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Dear *Colm,*

ALB – TRANSFER OF FUNCTIONS PROVISION - HEALTH AND CARE BILL 2021

I am writing to inform the Health Committee of recent developments in relation to the ALB – Transfer of Functions legislative consent process, which my Departments hopes will address concerns expressed during initial consideration of the provision as introduced, and induce Health Committee support for this legislative consent process.

In mid-October 2021, the Health Committee considered both oral and written briefing in relation to a proposed legislative consent process for the ALB- Transfer of Functions provision, as introduced, in the Health and Care Bill 2021. Reservations reflected the lack of policy detail on potential future transfers of functions, in the absence of a NI consent clause.

My Officials have continued to engage with their DHSC counterparts to determine if a resolution could be found on this matter. On the 19 January, the Secretary of State (SoS) proposed to table a Devolved Administration (DA) consent clause in respect of potential future transfers which touch on DA legislative competency.

However, uniform DA requirement was required by the tabling deadline of the 24 January to proceed, as in the event that one, or more, of the DAs were not in agreement, the bodies in the scope of this power/related functions, would need to be carved out of this provision, not territories. Due to the pace of this work, and challenging timelines, the full implications of this alternative have not been scoped out.

My Department, reassured, by the proposed inclusion of the DA consent clause, sought Executive approval, on the 20 January, via urgent procedure decision, for the provision to be carried on behalf of NI and the legislative consent process progressed, subject to the proposed consent amendment being tabled.

Executive approval was secured on the 24 January, and the DA consent amendment has been tabled. The final report stage of the Health and Care Bill will commence in the House of Lords, week commencing the 21st of February.

In light of the tabled consent amendment, and the challenging timelines to schedule NI Assembly debate ahead of the final report stage, my Department would welcome the agreement of the Health Committee in moving forward with the legislative consent process, and schedule NI Assembly debate on this motion. A revised LCM, taking account of this tabled amendment, has been laid at the Assembly Business Office.



Robin Swann MLA
Minister of Health