

**2. Children and Young Persons (Amendment) Bill 2019 –
Second Reading approved**

Mrs Sharpe to move:

That the Children and Young Persons (Amendment) Bill 2019 be read a second time.

The President: We turn now to the Children and Young Persons (Amendment) Bill for the Second Reading, again I call Hon. Member, Mrs Sharpe.

40 **Mrs Sharpe:** Thank you, Mr President.

Hon. Members, I am pleased to move the Second Reading of the Children and Young Persons (Amendment) Bill 2019. Firstly, may I begin by thanking Hon. Members for their contributions and the consideration that was given to the Bill at the First Reading, many of which will be considered further today.

45 The Children and Young Persons (Amendment) Bill 2019 amends the Children and Young Persons Act 2001 by inserting into the Act a new Part 7A entitled 'Child Death Reviews'.

This new Part will legislate for the review of child deaths on the Island and require the analysis of information regarding such deaths. The purpose of any review and the analysis of information is to identify matters relevant to the welfare of children or to public health and safety and to consider if it would be appropriate for action to be taken.

50 Regarding the review of child deaths, Part 7A defines who the child death review partners are to be, it requires them to make arrangements for child deaths to be reviewed, to inform those whom it believes should take action and to periodically report to Tynwald.

55 Further, for the purpose of enabling the child death review partners to carry out their functions, the newly inserted provisions give certain powers to the partners with regard to the supply of information.

60 Regarding the analysis of information that results from the review of child deaths, the child death review partners will have a duty to make arrangements for such analysis. It is key that such arrangements must include an off-Island organisation to better enable the Island to identify any potential public health or safeguarding issues.

Mr President, I beg to move that the Children and Young Persons (Amendment) Bill 2019 be read for the second time.

65 **The President:** Hon. Member of Council, Mr Crookall.

Mr Crookall: I beg to second, Mr President, and reserve my remarks.

The President: Mrs Lord-Brennan.

70 **Mrs Lord-Brennan:** Thank you, Mr President.

Hon. Members may recall that I had a number of queries at the First Reading of this Bill related to the role of Public Health, Public Health was not specified in the Bill at all. And also about how matters would work, particularly on the safeguarding front, in terms of capturing learning and of independent intervention outside Government Departments who are included as the review partners. And there were some other matters as well that I will not expand on here.

75 I am happy to confirm that, following further questions about and information from Public Health, the Chair of the Safeguarding Board, and indeed the hon. mover as to how the process and interaction between Public Health, the Safeguarding Board and the new proposed Child Death Overview Panel and the Merseyside organisation, how those would work in practice, I am now satisfied with this clarity and extra information that the Bill is in order.

For the purposes of the record, I would raise two points: first, on the topic of safeguarding and capturing learning, in terms of the interaction between the Safeguarding Board and the Child Death Overview Panel, my queries have led me to be able to establish that in the event of a child death, at any point in the process of the child death overview partners, which include
85 Government Departments, if the death is deemed to be a safeguarding issue then the process pauses to allow for the Safeguarding Board to consider whether the case meets the statutory criteria for a serious case review. The purpose of which is to review the effectiveness of multi-agency working and identify learning to improve practice, and it is that last particular element that interested me to capture the view outside the review partners and the
90 Government.

Second, during examination of this legislation, the key role that Public Health play became much more clear than was first apparent on the face of the Bill. The Directorate of Public Health play quite significant functions in connection with the review of child death. The role of the Directorate of Public Health is as a Chair of the Isle of Man Child Death Review Partnership and a
95 member of the Merseyside Child Death Overview Panel and they will also carry out various business administration and management for the child death review function. There is some further detail that I received on that. So that function was perhaps not as clear to Hon. Members in the First Reading because Public Health is not mentioned, and indeed I had queried why Public Health was not a review partner in the Bill and whether it should be. Given the more expansive
100 role of Public Health I can see that it would probably not be sufficient or indeed accurate to include as a review partner Public Health in the Bill and note that this can in any event be done by order from the Cabinet Office at a later date. However, there is a bigger picture matter identified as part of looking at this and seeking a statutory basis for what Public Health are doing here. But as such a statutory basis for Public Health is missing elsewhere this does remain an
105 aspect that needs to be addressed on statute. It would therefore be out of the ordinary just to fix that in this Bill, even though Public Health is missing.

My inquiries have let me find out that the statutory basis for Public Health is being worked on by officers as part of the health care transformation project so that this missing link will be connected in due course as the Public Health Directorate move to Cabinet Office needs to be put
110 on a statutory basis, that is my understanding.

In conclusion, I would like to thank legislative officers, the Director of Public Health and the Chair of the Safeguarding Board and the mover for their assistance in filling in the blanks on this so that we can be assured that the Bill and the related processes are in order.

Thank you.

The President: Thank you, Mrs Lord-Brennan.

Does any other Member wish to speak at this point? Mrs Sharpe, do you wish to reply?

Mrs Sharpe: Thank you, Mr President.

And I would like to thank the Hon. Member for her detailed research on this subject. I think that obviously, as she says, the statutory basis for Public Health lies outside of this Bill. However, it is a subject which does need to be addressed and I am pleased that the Hon. Member feels content that her queries have been satisfied.

The President: Thank you.

I put the question that the Children and Young Persons (Amendment) Bill be read for the second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

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

The President: We turn to the clauses.

Clause 1, Mrs Sharpe.

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Mrs Sharpe: Thank you, Mr President.

Hon. Members, to recap briefly, the purpose of the Bill is to amend the Children and Young Persons Act 2001 by inserting in a new Part 7A. This newly inserted Part will make provision for the review of child deaths and the analysis of information in respect of such deaths.

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As a consequence of the amendments being made to the Children and Young Persons Act 2001, this Bill also amends the Safeguarding Act 2018, specifically sections 8 and 9.

Turning to each clause of the Bill, Mr President with your permission, I wish to move clauses 1 and 2 together.

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The President: Is that agreed?

Members: Agreed.

The President: Agreed, proceed.

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Mrs Sharpe: Thank you, Mr President.

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

Clause 2 makes provision for the commencement of this Bill, being on such day or days as the Council of Ministers may, by order, appoint. An Appointed Day Order may make incidental, consequential and supplemental provision.

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Hon. Members, it is anticipated that the Appointed Day Order to bring the Bill fully into operation will be laid before the same Tynwald Court sitting at which Royal Assent is announced.

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

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The President: Mr Crookall.

Mr Crookall: I beg to second, Mr President.

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

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Clause 3.

Mrs Sharpe: Thank you, Mr President.

Clause 3 provides that the Children and Young Persons Act 2001 is to be amended in accordance with Part 2 of the Bill.

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

The President: Mr Crookall.

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Mr Crookall: I beg to second, Mr President.

The President: I put clause 3. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

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Mrs Sharpe: Thank you, Mr President.

180 Clause 4 adds a new section 68A into the Children and Young Persons Act 2001 defining who, for the purposes of Part 7A, the child death review partners are to be, namely: 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 persons as may be specified in an order made by the Cabinet Office. Any order made under this section will be subject to Tynwald approval.

185 As we have heard from the Hon. Member, Mrs Lord-Brennan, there has been much discussion during the drafting of this clause as to why, given its prominent role in the Child Death Review Partnership, Public Health is not named as a partner. The intention is that, following Public Health's imminent transfer to Cabinet Office, an order be laid at the same sitting of Tynwald as the Appointed Day Order. Given that Public Health is not a statutory body but will form a part of Cabinet Office, this order will add the Cabinet Office as a child death review partner in this Bill.

190 Mr President, I beg to move that clause 4 do stand part of the Bill.

The President: Mr Crookall.

195 **Mr Crookall:** I beg to second and reserve my remarks, Mr President.

The President: I put clause 4. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 5, Mrs Sharpe.

200 **Mrs Sharpe:** Clause 5 adds a new section 68B into the Children and Young Persons Act 2001. References to subsections below are to subsections in that new section.

Subsection (1) sets out the requirement for the child death review partners to make arrangements for the review of each death of a child normally resident in the Island.

205 Subsection (2) allows the child death review partners, if they consider it appropriate, to make arrangements for the review of a death in the Island of a child that is not normally resident here. Subsection (3) requires the child death review partners to make arrangements for the analysis of information about deaths that have been reviewed under section 68B.

210 Subsection (4) specifies the purpose of such reviews and analysis, being to identify any matters relating to the death or deaths that are relevant to the welfare of children in the Island or to public health and safety and to consider whether it would be appropriate for anyone to take action in relation to any matters identified.

Subsection (5) places a duty on the child death review partners where they do consider that it would be appropriate for a person to take action, as per subsection (4), to inform that person.

215 Subsection (6) states that a person, having been informed by the child death review partners to take action, must do one of the following: either (a) take that action; or (b) explain to the child death review partners why they propose not to take the action.

220 Subsection (7) specifies that the child death review partners must, at such intervals as they consider appropriate, report on: (a) what they have done as a result of the arrangements that they have made under section 68B; and (b) how effective those arrangements have been in practice. The Department of Health and Social Care must lay such reports before Tynwald.

Subsection (8) specifies that as a part of the arrangements to be made for the analysis of information, the child death review partners must make arrangements with an off-Island organisation

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

The President: Mr Crookall.

Mr Crookall: I would like to second and reserve my remarks, Mr President.

The President: Mrs Poole-Wilson.

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Mrs Poole-Wilson: Thank you, Mr President.

I would like to move a small amendment to clause 5 which is brought forward with the full agreement of the Department, and that is on page 9 in line 14, so that is subsection (7) after (b) that there be a change there from 'The Department' to 'The Cabinet Office'.

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The rationale behind that small amendment is to acknowledge that the child death review partners in fact is a cross-governmental partnership and also it reflects what has earlier been discussed in this sitting about the role of Public Health and their imminent move to the Cabinet Office.

So I would like to move the amendment to clause 5 in my name.

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Amendment to clause 5:

1. Page 9, line 14 for "The Department" substitute «The Cabinet Office».

The President: Mr Henderson.

Mr Henderson: I beg to second, sir.

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The President: Mrs Sharpe, you are content?

Mrs Sharpe: I am content, Mr President.

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The President: First of all then I put the amendment in the name of Mrs Poole-Wilson. Those in favour of the amendment, say aye; against, no. The ayes have it. The ayes have it.

Clause 5 as amended. Those in favour, say aye; against, no. The ayes have it. The ayes have it. Clause 6, Mrs Sharpe.

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Mrs Sharpe: Thank you, Mr President.

Clause 6 inserts a new section 68C into the Children and Young Persons Act 2001. Again, references to subsections below are to subsections in that new section.

Subsection (1) specifies that any of the child death review partners may request a person to provide them, another child death review partner, person or organisation, with information. The purpose of such a request is limited to enabling or assisting the child death review partners in performing their functions, which are conferred by section 68B.

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Subsection (2) requires a person to whom a request has been made to comply with it.

Subsection (3) allows the child death review partner that made the request for information to apply to the High Court for an injunction to enforce the request, in circumstances where the information is not forthcoming.

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Subsection (4) specifies that the information may only be used for the purpose specified in subsection (1), in other words, to enable or assist the child death review partners in the performance of their functions.

During the First Reading of the Bill, Miss August-Hanson indicated concern regarding the interaction between the interests of vulnerable groups and the sharing of data. She also asked what the catalyst behind clause 68C, information, of the Bill was.

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With regard to these concerns, from what I understand, whilst data protection law places certain duties on persons or organisations to process information in a fair and lawful manner, it does not act as a barrier to information being shared where a failure to do so could result in a vulnerable person being put at risk of harm. So, after discussion with the Department, I do not think that clause 68C is in any way contrary to this.

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However, the Hon. Member raises an important point. The UK government has issued advice for practitioners providing safeguarding services to children, young people, parents and carers.

280 Such advice is relevant to the Island, an aim of which will be to make sure that the message is clear: data protection legislation is not a barrier to sharing information, nor does it prevent or limit the sharing of information for the purposes of keeping children and young people safe.

Mr President, I beg to move that clause 6 do stand part of the Bill.

285 **The President:** Mr Crookall.

Mr Crookall: I would like to second, Mr President, and reserve my remarks.

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

290 Clause 7.

Mrs Sharpe: Thank you, Mr President.

Clause 7 adds a new section 68D into the Children and Young Persons Act 2001. Again, references to subsections below are to subsections in that new section.

295 Subsection (1) allows the child death review partners, with the consent of Treasury, to make payments towards expenditure incurred in connection with arrangements made under section 68B by: (a) making payments directly; or (b) contributing to a fund out of which payments may be made.

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

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

305 **The President:** Mr Crookall.

Mr Crookall: I beg to second and reserve my remarks.

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

310 Clause 8.

Mrs Sharpe: Thank you, Mr President.

Clause 8 adds a new section 68E into the Children and Young Persons Act 2001.

315 Section 68E requires the child death review partners to have such regard as they consider appropriate to any guidance issued by the UK Secretary of State for Education pursuant to section 16Q of the Children Act 2004, of Parliament.

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

320 **The President:** Mr Crookall.

Mr Crookall: I beg to second, Mr President.

The President: I put clause 8. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

325 We now turn to new clause 1 at this point, and I call on the mover, Mrs Poole-Wilson.

Mrs Poole-Wilson: Thank you, Mr President.

New clause 1 is proposed to be moved as a new clause to the Bill following the questions that I raised at the First Reading of this Bill.

330 The particular clause relates to the status of the child death review partners when it comes to
Freedom of Information requests. And Hon. Members may recall that at the First Reading of this
Bill I asked the question whether in moving the child death review process from the
Safeguarding Act into the Children and Young Persons Act, whether it was appropriate or not
335 that provisions around Freedom of Information should also be reflected in the Children and
Young Persons Act.

I would like to thank the mover, Mrs Sharpe, and the officers involved for engaging with me
on this question and agreeing that it would be appropriate for the Children and Young Persons
Act to include in it provision to make clear that the child death review partners in performing
their functions under the relevant Part are not public authorities for the purposes of the
340 Freedom of Information Act and the remainder of the new clause continues to make clear that
the child death review partner should be included, along with the Safeguarding Board, as clearly
exempt from Freedom of Information requests when conducting their role as part of the Act.

That being the case, I would like to move new clause 1 as written on the Order Paper:

New Clause 1:

2. Page 10, after line 22, insert the following New Clause—

«NC1 Freedom of information: section 68F inserted

After section 68E (inserted by section 8 above) insert—

“68F Freedom of information

*(1) The child death review partners, in performing their functions under this Part, are not
public authorities for the purposes of the Freedom of Information Act 2015.*

(2) In section 7(6) of that Act, for “or the Safeguarding Board” substitute—

*“the Safeguarding Board, or any of the child death review partners, within the meaning of
section 68A of the Children and Young Persons Act 2001, in performing their functions
under Part 7A of that Act.”.*

*(3) Information held by a public authority which relates to the functions performed by the
child death review partners under this Part is absolutely exempt information for the
purposes of the Freedom of Information Act 2015.”*

345 **The President:** Mr Henderson.

Mr Henderson: I beg to second, sir, and reserve my remarks.

The President: I put the question that new clause 1 as printed do form part of the Bill. Those
350 in favour, say aye; against, no. The ayes have it. The ayes have it.

Now you have the opportunity to move in detail, Mrs Poole Wilson.

Mrs Poole-Wilson: Thank you, Mr President.

I would not propose to move in detail unless Hon. Members have any particular questions on
355 the wording. I feel I have said enough about the purpose and content.

But, yes, I would now like to move new clause 1.

The President: Mr Henderson.

360 **Mr Henderson:** I beg to second, sir.

The President: The motion is that new clause 1 do stand part of the Bill. Those in favour, say
aye; against, no. The ayes have it. The ayes have it.

That being passed there is a consequential second new clause, new clause 2. I call on
365 Mrs Poole-Wilson to move.

Mrs Poole-Wilson: Thank you, Mr President.

370 In a similar vein to new clause 1, the suggestion to include new clause 2 in the Bill reflects the question as to whether all of the aspects that were included in the Safeguarding Act 2018 should transfer into the Children and Young Persons Act as it pertains now to the work of the child death review partners. And in this particular case, new clause 2 is designed to reflect a provision in the Safeguarding Act 2018 that makes clear that resources, legal, professional and other services should be made available as they are reasonably necessary for the proper performance by the child death review partners of their functions.

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New Clause 2:

3. Page 10, after line 22, and after New Clause 1 (if successful) insert the following New Clause—

«NC2 Support for the work of the child death review partners

After section 68F (inserted by section [NC1] above) insert—

“68G Resources

The Cabinet Office must ensure that each child death review partner has access to such legal, professional and other services as are reasonably necessary for the proper performance of its functions.”.».

The President: Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

380 I beg to second, sir, and reserve my remarks.

The President: I put the motion that new clause 2 do form part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Would you move that new clause 2 now do stand part of the Bill, move in detail if you wish.

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Mrs Poole-Wilson: Thank you, Mr President.

Yes, I think the text of the new clauses is self-explanatory, I do not have anything further to add to my remarks, and I would like to move that new clause 2 do stand formally part of the Bill.

390 **The President:** Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second, sir, and reserve my remarks.

395 **The President:** I put the motion that new clause 2 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

We turn now to clause 9, Mrs Sharpe.

Mrs Sharpe: Thank you, Mr President.

400 And if I may just say a few words on new clause 1 and new clause 2, if that is possible? I realise I am a bit late in jumping in. I would just like to thank the Hon. Member for new clause 1 and 2; I think that it has been a valuable contribution to the Bill.

405 Clause 9, Mr President, amends the Safeguarding Act 2018. These amendments are as a consequence of the insertions proposed above to the Children and Young Persons Act 2001. The references to subsections below are references to the subsections of this clause 9 of the Bill.

Subsection (1) simply states that the Safeguarding Act 2018 is being amended as per the two subsections that follow.

Subsection (2) amends section 8(4)(b) of the Safeguarding Act 2018.

410 Hon. Members will be aware that under section 8(4)(b), as it is currently worded, a function
of the Safeguarding Board is to review such information as may be prescribed in relation to
deaths of children or vulnerable adults in the Island in such circumstances as may be prescribed.
The purpose of any review would be to identify lessons that could be learnt and to apply those
lessons in future cases.

415 Section 8(4)(b) is being amended to omit the words 'or children', given that the function of
reviewing child deaths is to be a function of the child death review partners rather than the
Safeguarding Board.

420 Subsection (3) amends section 9(1) of the Safeguarding Act 2018 under which, as it is
currently worded, the Safeguarding Board has a duty to establish three committees, namely: the
'Action and Implementation Panel'; the 'Child Death Overview Panel'; and the 'Serious Case
Management Review Panel'.

Section 9(1) of the Safeguarding Act 2018 is being amended so that the Safeguarding Board
no longer has the duty to establish a Child Death Overview Panel.

425 Hon. Members, as I have described, under section 68B, it will be for the child death review
partners to make the arrangements for the analysis of information that results from the review
of a child death.

During the First Reading of the Bill, the Hon. Member, Mrs Lord-Brennan, inquired as to how
the relationship between the Safeguarding Board and the Child Death Review Partnership would
work in practical terms, and I would like to thank her again for sharing her research with us.

430 I would like to refer Hon. Members to the flow chart produced by Public Health, which I was
able to email yesterday. I trust that it gives Members a clear overview of process through which
information regarding the Child Death Overview Partnership will flow and also the point at
which the Safeguarding Board intersects with the Partnership for information-sharing and future
learning purposes.

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

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The President: Mr Crookall.

Mr Crookall: I beg to second, Mr President.

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

Thank you, Hon. Members, that concludes that stage of that particular Bill.