

**RESPONSE OF THE PRESBYTERIAN CHURCH IN IRELAND TO THE
DEPARTMENT OF HEALTH CONSULTATION ON LEGISLATIVE OPTIONS TO
INFORM THE DEVELOPMENT OF AN ADULT PROTECTION BILL FOR
NORTHERN IRELAND**

APRIL 2021

Background

1. The Presbyterian Church in Ireland (PCI) has over 217,000 members belonging to 535 congregations across 19 Presbyteries throughout Ireland, north and south. The Council for Public Affairs is authorised by the General Assembly of the Presbyterian Church in Ireland to speak on behalf of PCI on matters of public policy. The Church's Council for Social Witness seeks to deliver an effective social witness service on behalf of PCI and to the wider community through the provision of residential care, nursing care, respite care and supporting housing for vulnerable people including the elderly, those with disabilities and those transitioning from the criminal justice system. The Council for Social Witness also oversees safeguarding for children and vulnerable adults for the denomination.
2. PCI responds to the consultation from two perspectives. First, as a service provider drawing on the professional expertise and background of our staff within the Council for Social Witness. Secondly, many of PCI's over 500 congregations provide services for the local community through for example social groups for senior citizens, foodbanks or lunch clubs. As such they are uniquely placed, with the right training and support, to identify possible harm. As we write this response we are in discussion with a third party to explore ways of engaging with our service users in order to take their views on this consultation.

Do you agree with the title 'Adult Protection Bill'?

3. The title 'Adult Protection Bill' fits the focus of this proposed legislation. However, we are concerned that a specific focus on 'protection' might unintentionally weaken a broader focus on safeguarding. Early intervention and prevention are all part of the wider safeguarding model and there is a danger this could be diminished, or even lost, in the context of these legislative proposals. Our experience as a provider within the faith sector is that the work done around early intervention and prevention helps to protect scarce resources within the health and social care system, both financially and in relation to how staff best utilise their time. A focus on 'protection' rather than the wider 'safeguarding' appears to be a step backwards when the purpose of this bill should be a step forward.

4. The emphasis within the voluntary, community and faith sector is on early prevention and intervention, while the perceived focus of the statutory sector through this legislation is on reporting, sanctioning and investigating. The two must be complementary and there is a danger that the approach of the proposed legislation will discredit all that has already been done. In recent years a lot of time and effort has been spent on safeguarding theory and practice, and what this means holistically for vulnerable adults.
5. This legislation must be applicable to all those who require protection and safeguarding, not simply those with the most obvious needs, or who meet a stereotype. For example, some individuals who will require the help and intervention provided by these proposals, will have capacity to act and make their own decisions.
6. It is important that the principle of 'safeguarding' is not therefore diluted by the specific focus on 'protection', leading to confusion about roles and responsibilities. We would anticipate and expect that full safeguarding implications and arrangements will be considered more comprehensively in future guidelines to accompany the legislation.

What are your views on a definition of 'adult at risk and in need of protection'?

7. We would again anticipate and expect that this definition will be amplified in accompanying guidance, and stress the importance of making the definition pertinent and applicable, not simply words on a page.

Do you agree with the list of principles proposed? If no, what would you suggest as an alternative approach?

8. We particularly welcome the principles of dignity, partnership and accountability and would like to see some of these principles developed more fully either in the legislation or subsequent guidance. For example, much of this legislative proposal is focused on the roles and responsibilities of the statutory sector and does not, in our view, adequately reflect the important place of partnership with the voluntary, community and faith sector in the area of protecting vulnerable adults. The majority of adults only engage with statutory services by appointment or in an emergency – they join sports clubs, churches and other clubs and associations, and these groups must also be part of the delivery of a comprehensive protection strategy.
9. We suggest that an additional principle of 'prevention' be included. This proposed legislation is the response of last resort, and including prevention as principle reminds us that it is not an inevitability, and that implementing preventative actions is an integral part of protection.

What are your views on principles being set out on the face of legislation or in Statutory Guidance?

10. Including the principles on the face of legislation places more responsibility on organisations to be cognisant of them when delivering their services. Our experience as a service provider highlights an inconsistency of approach not only between Health Trusts, but also within the same Trust. Placing the principles on a statutory footing would go some way to mitigate this. It is also for this reason that PCI would recommend a regional, Northern Ireland-wide response to adults at risk and in need of protection, rather than a Trust-based response.

Do you agree with mandatory reporting? Should there be a new duty to report to the HSC Trust where there is a reasonable cause to suspect that an 'adult is at risk and in need of protection'?

11. As a service provider within the voluntary, community and faith sector PCI has a unique perspective, interfacing with all the local Health and Social Care Trusts. The strength of any reporting mechanism lies in the adherence to it by the Trust, or other receiving body. This is another reason why PCI advocates a regional response over one which is Trust-based, in order to facilitate more consistent reporting, and a more coherent mechanism.
12. Thresholds for mandatory reporting need to be realistic, and there must be enough capacity in the system to facilitate the suggested approach. With regard to screening it remains unclear how this will be applied and where responsibility for this will lie. There remains a lack of clarity as to how statutory services are held to account for responding promptly and within timescales to potential safeguarding concerns. Clarity is required in order to ensure cohesive and effective partnership working across sectors, and to prevent the undermining of confidence in the Safeguarding services.

Should a new duty be placed on HSC Trusts to make follow up enquiries

13. PCI has significant concern about capacity, reporting thresholds and timescales in regard to follow up enquiries. The inclusion of follow up enquiries in this legislative proposal also suggests that the appropriate follow-up is not currently taking place. Additionally, clarification on the use of the term 'new' here would also be useful. Surely it has always been the responsibility of HSC Trusts to make follow up enquiries. There remains a lack of clarity as to where accountability and responsibility lie for ensuring enquiries are followed up. In our experience as a service provider there can be an expectation from the RQIA that it is the responsibility of the provider to pursue the Trust regarding an ongoing review. However, it is the responsibility of the Trust to deliver on this. This creates a scenario where staff are having to care for clients in the absence of a review, which removes a level protection for the provider, and places the service user in a potentially more vulnerable situation.
14. Currently there is frustration about both the timeliness and level of feedback received when adult safeguarding concerns are raised. Such delays are not experienced in children's services, and the lack of timely follow up is a significant hindrance in providing good and quality care to vulnerable adults. PCI suggests that a protocol on timelines is required, and again advocates a regional approach to ensure consistency. If an issue is reported today, how long will it take to be investigated?
15. Partnership working must be collaborative with easy flows of communication between the statutory sector and those working in the voluntary, community and faith sectors. Greater recognition of professional parity and expertise between equivalent roles and grades across all sectors would help to increase levels of trust and co-operative working practices.

What are your views on a new power of entry to allow an HSC professional access to interview an adult in private? Do you think any additional powers should be available on entry?

16. This issue does not apply within the PCI context as a service provider, but the introduction of a new power of entry as indicated in the consultation document is to be welcomed.

What are your views on statutory provision for independent advocacy in the context of adult protection?

17. PCI welcomes this development which would provide an equivalent to the *guardian ad litem* service for children. Not only would such a role give clients and their families an independent voice, it also provides protection for service providers. However further detail is required to better understand how this would work in practice. It must be properly resourced and open to all adults, recognising that vulnerability extends beyond those with disabilities or who are deemed to be elderly. Care leavers, those experiencing domestic abuse and those who are homeless should, for example, also be covered as well as those experiencing temporary vulnerability, for example following a medical procedure. Access to independent advocacy must not become dependent on geographical location.

Do you agree that an Independent Adult Protection Board should be established and placed on a statutory footing?

18. PCI welcomes the establishment of an Independent Adult Protection Board, placed on a statutory footing. PCI recommends the presence of the voluntary, community and faith sector in some capacity on the proposed Board, which could include for example the Commissioner for Older People, a representative from an organisation like Women's Aid, and also a representative with a focus on younger people like the NI Youth Forum.

19. The Northern Ireland Adult Safeguarding Partnership was an excellent working model representative of all statutory, voluntary, community and faith sector organisations and service providers. It was successful in keeping all informed and was instrumental in assisting the flow of information in topical and relevant manner. The proposed new Independent Adult Protection Board must reflect this good practice.

Do you agree with the introduction of Serious Case Reviews?

20. PCI agrees with the introduction of Serious Case Reviews. Such practice facilitates a good audit of what is happening within the sector and serves to highlight issues and influence future practice. When constructed well, practitioners across all sectors have benefited from this discipline. However, we would note that the presence of serious case reviews only serves to highlight the absence of prevention within the proposed legislative framework.

Do you agree with the proposal to introduce a duty to cooperate? Are there any aspects of the duty that you would change?

21. Any duty to co-operate should be welcomed. PCI has signed up to information sharing protocols in the past and this provision simply progresses that principle. However, the channels of communication need to work both ways with professional parity across organisations. This should be an integral part of the partnership principle covered earlier in the consultation.

Do you think there should be a new power to access an adult's financial records as part of an adult protection enquiry? If yes, which organisation(s) should be given this power?

22. It is important that this power is given to someone who is trained and has the skills to both properly assess the financial information, as well as the power to take the necessary action as a result of what they may discover. It is also vital that this role is kept separate to that of the key worker.

Do you agree that new offences of ill treatment and wilful neglect should be introduced?

23. Whilst not against this proposal in principle there are number of questions which should be considered before introducing new offences. First, is it necessary to introduce something new in this legislation, or do these offences exist elsewhere on the statute book under some other guise? Secondly, we would seek clarification as to whether the term 'wilful neglect' is a legal term currently in use. Is there a definition which is already widely accepted within the legal and social care community? Thirdly, it can be difficult to evidence emotional abuse and neglect, therefore clear guidance would be required to ensure that such abuse is properly identified and recorded.

Final comments

24. PCI welcomes the opportunity to contribute to the development of this legislation. Given the narrow legislative focus of the Bill it is important not to lose sight of the bigger picture with regard to protection for adults, for example in relation to safeguarding, or acknowledging the range of partners and service providers in this sector.



**Rev Daniel Kane
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