

## **Safeguarding provisions in the Children and Social Work Bill – note for Peers** **(updated October 2016)**

### Child Safeguarding Practice Review Panel

#### *Rationale*

1. The background to the government's decision to introduce a new Child Safeguarding Practice Review Panel through legislation is set out in the government's response to Alan Wood's review of the role and functions of Local Safeguarding Children Boards (LSCBs). The government's decision was made specifically in response to the review's recommendation to 'establish an independent body at national level to oversee a new national learning framework for inquiries into child deaths and cases where children have experienced serious harm'.
2. There are several problems with the current Serious Case Review (SCR) process. There is still a degree of defensiveness and reluctance by some LSCBs to initiate SCRs, which may be due, amongst other factors, to a reluctance to expose practice to public scrutiny. SCRs too often focus on what actions were taken and fail to ask why they were taken, meaning genuine learning leading to improvements in practice is often limited. SCRs also take too long to produce (on average 15 months from initiation to publication) which means remedial actions have often been implemented before publication of the final report or indeed that key points are missed.

#### *National and local reviews*

3. In place of the current SCRs and other reviews carried out at local level, we are creating a system of national child safeguarding practice reviews which will be commissioned by the Panel and local child safeguarding practice reviews conducted by the three key safeguarding partners (local authorities, chief officers of police and clinical commissioning groups).
4. The Bill sets out the following:
  - National reviews managed by the Panel will be reserved for serious child safeguarding cases which raise issues that are complex or of national importance and will be conducted at the discretion of the Panel with the purpose of obtaining national learning;
  - Local reviews will take place at the discretion of the safeguarding partners into serious child safeguarding cases which raise issues of importance to the local area, with the purpose of obtaining local learning.

We will work closely with the relevant sectors and obtain views from a range of sources, in order to draft the criteria for national and local reviews, and will be pleased to hear any views which Peers wish to express. As noted during Committee Stage, we are tabling amendments to the Bill which will provide for Panel functions to be set out in regulations, subject to affirmative resolution (see paragraph 17 below). There will also be statutory guidance.

5. Where the Panel believes a case is appropriate to review at national level, it will commission the review directly and supervise the reviewer in order to assure itself whether or not a review is making satisfactory progress and is of satisfactory quality. This does not in any way remove local responsibility or accountability from the local safeguarding partners or others for the case. Safeguarding partners will be free to recommend to the Panel if they consider that a national review is appropriate in any particular case (and indeed the Panel may, conversely, wish to recommend to safeguarding partners that a local review should take place). Where a national review is commissioned by the Panel, there is nothing to stop a local area from also carrying out a local review, though this is not something we would seek to recommend as we would wish to avoid duplication.
6. The Panel may seek information to enable or assist with the performance of their functions and that information may be provided to the Panel, a reviewer or another person or body specified in the request. The reviewers appointed by the Panel will have to work closely and collaboratively with local partners to seek to ensure a sufficient and timely flow of information on each case. This will also help establish a more complete understanding of local issues for the reviewer on each case.
7. Safeguarding partners and others will be expected to take note of the Panel's report, produced for the purpose of enabling national improvements, and any of its recommendations which are applicable locally. Paragraphs 21-22 below discuss the question of the application of recommendations.
8. Alan Wood anticipated that around 20 national reviews might take place annually, with the majority of reviews into serious cases involving children being conducted and managed by the local safeguarding partners. The new system of national and local reviews will embed learning at the heart of the system through a focus on improvement. Our ambition is to create the conditions for such improvements which will lead to a system in which all can have confidence.
9. As discussed above, the primary function of reviews commissioned by the Panel will be to identify improvements which could be made by safeguarding partners or others. These reviews are not about blame or public censure of

individuals and the absolute focus of these reviews is improvement to the system and practice of safeguarding and promoting the welfare of children.

10. Peers will be aware that *Working Together to Safeguard Children 2015* currently provides that 'professionals must be involved fully in reviews and invited to contribute their perspectives without fear of being blamed for actions which they took in good faith'. This principle will remain central to the new review arrangements. We are also keeping a close eye on the work taking place as part of the establishment of the Healthcare Safety Investigation Branch, with regard to the idea of a 'safe space' principle which enables practitioners to give candid and comprehensive contributions to reviews without fear of negative consequences.
11. As with the current SCR system, the expectation is that practitioners would not be named in any form of review report in future, and that reports should be written in such a way that publication will not be likely to harm the welfare of children, family members and others affected by the case, including practitioners. There is provision in the Bill for establishing a pool of accredited reviewers for local and national reviews, and we will consider whether guidance on how the Panel and local areas should work with the media would be helpful.
12. *Working Together* also makes clear that understanding why events occurred as they did is critical and why also understanding practice without the use of hindsight is essential. These key principles will be carried forward when *Working Together* is reviewed in future.

#### *The new Panel*

13. Alan Wood suggested that the body which supports the centralised review process should be 'one that is independent of government and the key agencies, and operates in a transparent and objective fashion to ensure learning is the key element of all inquiries'. The government agrees entirely with this.
14. A number of Peers raised concerns about the independence of the Panel at Committee Stage. Clause 11 allows the Secretary of State to establish the Panel and appoint its members. We expect the appointment of the Chair at least to be subject to a full open Cabinet Office Public Appointments process. Other Panel members are likely to be selected from a range of professional backgrounds, including child protection, and on the basis of being able to bring appropriate experience and expertise to the work of the Panel. We are considering the most appropriate methodology for appointment of Panel members, particularly given the helpful points Peers have made about the

importance of Panel independence. The Education Select Committee will be kept informed as the appointment process progresses.

15. The Secretary of State will have power to remove members if they are no longer able to fulfil their duties, but we expect this power would only be used in exceptional circumstances. Peers may wish to note that these arrangements are similar to those already in place under the Children Act 2004 in respect of the Children's Commissioner.
16. The Panel will be ultimately accountable to the Secretary of State, but how it will function is key to its independence. Clause 12 of the Bill provides that the Panel will have sole responsibility for deciding which cases to review, the appointment of reviewers for national reviews, and the publication of such reviews. It should be noted that the Secretary of State will not have the power to direct the Panel to initiate reviews. It should also be noted that the Panel will be free to make recommendations in its annual or other reports, to government and national or local bodies, on such matters relating to its areas of work as it sees fit.
17. As notified to the Delegated Powers and Regulatory Reform Committee in response to their first report, we will be proposing amendments to the Bill under Clause 12. At present the functions of the Panel are set out in accordance with 'arrangements' made by the Secretary of State. We propose that these functions will now be set out in accordance with regulations which will be subject to affirmative resolution, thereby enabling full Parliamentary scrutiny.

#### *Quality of Reviews*

18. Clause 12 (in relation to the Panel and 'national' reviews) and clause 16 (in relation to the safeguarding partners and 'local' reviews) are designed to improve the quality of reviews, which the government is committed to. In particular, the question of understanding why events occurred as they did will be vital. The aim is less unnecessary detail and more usable learning. The clauses will enable better quality reviews as well as stronger controls over the quality of reviewers themselves, given stronger recruitment, appointment, supervision and removal processes. These factors should significantly promote greater professional and public confidence in the system.

#### *Publication of Reports*

19. As there may be exceptional cases which justify non-publication of reviews, for example, concerns about vulnerable family members, the Bill allows the Panel to exercise discretion over publication of its reports. However, the government's starting point is that reviews should be written from the outset

with the intention of being published. This is because reviews are essential to outline where practice may be improved and to spread information about what constitutes good practice.

#### *Legal or Medical Privilege*

20. Peers raised the question in debate of the Panel's right to request information which may be the subject of legal or medical privilege. This is an important matter, which applies equally to safeguarding partners requesting information for the purpose of 'local' reviews. Although such information will sometimes be considered essential, it is vital that it is requested only when necessary and, where received, handled with due care in accordance with the provisions of data protection legislation, as with all such sensitive information. Ultimately, the Bill allows the resolution of disputes over information requests to be decided to the High Court or County Court but it is hoped that most requests for information may be resolved without the need to resort to enforcement proceedings. To assist with the process of requesting and handling information, guidance will set out the considerations and duties which pertain to this and we will take account of any specific points which Peers wish to raise.

#### *Putting findings and recommendations into practice and monitoring outcomes*

21. A number of Peers raised the issue of how learning from reviews will be effectively implemented and how the recommendations made for improving practice will be monitored and their impact measured. As the majority of reviews will continue to take place locally there will remain an onus on the safeguarding partners to ensure they consider any recommendations from local reviews and put any changes they can into practice. Safeguarding partners should also consider recommendations which come out of national reviews, both those relating to their area and others, so they can consider putting any recommended changes into practice.
22. Findings should also be disseminated across the country to challenge local areas to think about their own systems and practice. Both the Secretary of State and the Panel will receive copies of all local reviews and this will ensure that findings and recommendations from both local and national reviews can be assimilated. Peers will also wish to note that the new What Works Centre for Children's Social Care will be launched by early 2017, with part of its remit being to fulfil the 'analysis of learning functions' envisaged in the Wood Review. We envisage that reviews will be one of the sources of information and evidence utilised by the Centre to identify, disseminate and support the implementation of the most effective systems and practice in children's social care both locally and nationally.

## Local arrangements for safeguarding and promoting the welfare of children

### *Rationale*

23. The report which followed the Wood review sets out a range of evidence suggesting that too many LSCBs are ineffectual and that significant reform is required.
24. Consultation during this review found that the majority of safeguarding stakeholders that responded agreed that local multi-agency arrangements to safeguard children should be reformed. They also thought that local multi-agency arrangements to safeguard children should be a matter for local determination within a national framework.
25. The clauses pertaining to the local arrangements set out a stronger but more flexible statutory framework that will support key local safeguarding partners to work together more effectively to safeguard and promote the welfare of children.

### *Safeguarding partners*

26. The Wood Review identified the key role of three partners (local authorities, police, and health services) in safeguarding and protecting the welfare of children. The review found that the organisational boundaries between local authorities, police and health services too often act as a barrier to effective multi-agency working, and yet without the collaboration of these three bodies, the strategic decisions that are necessary to underpin effective practice in the area of child safeguarding and protection cannot be taken.
27. Clause 15 therefore prescribes that the 'safeguarding partners', responsible for leading the partnership arrangements, should be local authorities, clinical commissioning groups and chief constables. The provisions give maximum flexibility on how they can choose to set up and manage their partnership arrangements for each area.

### *Engagement of 'other' agencies beyond the three main partners*

28. The flexibility described above also enables the safeguarding partners to determine who other relevant agencies are that they may need to work with in each case. The Secretary of State will specify in regulations the agencies that exercise functions in relation to child safeguarding and welfare who may be engaged by the safeguarding partners for the purposes of these new arrangements. The safeguarding partners will agree locally which of these should be nominated as 'relevant agencies', and there is flexibility for them to

make different decisions in different cases.

29. Peers mentioned the need for consistency in the attendance of agencies at safeguarding meetings. The flexibility in the arrangements will enable reduction in the duplication and overlap of work and will allow arrangements to be devised locally through consultation and agreement between the safeguarding partners and relevant agencies, thus providing those agencies greater ownership and buy-in to the development of the arrangements. We will consider what guidance might be helpful in relation to the qualities which those taking a lead role in the arrangements will need.
30. Furthermore, the relevant agencies are required by clause 17 (referenced as 16G(4)) to act in accordance with these arrangements. This means that any agencies, for example schools, identified as a relevant agency by the safeguarding partners would need to work with the partners in safeguarding and promoting the welfare of children, in line with the partners' published plan.
31. At Committee, Peers asked whether we would consider the monitoring of which 'relevant agencies' the safeguarding partners choose to work with across the country.
32. This is certainly something which we will wish to do to some degree. We also anticipate that this is something which will be looked at by the inspectorates in due course. Guidance will make clear the need for safeguarding partners to consider which agencies they work with carefully, to consult locally, and to take particular account of the importance of involving relevant agencies, such as school, given their critical role in safeguarding.

### *Geographical areas*

33. At Committee, Peers raised concerns that the greater flexibility which will be available in the way areas work together might have been designed to benefit safeguarding partners, rather than to improve outcomes for children. Our view is that both should result, as the findings of the Wood Review give clear indication that the system needs to change, in order to keep ahead of new threats and risks and to cope with the dynamics of ever-present change, more complex and sophisticated threats. As the Wood review explains, "LSCBs were essentially predicated on interfamilial child abuse and are not in a good position to deal effectively with a remit to coordinate services and ensure their effectiveness across a spectrum encompassing child protection, safeguarding and wellbeing".
34. The system, therefore, needs significant reform to ensure it can meet these challenges and become consistently effective in safeguarding and promoting

the welfare of children, thereby improving outcomes for children through an improvement in safeguarding agencies' systems and practice (which will also benefit the safeguarding agencies).

35. The changes we are making allow local areas to arrange themselves in a way which enables the safeguarding partners and relevant agencies to collaborate more effectively, with the specific aim of improving outcomes for their area. Arrangements that cover a larger geographical area may help to reduce duplication of resources and efforts across agencies and areas, enabling greater efficiency and effectiveness. This would also enable broader oversight of the challenges facing child safeguarding, most of which do not stop at local authority, police or health service boundary lines.

#### *Funding*

36. At the meeting with officials on 12 September, Peers asked questions around how the arrangements would be funded. We are introducing a more flexible framework that allows local safeguarding partners to determine who they work with and how they arrange themselves. Local areas should therefore have the flexibility to decide how most effectively to fund the arrangements that they set up, considering what is needed in their particular circumstances, rather than having those decisions imposed on them by government. Clause 19 provides this necessary flexibility.
37. We do not expect that the new arrangements will cost more than existing structures. Indeed, the new arrangements may help to reduce duplication of resources and efforts across agencies and areas, enabling greater efficiency and effectiveness.

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