual agencies within the SBNI remain independent in their own right, and they have the capacity to lobby and do what they want to do independently, as is the case currently.

**The Chairperson:**

We will come back to the wording of that provision. We know where you are coming from, but I also take on board Sue's concerns.

A situation might arise in which the problems are entirely the responsibility of a body that is represented on the SBNI. Do you expect the individuals concerned to absent themselves from the discussion on that issue?

**Mr Holland:**

It is important to remember that the function of the SBNI is not to be an inspectorate, but to work together on collaborative arrangements, share learning and improve safeguarding activity. Therefore, it is not the case that the SBNI would inspect one of its member agencies or the agency of a member of the SBNI.

**The Chairperson:**

The Regulation and Quality Improvement Authority (RQIA) would probably do that.

**Mr Holland:**

Yes, because that is more the role of an inspectorate.

**The Chairperson:**

What if some fundamental issue emerges as a result of an inspection, the safeguarding board investigates, and it becomes apparent that Willie John or Sean's group is implicated up to its neck in something that has gone badly wrong?

**Mr Holland:**

The CMR is probably closest to the situation that you describe.

**Mr F Bradley:**

There will be a set of arrangements between the SBNI and the various regulatory authorities. Therefore, if the matter involved a trust, for example, the SBNI would advise the RQIA, whose role it is to investigate. Overwhelmingly, however, the SBNI's focus will be on the way in which agencies work together to try to improve safeguarding. Issues will be exposed when we do not do things as well as we ought. If we thought that everything was perfect, we would not need the SBNI. Sometimes, there is a tendency to regard the SBNI negatively as a body that aims to find out what everybody has done or is doing wrong. We want organisations within the SBNI to work positively to identify ways in which they can improve what they do.

**The Chairperson:**

Further to Sue's question, I forgot to mention that research has been carried out on other Government watchdog agencies that have to refer their reports to the relevant Department before publication. Therefore, it might be useful to ask Research Services to dig that out, so that we can see how that system works elsewhere. It might be either highly effective or act as a restraint.

Clause 3(3) states:

“The Safeguarding Board must keep under review the effectiveness of what is done by each person or body represented on the Board”.

If the SBNI were to find a conflict of interest, does that give it an opportunity to ask a person whose organisation was implicated in a review to step aside for a temporary period, or does that relate more to attendance and aptitude?

**Ms Nicholl:**

Clause 3(3) defines one of the SBNI's key functions, of which it must give account in its annual report. It is important to note that, in keeping under review the effectiveness of what every member of the SBNI does in promoting the welfare and safeguarding of children, the intention is to regulate membership of the SBNI and its constituent committees. It is also intended to provide guidance on the expectations of member bodies under clause 12, by explaining what is expected of them in putting in place arrangements to safeguard and promote children's welfare.

Likewise, it will be important for member agencies to sign up to the membership agreement, in which the expectations of each member — such as those related to vacancy, tenure,

appointment and how members of the SBNI are decided upon — will be set out in subordinate legislation. If a member were to veer from those membership agreements or regulations on how to conduct business, the challenge function would be addressed through the chairperson. Ultimately, each member organisation will be accountable to its sponsor bodies and to its Minister. Therefore, the chairperson will be able to hold the member agencies to account for their signing up to, and assistance and contribution to, the functions of the SBNI as set out in the Bill. However, the chairperson will be able to hold members to account only through the membership agreement, or through senior members of the SBNI reporting to their own organisations any issues of failure to comply, share information, put in place arrangements or adequately contribute to the SBNI, as set out in that agreement.

**The Chairperson:**

That evidence was useful. Members have no more questions. We will come back to these issues many times as the Committee goes through the legislation; today is not a one-off. Thank you very much.