

EXPLANATORY MEMORANDUM TO

The Safeguarding Board for Northern Ireland (Membership, Procedure, Functions and Committee) Regulations (Northern Ireland) 2012

SR 2012 No. 324

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Health Social Services and Public Safety (the Department) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Sections 1(2)(b), 1(3)(j), 1(5), 3(4), 5(1), 6(1), 7(1)(a), 7(4), 7(5), 8(1), 9 and 12(1)(j) of the Safeguarding Board Act (Northern Ireland) 2011 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Statutory Rule further defines the operation of the Safeguarding Board for Northern Ireland (SBNI) and its committees, and makes supplementary and more detailed provision for the membership, procedure and functions of the SBNI and Committees of the Board. It also requires the SBNI to put in place a range of mechanisms to promote communication with children and young people and specifies the circumstances in which case management reviews must be undertaken.

3. Background

- 3.1. The Safeguarding Board Act (NI) 2011 ('the Act') became law in February 2011. The Act provides the legislative framework for a new regional Safeguarding Board for Northern Ireland (SBNI).
- 3.2. The main driver for the establishment of the SBNI lies in a number of high profile inquiries and reports, many into the tragic deaths or serious injury of children. These reports identified system failings, including failings in co-ordination and co-operation between different agencies in the protection and safeguarding of children. Similar themes were highlighted in the Department's Child Protection Inspection report published in December 2006.
- 3.3. Following the inspection and as part of a fundamental reform of child protection services in 2006, it was proposed that a statutory, independently chaired, regional Safeguarding Board for Northern Ireland should be established that would have an enhanced role in child safeguarding, including child protection matters.
- 3.4. The SBNI will replace the current Regional Child Protection Committee (RCPC) which has been operating since November 2009. The RCPC and its predecessor bodies (the four Area Child Protection Committees which were aligned to former Health and Social Services Boards) were responsible for promoting inter-agency work to protect children and to monitor and evaluate how well child protection services were working.

- 3.5. The objective of the SBNI is to coordinate and ensure the effectiveness of what is done by its members to safeguard and promote the welfare of children.
- 3.6. The SBNI will be assisted by a number of statutory Committees: five locality-based Safeguarding Panels; a Case Management Review Panel; and a Child Death Overview Panel. This Statutory Rule makes provision for the operation of the SBNI, the five Safeguarding Panels and the Case Management Review Panel. At this stage there is no provision for a Child Death Overview Panel. Provision in the Act relating to the child death overview function of the SBNI will be commenced at a later stage.
- 3.7. Many of the provisions in the Statutory Rule are routine, and reflect established practice within both health and social care ('HSC') bodies and the wider public sector. For example, provisions around the tenure of office, resignation and termination of appointment of the Chair of the SBNI are similar to those for the bodies established by the Department under Review of Public Administration reforms.
- 3.8. The Statutory Rule provides further detail on membership of the SBNI and its committees and sub-committees which include members from a wide range of organisations across the health, social care, education, justice, local government and voluntary and community sectors. The Act specifies the bodies which will be represented on the SBNI and the Statutory Rule adds to that list of bodies, the British Medical Association and voluntary organisations. All members will hold senior positions, either at Chief Executive or Director level, within their respective organisations as set out in the Statutory Rule.
- 3.9. The SBNI has a range of statutory functions and duties under the Act. The Statutory Rule sets out how the SBNI must exercise some of its key functions. For example, in keeping with the policy aim to place children at the core of the work of the SBNI, it will be required to take into account the views of children and young persons on the effectiveness of arrangements to safeguard and promote their welfare of children. Also, the SBNI will be required to acknowledge the importance of the role of parents and carers in safeguarding and promoting children's welfare.
- 3.10. The Statutory Rule also makes provision in relation to the Case Management Review (CMR) function. The purpose of a CMR is to identify learning to support improvements in service as well as a means of identifying good practice. It is proposed that the SBNI must carry out a CMR when a child has died or been significantly harmed and a number of other conditions as set out in the Statutory Rule are met. CMRs will also be required to be undertaken in circumstances where the SBNI determines that there is outstanding positive learning to be gained from the comprehensive review of a case which could be used by member organisations to improve safeguarding practice across Northern Ireland. CMRs will be undertaken on behalf of the SBNI by the Case Management Review Panel (CMR Panel). This Panel will also be required to establish arrangements for sharing the findings from CMRs .

- 3.11. Other functions included in the Statutory Rule are the development of policies and procedures and promoting communication between the safeguarding board and children and young people.
- 3.12. The five Safeguarding Panels, will be established to ensure that the strategic aims of the SBNI are implemented locally and to coordinate the activities of member agencies in order to safeguard and promote the welfare of children and young people in the Panel's area. Panel membership will be drawn from the managers of SBNI bodies, who operate within the area of the Panel. Safeguarding Panels will monitor and implement a number of the functions of the SBNI, at a local level. They will provide the link between the SBNI strategy and operational delivery.
- 3.13. The Heath and Social Care Trust, in whose area the Safeguarding Panel is located, will be required under the Statutory Rule to provide support to the Panel through the appointment of a panel administrator.
- 3.14. Departmental guidance is currently being developed for the SBNI, which will build upon the provisions of the Statutory Rule and address other matters not considered appropriate for the Rule. This will include guidance in relation to the statutory duties upon members: to make arrangements to ensure that, in the discharge of their statutory functions, they have regard to the need to safeguard and promote the welfare of children; to supply information requested by the SBNI; and a general duty of cooperation with each other and with the SBNI.
- 3.15. The SBNI will be established on 17 September 2012.

4. Consultation

- 4.1. A targeted consultation on the SBNI draft Statutory Rule took place from 16 November to 6 January 2011. A total of 27 responses were received from a range of statutory and voluntary organisations. A number of issues were raised which resulted in either amendment to the Statutory Rule or a commitment from the Department to address issues raised in guidance for the SBNI. A detailed analysis of the consultation responses and the proposed action to be taken by the Department, was published on the Department's web site and is accessible at:
www.dhsspsni.gov.uk/sbni_regulations_consultation_mastercopy_analysis_of_consultation_responses_dhssps_website_22_03_2012.pdf.

5. Equality Impact

- 5.1. This Statutory Rule has been screened for the purposes of the section 75 equality duty and a full Equality Impact Assessment was not considered necessary on the grounds that no Section 75 equality grouping will be adversely affected by the Statutory Rule, which is necessary to establish the SBNI.

6. Regulatory Impact

- 6.1. It has been assessed that this Statutory Rule will not adversely impact on business or charities as it is not anticipated that involvement of statutory or voluntary sector agencies will impose any greater burden than they already carry in relation to their existing statutory duties to safeguard and promote the welfare of children.. The SBNI aims to better coordinate the

effectiveness of how individual organisations and bodies work together to discharge their extant duties to safeguard and promote the welfare of children.

7. Financial Implications

- 7.1. The Department of Health Social Services and Public Safety has secured recurrent funding from Department of Finance and Personnel to facilitate an annual operating budget to support the SBNI. A significant portion of this budget will be spent on the remuneration of the SBNI Chair and Lay Members and the salaries of the SBNI staff, along with accommodation and operating costs. The remainder will support the SBNI in the delivery of its statutory objective, functions and duties.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. These Regulations do not breach section 24 of the Northern Ireland Act 1998, as they are not incompatible with any of the Convention rights or community law, and they do not discriminate against a person on the grounds of religious belief or political opinion. Nor do these Regulations modify or amend any of the enactments stated in section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. While parity with legislation in other administrations is not necessary the Department has considered that over 150 Local Children Safeguarding Boards (LSCBs) have been established in England and Wales to perform functions set out in section 14(1) of the Children Act 2004 and in The Local Safeguarding Children Boards Regulations 2006. The core membership of LSCBs is set out in section 13(3) of the Children Act 2004 and includes representatives of the Local Authority in addition to specified relevant stakeholders. All members have a duty to cooperate in the establishment and operation of the LSCB.
- 10.2. In Scotland, Chief Constables and Chief Executives of Health Boards and Local Authorities (known as Chief Officers), are responsible for ensuring that their agencies individually and collectively, work to protect children as effectively as possible. Scottish Ministers have agreed how key agencies and Chief Officers should work together through reformed Child Protection Committees (CPCs). The Scottish Government has recently published robust guidance for CPCs which operate on a non statutory basis. However, the guidance states that the Government has not ruled out legislation in the longer term should this be required. There are currently 30 CPCs in operation with functions broadly similar to those of the SBNI and the LSCBs in England and Wales.

11. Additional Information

- 11.1. Not applicable.