

FROM THE MINISTER OF HEALTH



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Dear *Colm,*

Date: *27* September 2021

WESTMINSTER HEALTH AND CARE BILL 2021 – LEGISLATIVE CONSENT MOTIONS

I previously wrote to the Committee on 8 July 2021 advising of correspondence received from Minister of State for Health, Edward Argar regarding the Health and Care Bill 2021 and its introduction to Westminster.

I wish to advise you about four distinct Legislative Consent Motions asking the Assembly to agree to 4 separate provisions that deal with transferred matters within the Health and Care Bill, which was introduced in Parliament on 6 July 2021. A copy of the Bill as introduced in Parliament is available via:

<https://publications.parliament.uk/pa/bills/cbill/58-02/0140/210140.pdf>

The aspects of the Bill that will require a Legislative Consent Motion relate to the clauses that fall under Parts 2, 3 and 5.

Background

The Health and Care Bill (The Bill) builds on recommendations for reform set out by NHS England in the NHS Long Term Plan published in 2019 and in the White Paper 'Integration and Innovation: Working together to improve Health and Social Care for all' published in February 2021.

The Bill includes a wide range of measures designed to promote:

- a. Promote local collaboration;
- b. Strip out needless bureaucracy;
- c. Improve accountability and enhance public confidence;
- d. Deliver a range of targeted measures to support people at all stages of life.

Health and Care Bill – Legislative Consent Motions Arising

DHSC have shared their view that four provisions in the Health and Care Bill touch on devolved matters. These areas include:

The **Arms Length Bodies (ALBs) – Transfer of Functions Provision**, Part 3 (Clauses 86-92) of the Bill (Secretary of States Powers to Transfer or delegate Functions), is set out on page 79 of the Bill. This is a new primary power to allow the Secretary of State (SoS) to transfer functions to and from specified ALBs, and to delegate the SoS's functions to them. Secondary legislation will be required to progress any proposed transfers. The underpinning policy aim is to improve health outcomes by way of increases in efficiency, effectiveness and economy. Bodies in the scope of this power include NHS England, NHS Digital, Health Research Authority, Human Tissue Authority, and Human Fertilisation and Embryology Authority.

The **Medicines & Healthcare products Regulatory Agency (MHRA) – a new national medicines registries** is detailed on page 76 of the Bill, Part 2 (clause 85) Health and adult social care information. It is seeking primary powers to enable the development of publicly funded and operated medicines information systems and amendments to Section 19 of the Medicines & Medical Devices Act 2021 which provides similar powers from medical devices information systems (MDIS). The Assembly gave legislative consent to these provisions in November 2020.

The **Professional Regulations** provision is found on page 104 Part 5 (clause 123) of the Bill (Miscellaneous). The provision seeks to widen the scope of section 60 of the Health Act 1999 (c. 8) to enable future secondary legislation to close a regulator whose professionals have been moved to another regulator or have been deregulated; take professions out of the regulation where this is no longer required for the protection of the public; and enable the delegation of previously restricted functions to other regulators. The Bill will also amend the scope of s60 to include any groups of workers concerned within healthcare, whether or not they are generally regarded as a profession i.e. senior managers and leaders.

The **Reciprocal Healthcare** is outlined on page 100 Part 5 (clause 120) of the Bill (International Healthcare). A primary powers, it seeks to amend the Healthcare (European Economic Area and Switzerland Arrangements) Act 2019 [HEEASAA] to enable the Secretary of State to amend implement comprehensive bilateral healthcare arrangements with Rest of the World (RoW) countries by extending the territorial scope of HEEASAA.

Moving Forward

Both I and my Officials are fully cognisant of the demanding work programme facing the Health Committee, and will seek to work collaboratively on all aspects. It is intended to bring each provision forward as an individual Legislative Consent Motion (LCM), as opposed to a linked LCM.

This is a proactive step to safeguard against the potential of amendments being taken forward by Westminster in respect to any of the devolved NI provisions, and in turn this amendment change will impact on the entire LCM motion, potentially resulting in repeating previously cleared steps up to, and including the possibility of a 2nd, separate LCM being required to cover amendments not scoped within the original LCM, thereby generating unnecessary repetition work for all, and time delays.

My Department will seek to support streamline briefing and scrutiny of these LCMs and work with the Committee to identify these opportunities. A challenging timetable is in place for the legislative passage of the Health and Care Bill 2021, and I would be fully appreciative of, and grateful to the Committee for its support in working with my Department to meet this challenge.

I will, of course, continue to keep you apprised of all developments with the Bill and I look forward to working with the Health Committee on this issue.



Robin Swann MLA
Minister of Health

