

## FROM THE MINISTER OF HEALTH



Department of  
**Health**

An Roinn Sláinte

Mánnystrie O Poustie

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Dear Aoibhinn

### **PERIOD PRODUCTS (FREE PROVISION) BILL**

Thank you for your letter of 7 December 2021 on the Period Products (Free Provision) Bill.

I am sure we can all acknowledge the significant impact the lack of period products have on those who need them. The statistics around the drop in educational achievements for those who cannot access period products while in school or further education is shocking, as is the number of people who have to resort improvising and using items like toilet paper, cloths and newspapers. So I very much recognise and share the objective of the broad intent of the Bill to make appropriate products more freely accessible.

Looking at the detail of the Bill as currently drafted it would in Clause 1 create a statutory duty on the Department of Health to create a universal scheme for free period products to anyone who is in Northern Ireland.

Clause 2 creates a duty on all Departments to create Regulation specifying public service bodies within its functions where period products should be made freely available. Clause 2(2) specifically require that such Regulations include Health and Social Care Trusts and public service bodies whose premises are schools or further education institution or higher education institutions.

I am sure we all can agree that there are potentially significant health impact, both physical and mental, to the lack of period products. Period products are however not classified as healthcare products as menstruation is neither an issue that in general



requires health treatment, nor is it preventable. The health impacts does also not make the underlying issue – the lack of period products – a health issue.

Rather this is an issue closely related to poverty and social justice, both which are outside the remit of my Department. As such, whilst I do very much welcome the underlying principle in the Bill, I am unable to support the far-reaching duty placed on my Department in Clause 1.

Further, it must be noted that whilst the Bill has very good intentions, and will help and support those who need it, it comes with a degree of financial uncertainty. Using experience from pilots in Northern Ireland and Scotland, my officials estimate that the total costs of the Bill will be at least £3m per year, subject to a successful tender at a lower end of estimated product costs and with an uptake at around 20%.

This should be seen in the context of a very challenging financial situation, where the draft budget is not sufficient to cover the existing demands across the health and social care system. As such, if implemented, it would therefore require sufficient funding to be provided.

In your letter to the Department you asked a number of specific questions. The answer to each is below.

### **Clause 1**

*What is the Department of Health's response to this proposal of a duty of "universal" provision?*

The Department is in principle supportive to universal provisions of free period products. It is accepted that the lack of period products has adverse impact on those who need them, including impacts on educational achievements, social inclusion and physical and mental health.

However, period products are not generally seen as healthcare products, as they do not form part of treatment and/or prevention. Similarly whilst the lack of period products can cause health related issues, this does not make the underlying cause a health issue. Rather this is an issue closely related to poverty and social justice, both with are outside the remit of my Department. This is similar to homelessness, fuel poverty, social deprivation, lack of education and other areas.

Further, the nature of the universal scheme means that any requirements to register for free products would be difficult to manage and administer. In particular as any scheme must be open to all who are in Northern Ireland, whether as residents or as visitors. In practice this means a scheme would probably be without registration requirements. This creates a risk that products may be obtained inappropriately, however I do believe it would be possible to mitigate risks such as resale in other jurisdictions by introducing products in packaging that notes the products are not for resale or similar measures.

*Does the Department currently provide any free period products?*

The Department of Health does not currently have a policy on free period products. Each Health and Social Care Trust can make their own decisions on availability of such products.

Belfast HSC Trust provide period products to some patients where it is clinically appropriate. These products are not generally available in public toilets.

South Eastern HSC Trust will offer period products on an individual basis to inpatients if they are required.

In Western HSC Trust period products are available for patients and service users free of charge in all hospital, residential and day centre opportunity facilities. Additionally period products can be purchased from vending machines which are available in the vast majority of the larger Trust and Hospital facilities.

Northern HSC Trust and Southern HSC Trust do not have a policy around provision of free period products.

It must be noted that in all HSC Trusts, the patient's dignity is at the fore of all that is being done. If patient does not have access to period products and need such products they will be provided.

*What is the scale and cost of existing or pilot DoH period product provision initiatives?*

The Department does not have a policy on free period products and does not have a budget for such products.

*How would this new duty compare to existing arrangements?*

The duty to provide free period products would be new and outside any existing arrangements.

*Please advise not only the Department's view on the proposed duty, but on the reasonableness of the consultation arrangements and timeframes proposed.*

The Department considers the practical arrangements around consultation and timeframes reasonable. However, it is worth noting that there is no funding currently available to create a scheme and to implement such scheme. Additional funding would therefore be required prior to commencement.

*The Clause 1 duty includes a number of factors to be taken into account, such as dignity, accessibility, choice, differently able people, travel arrangements and advertisement of arrangements for provision of period products. The Department may also wish to comment on these factors of the proposal.*

The Department considers these provisions to be reasonable and it is welcomed that these are expressed as principles for a scheme to follow, rather than absolute requirements. This would allow tailored solutions to meet the need of users in different settings. For example, the practical outworkings of dignified and reasonable arrangements that consider individual needs and risks would be different in a mental health or learning disability hospital than it would in an educational setting and it is essential that the flexibility proposed in the Bill is maintained.

The Department notes the requirement to publish information about the locations where free products are available (Clause 1(6)) and the requirement to do so annually thereafter (Clause 1(7)). It is not clear why the requirement in Clause 1(7) exist as it would be expected that such publication would be kept continually relevant and would most likely be in an electronic format. This may require an undue administrative burden without any reasonable benefits.

## **Clause 2**

*Please give the Department's response to the Clause 2 duty, in particular regarding the specifying of HSC trusts and boards.*

The Department considers the general duty in Clause 2 reasonable and complementary to Clause 1. However, the Department is concerned that the requirement in Clause 2(5) to ensure locations in premises in each such site is unreasonable. Firstly, there is no definition of site, which makes implementation difficult. Secondly, this duty would cause significant practical challenges, as the HSC Trusts operates in many places and on many sites across Northern Ireland. A requirement to consider the need of those using the premises and/sites would be more suitable. Thirdly, it is unclear what the intention is with this Clause, whether it is to provide cover for staff (in such case it is unclear why only HSC Trusts, HSC Board and educational settings are mentioned) or if it is to cover public facing services. If it is the latter, it is unclear whether the duty in Clause 2 would cover the intended audience due to uncertainty with the definition of public service body (see below).

However, the Department does not accept the rationale to mention only HSC Trusts, HSC Board and educational settings. In other jurisdictions the main duty would be with equivalent of local councils, which may be more impactful than a requirement on HSC Trusts. Further, the include of HSC Trusts in Clause 2(2)(a) is problematic as this would include the Northern Ireland Ambulance Service HSC Trust. It would be unreasonable to require the Ambulance Service to stock period products in all locations.

The Department would want to draw the attention to the inclusion of the Health and Social Care Board in Clause 2(2)(b). The HSC Board is not a front facing Arm's Length Body and the specific mention of the HSC Board is therefore not clear to the Department. The HSC Board is due for closure on 1 April 2022 and it may therefore be prudent to consider removing the HSC Board as a specific public service body.

*Please give the Department's view on the reasonableness of the phased basis proposed for the exercise of the regulation-making powers in Clause 2.*

The Department notes that Clause 2(1) requires Regulations to be made within one year of the day the Act is passed specifying which public service bodies are within Clause 2(3). The Department notes that this time limit would be more appropriately linked with the commencement of the Bill, and the universal scheme in Clause 1. It is likely that the universal Scheme in Clause 1 would dovetail with the requirements on Clause 2, and comparable time lines would therefore be preferable.

### **Clause 3**

*Is it the Department's view that the principles set out in clause 3 – easy access, dignity, choice and publicised arrangements - are relevant, proportionate and comprehensive principles to underpin the implementation of this scheme? Does the Department have any other comments on clause 3?*

The Department considers these provisions to be reasonable and it is welcomed that these are expressed as principles for a scheme to follow, rather than absolute requirements. This would allow tailored solutions to meet the need of users in different settings. For example, the practical outworkings of dignified and reasonable arrangements that consider individual needs and risks would be different in a mental health or learning disability hospital than it would in an educational setting and it is essential that the flexibility proposed in the Bill is maintained

### **Clause 4**

*What is the Department's view if any of the clause 4 provision in relation to guidance?*

The Department has no objections to the requirements in Clause 4 to provide guidance as soon as practicable.

### **Clause 5**

*What is the Department's view if any of this requirement to publish a statement describing the outcome of consultation with stakeholders?*

The Department would normally publish outcomes of publications and would regard this as best practice.

The Department does not have any objections or comments to Clause 5.

### **Clause 6**

*What is the Department's view if any of the proposed duty to publish a list of locations at which free period products are available?*

The Department notes the requirement to publish information about the locations where free products are available and the requirement to do so annually thereafter.

This is the same requirements that exists under the universal scheme in Clause 1(6) and (7). As with cause 1(7), it is not clear why the requirement to publish annually exists as it would be expected that such publication would be kept continually relevant and would most likely be in an electronic format. This may require an undue administrative burden without any reasonable benefits.

## **Clauses 7 and 8**

*Does the Department have a view as to whether the Clause provides a comprehensive list of key definitions of terminology used throughout this Act; or for instance wish to suggest other definitions to be added?*

*Similarly, does the Department have a view as to the terminology described in clause 8?*

The Department would want to seek further clarity on the intention of the interpretation of “public service body”, whether the intention is that such body is (a) or (b) or (a) and (b). If the intention is (a) this would have significant impact on the Department and would make Clause 2 unworkable.

## **Clause 9**

*Please give the Department’s view as to whether two years is sufficient to allow DoH stakeholders to prepare for this new law; and how this correlates with any experience to date of introducing such a scheme.*

It is the view of the Department that two years is sufficient to allow preparation and implementation of duties in the Bill, if sufficient funding is provided at an early stage.

The Department notes that the commencement powers are afforded to The Executive Office. It is our view that the Department that has the universal duty in Clause 1 should have the commencement powers in Clause 9.

Yours sincerely,



**Robin Swann MLA**  
Minister of Health