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Ad Hoc Joint Committee on the Mental  
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Dear Dr Aiken

Thank you for the opportunity to provide the Health and Social Care Board and Public Health Agency's views and comments to the Ad Hoc Committee on the Mental Capacity Bill. The Board and PHA welcome and support the Bill and the coherent framework it provides for the care and protection of people with compromised capacity that is consistent with their rights and freedoms. With regard to the specific clauses / schedules of the Bill we would make the following comment.

Art 2. (1), and throughout the Bill      HSCB/ PHA remain concerned about the inclusion of children aged 16 and 17 years within the remit of the Bill, particularly that it at it may undermine parental rights and responsibilities. It may also result in HSC organisations having to negotiate contradictory statutory duties when acting as Corporate Parent.

We would suggest that the issue of emerging competence in children should be addressed within a review of the Children (NI) Order 1995.

Art 137 (9)      The use of the term "control" is inappropriate within the civil part of this Bill; care or **treatment** would be more appropriate here.

Part 9      The framing of this part is at odds with the proportionate responses to the care and treatment needs of people who may not be in a

position to make an informed decision on their own behalf, as described in the main body of the civil legislation.

Police Officers should be enabled to bring a person to a broader and more appropriate range of “places of safety” for the purpose of appropriate care and treatment.

Given that the Bill provides a robust framework for HSC staff and family carers to intervene proportionally and in the best interests where the individual’s capacity is compromised, police officers should be enabled to leave an individual with appropriate carers and/or HSC staff for care and treatment where there is no risk to public safety.

It may also be appropriate to reference Art 62 here and clarify if police officers are enabled to act under this article when it is more appropriate.

The requirement for detention at the place of safety thereafter should be treated as a separate power, and when the primary reason for the detention is public safety (i.e. “physical harm to others”) the matter of police custody should be addressed within the criminal justice section of the Bill.

Art 140 (2) Given that the Bill does not restrict the underlying cause of compromised capacity to any given condition, and does not limit the range of care and treatment modalities to which the legislation is applicable, the stipulation that a police officer can only bring an individual to a place of safety for the purpose of being “examined by medical practitioner and interviewed by an approved social worker” is not appropriate.” Examined by an Appropriate Healthcare Professional” could be substituted to ensure consistency with Schedules 1 and 2.

Art 158 (1) (a) and (b) and (2) HSCB/PHA are concerned about the apparent restriction of the definition of a “place of safety” to

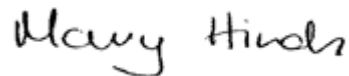
a hospital or a police station. Also that powers to amend this section through regulation are ceded to the DoJ rather than DHSSPS.

Finally the HSCB and PHA would ask the committee to note that this Bill significantly extends the statutory duties conferred on HSC organisations and staff, and would reiterate the request that this will require very significant additional resources to provide additional medical social care and other staff, and capacity for staff training across the HSC sector to implement the legislation. It will also be important that appropriate time is allocated in the scheduling of implementation to ensure organisational readiness for this fundamental change and to enable staff and organisations to build capacity to discharge the new duties

Yours sincerely



Valerie Watts  
Chief Executive



**PP** Eddie Rooney  
Chief Executive