

6. CONSIDERATION OF CLAUSES

**6.1. Children and Young Persons (Amendment) Bill 2019 –
Clauses considered**

Mr Ashford to move.

The Speaker: We turn, then, to Item 6, Consideration of Clauses. The first one up is the Children and Young Persons (Amendment) Bill 2019, and I call on Mr Ashford to move.

Mr Ashford: Thank you, Mr Speaker.

5 I would like to thank Hon. Members, first of all, for their comments at the Second Reading of the Bill.

To recap briefly, the purpose of the Bill is to insert into the Children and Young Persons Act 2001, which I will refer to as 'the Act', provision to put the review of child deaths on the Island and the analysis of information gathered from such reviews onto a statutory footing.

10 As a result of the proposed amendments to the Act, this Bill will also make consequential amendments to the Safeguarding Act 2018, specifically sections 8 and 9 of that Act.

Turning to each clause in the Bill, Mr Speaker, with your permission I would move clauses 1 and 2 together.

15 **The Speaker:** Is that agreed, Hon. Members?

Members: Agreed.

Mr Ashford: Clause 1 gives the Act resulting from the Bill its short title.

20 Clause 2(1) provides for the commencement of the provisions of the Act by Appointed Day Order. It is anticipated that the Appointed Day Order to bring the Bill fully into operation will be laid before the same sitting of Tynwald Court at which Royal Assent is announced.

Clause 2(2) states that the Appointed Day Order may make incidental, consequential and supplementary provision.

25 I beg to move that clauses 1 and 2 do stand part of the Bill.

The Speaker: Mrs Corlett.

Mrs Corlett: Thank you, Mr Speaker, I beg to second.

30

The Speaker: I put the question that clauses 1 and 2 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 3, Mr Ashford.

35 **Mr Ashford:** Thank you, Mr Speaker.

Part 2 of the Bill amends the Children and Young Persons Act, with clause 3 providing that the Children and Young Persons Act 2001 is amended in accordance with Part 2.

I beg to move that clause 3 do stand part of the Bill.

40 **The Speaker:** Mrs Corlett.

Mrs Corlett: Mr Speaker, I beg to second.

45 **The Speaker:** I put the question that clause 3 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4, Mr Ashford.

Mr Ashford: Mr Speaker, clause 4 inserts a new clause 68A into the Act to define the child death review partners for the purposes of child death reviews in Part 7A.

50 The child death review partners are the Department of Health and Social Care; the Department of Education, Sport and Culture; the Department of Home Affairs; the Isle of Man Constabulary; and such other person as may be specified in an order made by the Cabinet Office.

If an order is made by the Cabinet Office, under (e), Tynwald approval is required.

I beg to move that clause 4 do stand part of the Bill.

55

The Speaker: Mrs Corlett.

Mrs Corlett: Mr Speaker, I beg to second.

60 **The Speaker:** I put the question that clause 4 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5, Mr Ashford.

65 **Mr Ashford:** Mr Speaker, clause 5 inserts a new clause 68B into the Act to deal with child death reviews, to require arrangements to be made for the review of child deaths and the analysis of information regarding such deaths.

Clause 68B(1) requires the death review partners to make arrangements for the service of each death of a child normally resident in the Island. This is a mandatory requirement.

70 Clause 68B(2) states that the child death review partners may, if they consider it to be appropriate, make arrangements for the review of a death in the Island of a child who is not normally resident here. The child death review partners are able to use their discretion in such cases.

Clause 68B(3) requires the child death review partners to make arrangements for the analysis of the information from a review into the death of a child.

75 Clause 68B(4) states what the purposes of a review or analysis under this section are, those purposes being: (a) the identification of any matters relating to a death that is relevant to the welfare of children in the Island or to public health and safety – this is to enable the identification of any safeguarding or local health issues that could be contributing to, or indeed causing, child deaths; and (b) to consider whether it would be appropriate for anyone to take action in relation to any matters identified.

80 Clause 68B(5) states that where the child death review partners consider it appropriate for a person to take action (4)(b), then they must inform that person. Again, this is a mandatory requirement.

85 Clause 68B(6) provides that a person informed by the child death review partners, pursuant to clause 68B(5), must either take the recommended course of action or explain to the child death review partners why they do not propose to take action.

90 Clause 68B(7) states that the child death review partners must prepare and publish, at such intervals as they consider appropriate, a report, which must be laid before Tynwald, on what they have done resulting from the arrangements that they have made for the review of child deaths and the analysis of information of deaths that have been reviewed and how effective those arrangements have been in practice.

95 Clause 68B(8) clarifies that arrangements made by the child death review partners for analysing information in respect of deaths reviewed must include arrangements made with a body outside the Island. I can confirm that the Department has already started this process by engaging with the Merseyside Child Death Overview Panel.

As referred to during the Second Reading, the link into the Merseyside Child Death Overview Panel is essential given that the Island has, on average, four to five child deaths per year and

best practice states that the analysis of information of child death reviews should be a review of at least 60 deaths per year to identify public health or safeguarding concerns.

100 I beg to move that clause 5 do stand part of the Bill.

The Speaker: Mrs Corlett.

Mrs Corlett: Thank you, Mr Speaker. I beg to second.

105

The Speaker: Mr Hooper.

Mr Hooper: Thank you, Mr Speaker.

110 I just have quite a straightforward question for the Minister – I hope it is a straightforward one. Subsection (6) says that where an individual is told they must take action by the Child Death Overview Panel, they either have to do that or explain why they are not doing it. That seems to be a massive get-out clause there for simply ‘We are not doing it because we do not have the money’, or ‘We are not doing it because we disagree with your findings’.

115 What action is there, then, to ensure that if this is a serious failing that has been identified by a review, someone, somewhere, has the power to say, ‘Thank you for explaining why you are not doing it, but actually we find that reason unacceptable and we are going to insist’?

120 I appreciate that there will be a report laid before Tynwald. Will that report highlight any such instances? Will it be up to Tynwald to take action? Will it be up to the review partners individually, as Departments? Who is going to be saying, ‘Thank you, that explanation is sufficient’, or ‘No, unfortunately that is not enough, you must take the action required’? That seems to be a small gap in this.

Thank you.

The Speaker: Mover to reply.

125

Mr Ashford: Thank you, Mr Speaker.

130 My understanding of that, in relation to the clause, is that the Child Death Overview Panel can, if they wish, insist upon a review. That is my understanding. I will have that clarified for the Hon. Member, but my understanding is that there is a mechanism and that it is not a get-out-of-jail-free card, so to speak, where someone can insist it is not. The whole point of this is to have the learning to ensure that all deaths are looked at and it is not just ignored, because we could be having a safeguarding risk. But I will get that clarified and I will circulate it to all Hon. Members.

135 **The Speaker:** I put the question that clause 5 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6, Mr Ashford.

Mr Ashford: Thank you, Mr Speaker.

140 Clause 6 inserts clause 68C into the Act to deal with the supply and use of information in connection with child death reviews.

145 Clause 68C(1) states that any of the child death review partners may, for the purpose of enabling or assisting the performance of functions conferred by section 68B, request that a person provides information, the information being specified in the request, to the child death review partner, or any other child death review partner, or another person.

Clause 68C(2) states that the person receiving the request for information must comply with it.

If the person does not comply, the child death review partner that made the request may take enforcement action against that person by making an application to the High Court for an

150 injunction under clause 68C(3). This ensures that there is a mechanism to enforce the duty to comply.

Clause 68C(4) provides that the information may only be used by the person to whom it is provided for the purpose mentioned in section 68C(1), the purpose in section 68C(1) being enabling or assisting the performance of functions conferred by section 68B.

155 I beg to move that clause 6 do stand part of the Bill.

The Speaker: Mrs Corlett.

Mrs Corlett: Mr Speaker, I beg to second.

160

The Speaker: Mr Hooper.

Mr Hooper: Thank you, Mr Speaker.

165 Again, hopefully a very straightforward question: I just want to check that when the child death review partners can issue a notice, they can issue such a notice on each other, in order to make sure they can adequately share data amongst themselves.

The Speaker: Mover to reply.

170 **Mr Ashford:** Mr Speaker, the simple answer, and probably the simplest of the day, is yes.

And the answer to the question posed by Mr Hooper earlier, in relation to the previous clause, clause 68C(3), which I have just moved, allows for court action to be taken and enforcement action.

175 **The Speaker:** I put the question that clause 6 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 7, Mr Ashford.

Mr Ashford: Thank you, Mr Speaker.

180 Clause 7 inserts clause 68D into the Act, regarding funding. This clause states that with the consent of Treasury, the child death review partners may make payments towards expenditure incurred in connection with the section 68B arrangements.

Subsections (1)(a) and (b) provide that the child death review partners can make payments directly or contribute to a fund out of which payments may be made.

185 Clause 68D(2) provides that the child death review partners may provide staff, goods, services, accommodation or other resources to any person for purposes connected with the arrangements under section 68B.

I beg to move that clause 7 do stand part of the Bill.

190 **The Speaker:** Mrs Corlett.

Mrs Corlett: Mr Speaker, I beg to second.

195 **The Speaker:** I put the question that clause 7 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 8, Mr Ashford.

Mr Ashford: Thank you, Mr Speaker.

200 Clause 8 inserts a clause 68E into the Act, regarding guidance. The child death review partners are required to have such regard as they consider appropriate to guidance issued by the Secretary of State under section 16Q of the Children Act 2004 (of Parliament).

I beg to move that clause 8 do stand part of the Bill.

The Speaker: Mrs Corlett.

205 **Mrs Corlett:** Mr Speaker, I beg to second.

The Speaker: I put the question that clause 8 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

And finally, Mr Ashford, clause 9.

210

Mr Ashford: Finally, Mr Speaker, clause 9 amends sections 8(4)(b) and 9(1) of the Safeguarding Act 2018.

215 Under section 8(4) of the Safeguarding Act 2018, the functions of the Safeguarding Board would include: (a) undertaking case management reviews – regulations would prescribe when and their extent; and (b) reviewing information in relation to child deaths, and again regulations would prescribe when and their extent.

220 Further, under section 9(1)(b) of the Safeguarding Act 2018, the Safeguarding Board would have had a statutory duty to establish a Child Death Overview Panel. The anticipated functions of that Panel, as set out in regulations, would have been to collect and analyse information regarding the death of a child but where no abuse was known or suspected. Section 8(4)(b) is being amended so that it is not a function of the Board to review information in relation to child deaths, and section 9 is being amended so that the Safeguarding Board no longer has a statutory duty to establish a Child Death Overview Panel.

I beg to move that clause 9 do stand part of the Bill.

225

The Speaker: Mrs Corlett.

Mrs Corlett: Mr Speaker, I beg to second.

230 **The Speaker:** I put the question that clause 9 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.