

# **Children's Services Co-operation Bill**

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## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial Memorandum has been prepared on behalf of Mr Steven Agnew ("the Member") in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum should be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill, so where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. In 2002 the Westminster Government commissioned Lord Laming to undertake a major inquiry following the tragic death of Victoria Climbié. The inquiry identified a lack of co-operation as a factor which contributed to the failure of the Government in their duties. The Westminster Government's response was the Children Act 2004 which overhauled children's services in England and Wales. Sections 10 and 25 of this Act introduced a statutory duty on local authorities to promote co-operation with their relevant partners.
4. In Northern Ireland, a duty to co-operate to safeguard at-risk children was introduced in the Safeguarding Board Act (Northern Ireland) 2011. Nevertheless, Laming's recommendations made clear that child protection could not be separated from policies to improve children's lives as a whole.
5. Northern Ireland has some of the highest levels of child poverty in the UK and 21% of children live in persistent child poverty, which is double the rate for GB. Poor outcomes for children in NI, in spite of the higher level of government spending per person when compared to GB, suggests that an opportunity exists to improve the current governance model of children's services. This view is shared by those organisations working within the children's sector.
6. Evidence shows that integrated working does bring about changes that can be expected to increase effectiveness in practice which are likely to lead to better outcomes.<sup>1</sup> There is presently no requirement for departments or public bodies to co-operate with each

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<sup>1</sup> Page 9 *Integrated Working: a Review of the Evidence* Children's Workforce Development Council 2010 <http://dera.ioe.ac.uk/3674/>

other on the issue of children's services. The objective of a statutory duty to co-operate is to ensure that departments work together to devise and implement cross cutting strategies. The intention is to improve outcomes for children by supporting, enhancing and encouraging co-operation to ensure that children's services are most integrated from the point of view of the recipient.

7. Inadequate integration of children's services in Northern Ireland has been repeatedly identified by a wide range of organisations, many of which have made recommendations for stronger legislation to require those responsible for children's services in Northern Ireland to co-operate. These include the four Area Children and Young People's Committees (ACYPCs) in 2008 (now superseded by the Children & Young People's Strategic Partnership); the Northern Ireland Commissioner for Children and Young People (NICCY) and Queen's University Belfast (QUB) in 2011 in their report into 'Barriers to Effective Government Delivery for Children in Northern Ireland'; the umbrella group Children in Northern Ireland (CiNI); and the OFMDFM Committee in its 2008 inquiry into child poverty.
8. It is widely acknowledged that the lives of children and families cannot be compartmentalised in a way that coincides with the responsibilities of individual departments and public bodies. Greater levels of co-operation will make the delivery of children's services more effective and efficient by:
  - ensuring that statutory bodies take responsibility for those children who have difficulty accessing services as a result of perceived gaps in service provision;
  - supporting government departments and public bodies to tackle shared problems in a more coherent fashion;
  - motivating departments and public bodies to identify services which are duplicated or where over-provision exists and to reallocate resources more efficiently;
  - encouraging departments and public bodies to devise and implement more co-ordinated, and therefore more effective, strategies and plans for children;
  - mainstreaming collaboration through the use of reciprocal requirements for departments to work together and a reciprocal requirements for public bodies to co-operate with the health board and each other; and
  - requiring departments and public bodies to self-assess and report on the efficiency and effectiveness of co-operation and what opportunities exist to improve collaboration and outcomes.
9. The Bill puts the Government's six high level outcomes from its children strategy (A ten year strategy for children and young people in Northern Ireland 2006-2016) into legislation and establishes a requirement for departments to discharge their functions and co-operate to further the achievement of these outcomes. It also contains an enabling power which will permit departments to pool their budgets and share resources for the purposes of fulfilling their duties to achieve the six high level outcomes. The power to pool budgets and share resources can improve co-operation as it will facilitate the provision of joint services which would otherwise not be provided by any department acting alone. Pooled budgets will also create opportunities for early intervention and preventative spending as it will enable departments to fund services

outside of their statutory remit which may be a more effective means of meeting their own statutory responsibilities.

10. The Member has raised the problems associated with integration in children's services and the need for a duty to co-operate through public statements, media interviews, by tabling Assembly Questions, by supporting events at Parliament Buildings and through participation at the All Party Group for Children and Young People. The relevant Assembly Questions can be viewed on the Northern Ireland Assembly website via the AIMS portal, at <http://aims.niassembly.gov.uk/mlas/search.aspx>

## **CONSULTATION**

11. The Member carried out a twelve-week consultation on the policies behind the Bill in Spring 2012. The consultation document was sent to approximately 200 organisations and all Assembly Members and Northern Ireland Members of Parliament. A total of 26 responses were received. Every respondent supported the principles of the Bill and the introduction of a statutory duty to co-operate on children's services.
12. Of those respondents who directly answered the relevant questions:
  - every respondent stated that the introduction of a duty to co-operate would make co-operation more likely;
  - every respondent stated that there was presently a lack of collaboration within government in relation to children's services;
  - every respondent stated that greater collaboration between government departments and agencies would improve the outcomes for children and young people;
  - every respondent expressed strong support for an enabling power to pool budgets;
  - some respondents highlighted that they considered an enabling power to pool budgets absolutely essential; and
  - every respondent stated that there was currently insufficient co-operation in planning, commissioning and delivering children's services and in the pooling of budgets.

## **OPTIONS CONSIDERED**

13. In developing this legislation, the Member considered the following options:
14. **Option 1** – to retain the present legislative framework for children and young people's services under The Children (Northern Ireland) Order 1995. Co-operation would continue to depend on the adherence of the organisations to policy guidance and the good will of organisations involved. The legal competence for departments to pool budgets and share resources would remain ambiguous.
15. **Option 2** – to introduce the Children's Services Co-Operation Bill which will enact a statutory duty to co-operate thereby legally requiring departments to work together and

for those public bodies currently on the Children and Young People's Strategic Partnership to work together. The Bill would enact the Executives agreed six high level outcomes for children in legislation and require departments to further these outcomes. The Bill would establish new review and reporting mechanisms which will require departments and public bodies to assess the efficiency and effectiveness of their services for children and, when opportunities exist, to enhance co-operation. The Bill will also contain an enabling power which will authorise departments to pool budgets and resources.

16. The response to the Member's consultation was unanimously in favour of introducing a statutory duty to co-operate and introducing legislative provisions to enable departments to pool budgets. In addition, academic research which has become available since the Member developed an initial proposal on this subject has strengthened the case for a statutory duty to co-operate. Case studies detailed in the consultation responses provided additional evidence of existing problems.
17. The member is not aware of any proposal by the Executive to review children's legislation and to introduce the provisions outlined in this Bill. England, Wales and Scotland have all already enacted a statutory duty to co-operate and this Bill will bring Northern Ireland closer into line with legislation elsewhere. Responses to Assembly Questions have revealed that legislation does not exist to enable departments to pool budgets. Moreover, departments provided conflicting responses as to whether they presently jointly commission services. This legislation would clarify the legal competence of departments to pool budgets and set a legal framework which encourages departments to consider such initiatives. For these reasons, the Member concluded that a Bill was necessary.

## **OVERVIEW**

18. The Bill consists of 6 clauses.

## **COMMENTARY ON CLAUSES**

A commentary on the provisions follows below. Comments are not given where the wording is self-explanatory.

### **Clause 1: Duty to co-operate to further six high level outcomes for children**

**Clause 1** creates a new two-fold duty on the Northern Ireland departments:

- to work towards the achievement of 6 specified outcomes relating to the well-being of children and young people and,
- to co-operate with one another in order to further the achievement of those objectives.

The objectives are consistent with those listed in the Children's Strategy and clause 1(4) allows the Office of First Minister and deputy First Minister (OFMdFM) to modify the objectives by means of subordinate legislation which would have to be approved by the Assembly.

## **Clause 2: Report on co-operation**

**Clause 2** requires OFMdfM to publish periodically a report on the progress of the departments towards achieving the specified outcomes; the extent to which they have co-operated with one another as required under clause 1; any efficiency achieved through co-operation and any opportunities identified for further co-operation.

The other departments are required to co-operate with OFMdfM in preparing the report and OFMdfM must lay a copy of the report before the Assembly as soon as is practicable after publication.

## **Clause 3: Sharing resources and pooling funds**

**Clause 3** is an enabling power which will permit Northern Ireland departments to establish pooled budgets and share resources to achieve the six outcomes outlined in clause 1.

## **Clause 4: Children's services planning**

**Clause 4** amends the Children (Northern Ireland) Order 1995 substituting the existing paragraph 2A of Schedule 2 with a more detailed provision.

- The newly inserted paragraph 2A(1) replaces the current duty on the Regional Health and Social Care Board (“the Regional Board”) to review and publish a children’s plan with the requirement to review and publish a children and young people’s plan.
- 2A(2) requires that the plan set out how the relevant public bodies will co-operate with one another in planning, commissioning and delivering children’s services, what actions will be taken on a shared basis and a requirement to set targets to assess the effectiveness of co-operation. This sub-paragraph also links the plan to the specified outcomes.
- 2A(3) sets out that the plan will be reviewed or modified at least every three years.
- Sub-paragraphs (4)–(6) require the Regional Board to consult the relevant public bodies on the plan.
- Sub-paragraph (7) provides a list of organisations currently represented on the Children and Young People’s Strategic Partnership who, for the purposes of this Bill, are to be regarded as relevant public bodies.
- Sub-paragraph (8) establishes a duty on the relevant public bodies to co-operate to prepare, review, implement and report on the children and young people’s plan.
- Sub-paragraphs (9) and (10) require the Regional Board to monitor the implementation of the plan and provide information on its implementation when requested.
- Sub-paragraphs (13) and (14) require the Regional Board to prepare a report on the implementation of the plan and how the plan and co-operation can be improved.

## **Clause 5: Definitions**

This clause defines children and young people in accordance with the meaning prescribed in The Commissioner for Children and Young People (Northern Ireland)

Order 2003 to ensure that this legislation mirrors existing legislative definitions of children and young people.

### **FINANCIAL EFFECTS OF THE BILL**

19. The Bill is intended to underpin, and enhance co-operation around, the Children's Strategy (A ten year strategy for children and young people in Northern Ireland 2006-2016) and the Children's Services Plan published by the Regional Health and Social Care Board. However, it will have cost implications for departments, the Regional Health and Social Care Board and 'relevant public bodies' listed under clause 4. Those costs may include, but may not be limited to, transitional, implementation and running costs arising from the general duty to cooperate under clause 1, and the reporting requirement under clause 2: for example, administration, IT and staff training costs relating to the development, operation and delivery of new policies, procedures, guidance, as well as recording and reporting systems. Similarly, administration of the shared resources and pooling funds under clause 3 may have cost implications relating to administration, IT and staff training.
20. The purpose of this bill is to improve the efficiency and effectiveness of children's services. The intention is that greater levels of co-operation would improve efficiency and enable public bodies to provide enhanced outputs with a given level expenditure. Greater levels of co-operation will also ensure that greater proportions of expenditure are allocated to outputs which are more effective in furthering the achievement of the specified outcomes. It is anticipated that after an initial transition period the effect of the Bill would be to save costs through greater administrative efficiency.

### **HUMAN RIGHTS ISSUES**

21. The consultation was sent to the Human Rights Commission and the Equality Commission in the spring of 2011. Neither organisation raised any concerns in relation to its compliance with Human Rights or Equality law.
22. The Bill is intended to enhance services to children and young people and be consistent to be consistent with promoting human rights and equality.

### **LEGISLATIVE COMPETENCE**

23. The Member in the charge of the Bill, Mr Steven Agnew, has made the following statement under Standing Order 30:

*"In my view the Children's Services Co-operation Bill would be within the legislative competence of the Northern Ireland Assembly."*