

## Order of the Day

### 2. Children and Young Persons (Amendment) Bill 2019 – First Reading approved

Mrs Sharpe to move:

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

15 **The President:** Item 2, Children and Young Persons (Amendment) Bill, First Reading.  
Hon. Member, Mrs Sharpe.

**Mrs Sharpe:** Thank you, Mr President. I apologise, please bear with me for a second.  
Mr President, Hon. Members, I am pleased to move the First Reading of the Children and  
20 Young Persons (Amendment) Bill 2019.

The Bill amends the Children and Young Persons Act 2001, which I will refer to as ‘the Act’  
and makes consequential amendments to the Safeguarding Act 2018. The Act is to be amended  
by inserting in a new Part 7A, a Part that will make provision for the review of child deaths that  
occur on the Island and for the analysis of information regarding such deaths.

25 Hon. Members will recall that such provisions were originally provided for in the  
Safeguarding Act 2018, specifically section 8(4), which required the Safeguarding Board to  
review information in relation to the deaths of children, and section 9(1)(b), which required the  
board to establish a Child Death Overview Panel.

30 However, given that such matters have wider public health considerations that go beyond  
safeguarding alone, it is proposed that such functions sit with ‘child death review partners’  
under the aegis of Public Health. Therefore, this Bill establishes in statute the child death review  
partners. The partners, in accordance with the Bill, are to be responsible for making  
arrangements for child deaths to be reviewed and for the analysis of information regarding such  
deaths. The Bill confirms that the purpose of those actions is to identify matters relevant to the  
35 welfare of children or to public health and safety on the Island.

With regard to the analysis of information, Hon. Members will note that the Bill requires that  
the arrangements made are done so with an organisation outside the Island. The rationale  
behind this requirement is to ensure best practice is adhered to. As for the meaningful analysis  
of information to enable the identification of public health or safeguarding issues which might  
40 affect children, there should be a review of 60 child deaths per year. Given that the Island only  
has four to five child deaths per year, the partners will be entering into arrangements with the  
Merseyside Child Death Overview Panel. To better enable the child death review partners to  
carry out their functions, the Bill requires a person who has been requested to provide  
information by a child death review partner to comply with that request.

45 Lastly, Mr President, with regard to reporting, the Bill will require the child death review  
partners to periodically report to Tynwald regarding the arrangements made for the review of  
child deaths, the analysis of information regarding such deaths and the effectiveness of such  
arrangements.

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

**The President:** Mr Crookall.

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

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**The President:** Thank you.  
Mrs Poole-Wilson.

**Mrs Poole-Wilson:** Thank you, Mr President.

60 I had a couple of questions for the mover, if she might be able to assist, and they relate to the fact that what we are doing through this Amendment Bill is moving the arrangements for child death overview from the Safeguarding Act into the Children and Young Persons Act, and looking back at the Safeguarding Act it was a question I had about whether some of the things that are in the Safeguarding Act 2018 which would have applied had child death overview remained

65 under that Act, whether we still need to provide for those under the new arrangements.

So the specific issues are, first of all, section 10 of the Safeguarding Act 2018 provides that the Department of Health and Social Care must provide support for the Safeguarding Board and any committee or subcommittee established under that Act, which would have included child death overview arrangements; and that support would be to such legal, professional and other

70 services as are reasonably necessary for the proper performance of the relevant bodies' functions.

So my question is, when it comes to the child death review partners under this Amendment Bill, is there legislative provision for that type of support should it be necessary and if there is not do we need to provide for it? The second section which is in the Safeguarding Act 2018 relates to freedom of information – and it is section 16 of the Safeguarding Act 2018 which provides that the Safeguarding Board is not a public authority for the purposes of the Freedom of Information Act. Now it does not specify committees and subcommittees in that section, but again the question would be: do the child death review partners under this Amendment Bill ...

75 do we need to say something expressly about their status as regards freedom of information or not?

80 I understand that these may be questions that the hon. mover may wish to consult further about so I perfectly understand if she does not have an answer for those questions today, but I wanted to raise them to understand what the position is.

Thank you, Mr President.

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**The President:** Mrs Lord-Brennan.

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

90 I note that the Bill removes the statutory requirement from the Safeguarding Act 2018 for there to be a Child Death Overview Panel and understand that the basis for this is to be because there may be public health considerations that go beyond safeguarding alone; therefore, it is proposed that such functions sit on Public Health rather than a safeguarding board. That is the policy that has been explained and one I do accept.

95 My understanding is that the idea of a Child Death Overview Panel will be replaced in effect by child death review partners who are cited in the Bill as various Government Departments and the Police. To form part of this process it is intended to have a link in with the Merseyside Child Death Overview Panel, which is considered more sensible for purposes of review and analysis and best practice in terms of data. I note that that is the intention and is anticipated.

100 With that then, I do wonder whether there should be space for an independent but locally based review partner and wonder why is the Safeguarding Board not a partner. I would welcome, perhaps in the next sitting, clarity as to how this would all work in practice. Will the Safeguarding Board have any link in with this or are they extracted from the process?

105 I understand that there may be also a link with Public Health. The Amendment Bill does not contain reference to either Public Health or the Safeguarding Board, unless I have missed something, and I wonder if such a reference should be made explicit, especially when in the Bill before us it would, as in the UK Children Act 2004, be part of the point of the review or analysis

to identify any matters relating to the death or deaths that are relevant to the welfare of the children of the Island or to public health and safety.

110 It might also be considered on that welfare point that there may be value of the link in with the Safeguarding Board, especially from an independent view, angle or possibly from whether at some point in the arrangements, maybe after a review, relevant findings would be reported into the Isle of Man Safeguarding Board. I am curious about this aspect of workability, especially around reporting and taking actions.

115 In this, I note the following two distinct matters. The Bill, as mentioned, cites the purpose of a review as to identify matters relevant to the welfare of children on the Island or to public health and safety, as I have mentioned. A document from the Safeguarding Board website outlining the Child Death Overview Panel as an operational workgroup of the Safeguarding Board states that:

The main purpose of the panel is to identify factors that might have prevented a child death and to use this learning to try and prevent future deaths.

It goes on that:

The panel makes recommendations and reports on the lessons learned to the Safeguarding Children Board. The SCB takes action to ensure that lessons learned are built into future policy, practice and procedures with a view to reducing avoidable deaths.

120 Hon. Members, those are quite strong, compelling words. So it is capturing the benefit of that that I think it would be useful in principle to have and I am not sure how it all ties together in this Bill.

125 So in my evaluation of the Bill initially, I am comparing what I think is the only local reference point for such matters at the moment and I have tried to find more detail in cross-referencing various legislation, that is the info on the Safeguarding website which seems very sensible and what is presently in the Bill, to try and assess whether whilst accepting the principle of the Bill is correct, there are elements that might be left out by departing from the original plan, which was to have this operating under the Safeguarding Board as an operational work group.

130 Also I do wonder: should the Hospice and Public Health be specified as child death review partners in addition to the Government Departments and the Constabulary? I think it would be helpful, ultimately, for Tynwald, who would receive the reports on this as well as, I think, receiving reports from the Safeguarding Board potentially, to have clear sight on how all this would work in practice, especially giving the related responsibility of the Safeguarding Board and the independent nature of that board, given things like serious case reviews etc.

135 Hon. Members, I was interested in the learning from a serious case management review presentation and report from the Safeguarding Board in June and July, and valued the thinking and approach with the work of the board. I did check but the report does not mention the sort of review panel we are talking about here. It does, however, make the point about identifying learning and also on multi-agency engagement in the protection and planning for children and young people in need of safeguarding. The historic review identified very poor engagement on a multi-agency basis in both identifying and assessing the issues. I just wonder if, in the spirit of capturing learning over what could potentially be very serious, indeed heart-breaking matters, are we happy that this Bill will get it right when there is a level of specificity that is not present in the Bill but that can be referenced elsewhere in the documents produced by our Safeguarding Board which was set up only recently?

145 Thank you for indulging my curiosity and I am more than happy to wait for any clarification.

**The President:** Miss August-Hanson.

**Miss August-Hanson:** Thank you, Mr President.

150 I have just a short question to ask, and I thank my colleagues on Legislative Council, Mrs Poole-Wilson and Mrs Lord-Brennan, for what they have contributed so far, because they have peaked my interest in a couple of areas that I had not thought about.

I would like, if Mrs Sharpe would oblige: there was a presentation and report that Mrs Lord-Brennan makes reference to just in relation to this presentation with the Safeguarding Board; there was one issue that stood out in that presentation – and I think it was mentioned a couple of times by other Hon. Members in this place and in another – and it was just in relation to the sharing of information under GDPR and how this might work in relation to that, in terms of setting a precedent in sharing of information from the Safeguarding Board with partners cross-governmentally.

160 I wondered if perhaps the Hon. Member might shed some light on how that might work, has it happened before from the Safeguarding Board and does the legislation regarding the Safeguarding Act allow for it?

Thank you, Mr President.

165 **The President:** I call on the mover to reply, Mrs Sharpe.

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

I would like to thank Hon. Members for their interest in this Bill and for their thought provoking questions.

170 Turning first to Mrs Poole-Wilson, she referred to section 10 of the Safeguarding Act 2018, which refers to the Department of Health and Social Care and the fact that it must provide support for the Safeguarding Board, and she asks will that be also provided for in the Children and Young Persons (Amendment) Bill 2019? That is something I will discuss with the Department and I will get back to the Hon. Member with an answer on that at the next sitting.

175 She also, in referring to the Safeguarding Act, referenced the section which mentions that the Safeguarding Board is not subject to freedom of information. That is an interesting point and again, I will be discussing this with the Department and the legislative drafter, and I will get back to the Hon. Member with an answer on that.

180 The Hon. Member, Mrs Lord-Brennan, had several questions. She pointed out that the child death review partners will be working in partnership with the Merseyside Child Death Overview Panel, and she asks should there be a space for a locally based partner in all of this, for example, the Safeguarding Board; how will the Safeguarding Board link to all of this? From my understanding, the Bill we have before us separates out the review and the analysis of child deaths very definitely from the Safeguarding Board because it is perceived that the Safeguarding Board is not the place for that review and analysis to fall because the Bill is not concerned with safeguarding, it is concerned with review and analysis of child deaths. And by that I mean all child deaths, at the moment on the Island only unexpected child deaths are reviewed. Obviously any child death which requires a post-mortem or for the coroner to be informed, of course, the coroner would be informed and the post-mortem would be carried out, but there is no review and no statistical analysis currently, and that is what this Bill is about. But I will discuss this further with the Department and ensure that I have a fully comprehensive answer for the Hon. Member.

190 Getting on to other questions – excuse me one moment, Mr President, I have a message which has just been delivered to me – she refers to the Merseyside Child Death Overview Panel website and recognises the fact that it refers to the Safeguarding Board in the UK. Can I just clarify that with the Hon. Member?

200 **Mrs Lord-Brennan:** I am happy to clarify, I did not actually mention the Merseyside website. What was the other query?

**Mrs Sharpe:** That it made reference to the Safeguarding Board in the UK, I may have misunderstood the Hon. Member at the time.

**Mrs Lord-Brennan:** Maybe we can pick up afterwards, I am not quite clear, Mr President.

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**Mrs Sharpe:** Okay, thank you, Hon. Member, I am just trying to make sense of my own notes which I made as you were speaking.

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She talks about perhaps the need to have a local reference point and she highlights the fact that our current Safeguarding Board is our local reference point and she wonders how that local Safeguarding Board will fit in with all of this, and I will get back to the Hon. Member about that.

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She also refers to the June and July Safeguarding Board report, which she was very impressed with, and in particular she was impressed by the multi-agency planning and the importance of this. She asks whether we are satisfied that there will be enough multi-agency planning under the terms of this Bill. I think the fact that the child death review partners will consist of the Director of Public Health, a representative from the Department of Health and Social Care, the Department of Education, Sport and Culture and the Constabulary means that there will be input from several bodies. But if the Hon. Member would like to clarify her question, because I can see her shaking her head, I am very happy, with your permission, Mr President, for her to clarify the question she needs an answer to.

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**The President:** Mrs Lord-Brennan.

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

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I think in my contribution to the debate I was merely making the point, actually, that Public Health is not listed as one of the review partners. I am just broadly asking should there perhaps be other bodies mentioned? So I am happy for that point to be taken away to be considered.

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It is notable, I think, that in other arrangements and set ups elsewhere where you do have the overview panels, there are representatives and voices from Safeguarding, Public Health, as well as exactly the other ... In the UK it will probably be local authority representatives and things like that too. I am happy to have made the point and for that to be considered, but Public Health is not included as a partner in this Bill as drafted.

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

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The Department, from my understanding, will need to draft an order pursuant to section 68A(e) so that Public Health is included as a child death review partner.

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Moving on to Miss August-Hanson, the Hon. Member also refers to the presentation report of the Safeguarding Board and one issue which stood out for her was the sharing of information under GDPR, and how that should work in terms of the Safeguarding Board and the partners and how that might look. Again, I will liaise with the Department and with the legislative drafter and I will have a response for the Hon. Member.

**Miss August-Hanson:** Thank you, Mrs Sharpe.

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

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**The President:** Hon. Members, I put the question that the Children and Young Persons (Amendment) Bill be read for the first time, those in favour, say aye; against, no. The ayes have it. The ayes have it.