



ICRIR policy on safeguarding

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1. INTRODUCTION

1.1 This policy sets out the principles, processes and governance arrangements that will assist the Commission in meeting its responsibilities of ensuring that people participating in the Commission are not harmed and that there are effective procedures in place for the referral of child and adult safeguarding concerns to the relevant agencies.

1.2 The Commission considers that it has a responsibility to operate policies and processes that respond effectively to child and adult safeguarding concerns arising through its contact with requestors, members of the public, its employees and other people who come into contact with the Commission.

1.3 The foundation of this policy is that the welfare and safety of any child or adult is paramount.

2. SCOPE OF POLICY

2.1 The Safeguarding Policy operates on a Commission-wide basis and therefore applies to all activities undertaken by the Commission and its employees, across all teams and functions and at all locations.

2.2 Contractors will have their own organisational safeguarding policies but will be expected to comply with Commission procedures where there are concerns raised in relation to safeguarding during the course of their work with the Commission. This expectation will be built into the procurement process and guidance provided to relevant contractors.

2.3 The policy **does not** include:

2.3.1 Arrangements for Commission staff recruitment, the wider duty of care to staff employed, general staff safety and security measures or the supervision and support provided to staff as part of their day-to-day work and employment;

2.3.2 Wider arrangements for providing practical support to those engaging with the Commission outside the specific provisions for the prevention of harm, and response to safeguarding concerns.

2.3.3 As part of the Commission's trauma and resiliency-informed approach to its work emotional support will be offered to those choosing to engage in Commission activity. The nature of this support is not covered in this policy.

3. LEGAL FRAMEWORK

3.1 Child and adult safeguarding

3.1.1 Legal guidance that apply to the safeguarding arrangements for children and for adults in Northern Ireland is listed in Appendix One. Under section 4 of the Act that establishes the Commission, the Commission is under a duty to 'not do anything which would risk putting or would put the life or safety of any person at risk' and as a public authority, it has a legal duty of care to those who use its services. The Commission as a public authority is also bound to act in a manner compatible with the European Convention on Human Rights.

3.1.2 Alongside our duties mentioned above it is important the Commission has a Safeguarding Policy that supports the safety and well-being of individuals participating in its activities, so far as that is compatible with its own statutory remit and responsibilities. The statutory guidance provides advice on what constitutes good practice in relation to safeguarding, based on the principle that 'safeguarding is everyone's responsibility.' The Commission wishes to ensure that it is adhering to good practice and has procedures in place. The Safeguarding Policy and approach within the

Commission will be trauma and resiliency informed.

4. SAFEGUARDING ROLES AND RESPONSIBILITIES

4.1 The Commissioners

4.1.1 The Board of Commissioners is responsible for ensuring that the Commission is acting lawfully and within its statutory duties.

4.2 Senior Leadership Team

4.2.1 The Chief Executive Officer and Commissioner is the accountable officer for safeguarding and has discharged the accountability function through the Commissioner for Investigations to the Assistant Commissioner for Investigations (Support). Supported by all members of the Executive Committee, the Assistant Commissioner is responsible for leading the operational delivery of the Safeguarding Policy and procedures across the Commission's functions and teams. The Assistant Commissioner and designated specialists (to whom decision making powers can be delegated) must ensure that there are people with the right expertise able to advise and support employees when incidents and/or safeguarding queries are identified.

4.3 Case Support Team

4.3.1 The Case Support Team Leader from the Case Support Team will be responsible for safeguarding decision-making across all the Commission's teams.

4.3.2 All safeguarding escalations from across the Commission are made to the Case Support Team who will prioritise and action in accordance with this policy. Urgent safeguarding referrals may be made to the police and/or another the relevant body.

4.4 Responsibilities of all employees

4.4.1 Safeguarding is everybody's responsibility. All staff, regardless of role or identity, should be aware of their personal responsibility personal responsibility to act in response to child or adult safeguarding concerns and who to speak to for advice and support.

4.4.2 All staff, regardless of role or identity, must understand the Safeguarding Policy, and the process to take if they have any urgent/immediate safeguarding concerns.

4.2.3 Mandatory training will be required for all staff, regardless of their role or identity which will support them in identifying safeguarding concerns and understanding the process for referral to the Case Support Team

4.5 Responsibilities of contractors

4.5.1 Some services may be provided by contractors working with the Commission. The organisations contracting with the Commission will have their own safeguarding policy and procedures. As part of the procurement process and subsequent review of

contracts, consideration must be given to ensuring consistency and how contracted and subcontracted workers implement the Commission's safeguarding procedures. Guidance will be agreed and provided to contracted workers.

5. KEEPING PEOPLE SAFE

5.1 Members of the public engaging with the Commission

5.1.1 There are several contact points between the Commission, requesting individuals and their families, members of the public, witnesses and others. These include the Commission's public engagement and consultations, which will seek to engage and hear from any member of the public who has been affected by the Troubles/Conflict via the submission of online forms, email or written correspondence; the investigations, participation in research and; all other Commission events. All those involved should be aware of their responsibilities in to preventing harm and maintaining the wellbeing of participants and the safeguarding of children and adults. The response, whether by correspondence, telephone or face to face, should be compassionate, sensitive and trauma informed.

5.1.3 Section 4 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 imposes a duty on the Commission not to do anything that would risk putting, or would put, the life and safety of a person at risk. Regard to this safeguarding duty will need to be had throughout all the Commission's activities, from initial engagement with a requesting individual, a witness or suspect through to the publication of reports. The Chief Commissioner, supported by the Findings Team will need to conduct a case-by-case assessment where he is considering naming any individual.

5.2 Staff

5.2.1 The Commission has a legal duty of care to the staff it employs. The Commission's legal duties towards different groups of workers (including agency workers and self-employed contractors) will vary. However, as a principle the Commission should assume responsibility to support and safeguard all its workers. This should be risk-based and proportionate.

5.2.2 For employees, the arrangements to support and safeguard employees is part of the employment relationship and therefore the policy development and review is the responsibility of the CEO, and delegated to the Director of HR. For others this should be considered as part of the procurement process and agreed with the workers or their employing organisations as appropriate.

5.2.3 All employees and managers should take positive action if they believe a colleague is unwell, distressed or in difficulty. If offering a listening ear and/or access to existing support mechanisms are not helping, the line manager should involve, and

further advice or support sought. All staff safeguarding issues should be passed to Human Resources. Managers can access further guidance via the relevant HR policy and by contacting ICRIIR's HR team through the designated HR mailbox - HRenquiriesICRIIR@icrir.independent-inquiry.uk

6. SAFEGUARDING REFERRALS

6.1 Child safeguarding

6.1.1 For the purposes of this policy, 'child protection' and 'risk of significant harm' are used interchangeably. A child protection referral would be made if there is a concern that a child is at risk of significant harm.

6.1.2 The Children (Northern Ireland) Order 1995 (the Children Order) introduced significant harm as the threshold that justifies compulsory intervention. The Children Order defines harm as 'ill-treatment or the impairment of health or development.' 'Development' means physical, intellectual, emotional, social or behavioural development; 'health' means physical or mental health; and 'ill-treatment' includes sexual abuse and forms of ill-treatment that are not physical.

6.1.3 If any person at the Commission has knowledge, concerns or suspicions that a child is suffering or is likely to be at risk of significant harm, it is their responsibility to ensure that the concerns are escalated to the Case Support Team who will determine if a referral to social services or police is needed, unless the risk of harm would be increased by such action. Consent is not required to make a child protection referral where there is a risk of significant harm. Such concerns should be escalated to the Case Support Team on the same day where possible.

6.1.4 The Commission has a Safeguarding Children Under 18 Policy that outlines its position on any contact it may have with children (any person under the age of 18 as defined by the UN Convention on the Rights of the Child).

6.2 Adult safeguarding

6.2.1 Adult safeguarding applies to those adults that have care and support needs and because of those needs, are unable to protect themselves from abuse and neglect or the risk of abuse and neglect. Examples of care and support needs may be adults who have dementia, learning disability, mental ill-health or substance abuse.

6.2.2 People with care and support needs are not inherently vulnerable but may be unable to protect themselves for a short, temporary period of time due to their current circumstances. Engaging with the Commission may trigger care and support needs that were not previously experienced or increase the need for support where someone has existing care and support needs.

6.2.3 Safeguarding arrangements are there to protect individuals. There is no single one-size-fits-all process to follow whenever a concern is raised. The Commission recognises people's different histories, circumstances and lifestyles and seeks to respond in the most appropriate way. Safeguarding should always be person-led, trauma and resiliency informed, and outcome focused. The person should be engaged in a conversation about how best to respond to their situation in a way that enhances their involvement, choice and control as well as addressing their well-being and safety.

6.2.4 The Commission does this by ensuring that, as individuals, members of the public are deciding what relationship (if any) they want with the Commission and how much information they will share. The Commission's position in relation to data confidentiality and consent is published and is explained before each stage of the process to ensure people can make an informed decision about what they want to share and understand what the Commission will do with that information. The Commission also takes active steps to provide support and keep people safe during the period that they are participating in the Commission.

6.2.5 Adult safeguarding referrals are usually made with the consent of the subject of the proposed referral. However, referrals can also be made without the consent of the person concerned if there is a risk of serious harm to the subject of the proposed referral or another individual. When the information is in writing it may be necessary to make urgent contact with the individual providing the information to determine whether there is a risk of serious harm. The Commission provides training to staff on what constitutes a "serious harm", referral to relevant agencies and recording the action taken.

6.2.6 For the purposes of this policy serious harm refers to actions that are potentially self-injurious, life threatening or are likely to lead to long term impairment of physical or mental health. Such concerns should be escalated to the Case Support Team Leader on the same day where possible.

6.3 Mental capacity

6.3.1 There may be occasions when there are concerns about the capacity of someone to consent or make other decisions about risks and needs during their contact with the Commission. Mental capacity legislation across the UK sets out the principle that there is a presumption of capacity and that every adult has a right to make decisions and must be assumed to have capacity unless proven otherwise.

6.3.2 The Commission has a Mental Capacity Policy that outlines its position on the assessment of capacity and how it may work with those who are assessed as lacking capacity.

6.4 Adult and child safeguarding outside Northern Ireland

6.4.1 Where information is received by the Commission indicating that someone outside of Northern Ireland is at risk of serious harm, this should be escalated to the Case Support Team.

6.4.2 The Case Support Team will decide on whether and how a referral should be made to the relevant safeguarding authorities.

6.5 Concerns about abuse perpetrated by those in positions of trust

6.5.1 People in positions of trust include those who are paid, unpaid, volunteers, casual, agency or self-employed.

6.5.2 Whereby it becomes known to the Commission, as a public authority, that an adult in a position of trust may be abusing or harming a child or vulnerable adult the appropriate safeguarding action will be taken in coordination with the Case Support Team.

7. CONFIDENTIALITY AND INFORMATION SHARING

7.1 Legal frameworks for information sharing

7.1.1 UK GDPR and the Data Protection Act 2018 ('DPA law') is the legislation in the UK that governs the protection of personal data and sets out the parameters for sharing information appropriately and safely. The right to respect for private and family life contained in Article 8 of the European Convention on Human Rights and obligations of confidentiality at common law are also of relevance.

7.1.2 Sharing confidential information without consent will normally be justified in the following circumstances:

- Where there is evidence or reasonable cause to believe that a child is suffering, or at risk of suffering, significant harm; or
- Where there is evidence or reasonable cause to believe that an adult is suffering, or is at risk of suffering, serious harm; or
- To prevent significant harm to a child or serious harm to an adult, including through the prevention, detection and prosecution of serious crime.

7.1.3 Where there are concerns of serious and/or significant harm, a decision to share information without consent has to be proportionate and balanced with a person's right to a private life. For that reason, sharing information without consent should not be the automatic and inevitable response where there is a risk of significant harm to a child or serious harm to an adult. On each occasion, consideration should also be given to whether, and if so to what extent any interference with the person's right to respect for

their private and family life is justified in the circumstances.

7.1.4 The decision to share information without consent is made in consultation with the Case Support Team Leader and the decision taken is formally recorded stating why there is reason to believe that a child is at risk of significant harm or an adult at risk of serious harm, and to what extent any interference with the person's right to respect for their private and family life is justified, for example, in order to prevent further harm or abuse.

7.2 Consent

7.2.1 In cases where the Commission has received information that a child may be at risk of significant harm, this may or may not result in the Commission making a referral to the relevant Health and Social Care Trust. Consent is not required to make a child protection referral. All referrals should be escalated to and agreed by the Case Support Team, unless the risk of harm would be increased by such action.

7.2.2 Adult safeguarding referrals are only made with the consent of the subject of the proposed referral or without the consent of the person concerned if there is a risk of serious harm to the subject of the proposed referral or another individual. The Commission adopts best practice and endeavours that all safeguarding referrals are made with consent where possible; any decision made to refer without consent is proportionate to risk and needs.

8. SAFEGUARDING TRAINING

8.1 Safeguarding training is mandatory for all Commission staff and will be trauma informed.

8.2 All staff regardless of their role or identity will receive information about the safeguarding policies and procedures as a part of their induction. At this training, staff will receive operational training that provides a Commission wide understanding of safeguarding responsibilities and bespoke learning relevant to the specific roles and responsibilities held by that individual or team.

8.3 Specialised differentiated and bespoke safeguarding training will be offered to, and can be requested by, relevant departments and directorates who require this.

Appendix One: Safeguarding guidance

- [Co-operating to Safeguard Children and Young People in Northern Ireland \(2017\)](#)
- [Adult Safeguarding, Prevention and Protection in Partnership Policy \(2015\)](#)