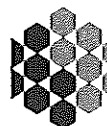


FROM THE MINISTER FOR HEALTH,
SOCIAL SERVICES AND PUBLIC SAFETY



Department of
**Health, Social Services
and Public Safety**

www.dhsspsni.gov.uk

Ms Maeve McLaughlin
Chair, Health, Social Services
and Public Safety Committee
Room 410, Parliament Buildings
Ballymiscaw
Stormont
BT4 3XX

Castle Buildings
Stormont Estate
BELFAST BT4 3SQ
Tel: 028 90 520642
Fax: 028 90 520557
Email: private.office@dhsspsni.gov.uk

Our ref: SUB/1302/2015

Date: 14 October 2015

Dear

MAEVE

Evidence in relation to the draft Health and Social Care (Control of Data Processing) Bill has been considered by my Department.

Whilst this is an enabling Bill, and will require further detail on a range of issues to be stipulated through regulations, I have set out a number of amendments at Appendix A for the Committee's consideration.

On a point of clarification from the evidence session on the 30th October, the definition of "medical purposes" derives from the Data Protection Act 1998.

You have requested affirmation in relation to compliance with the Human Rights Act. I can confirm that the Bill has been deemed legislatively competent by the Attorney General.

I note the report from the Examiner of Statutory Rules on the delegated powers contained within the Bill and the proposal that the establishment of the committee be placed on the face of the Bill to include a negative resolution power to make regulations setting out detailed matters pertaining to the committee. The proposed amendment to Clause 2(1) will impose a mandatory duty upon the Department to establish a committee and regulations, which will set out the detail of the process, will be subject to draft affirmative procedure and so allow appropriate consultation and scrutiny at that time.

I trust you find this helpful.

Yours sincerely

SIMON HAMILTON MLA

CLAUSE 1 CONTROL OF INFORMATION OF A RELEVANT PERSON

PROPOSED AMENDMENT 1

Current wording:

1.—(1) The Department may by regulations make such provision for and in connection with requiring or regulating the processing of prescribed information of a relevant person for medical or social care purposes as it considers necessary or expedient—

(a) in the interests of improving health and social care, or

(b) in the public interest.

Proposed wording:

1.—(1) The Department **must by regulations** make such provision for and in connection with requiring or regulating the processing of prescribed information of a relevant person for **health or social care purposes as it considers necessary or expedient in the public interest.**

These amendments will -

- impose a mandatory duty upon the Department to make regulations.
- clearly link the purpose of the Bill with the general duties of the Department as set out in the Health and Social Care (Reform) Act (NI) 2009. “Health and social care purposes” (as defined in Clause 1(13) and (14)) underpins the general duties of the Department.
- introduce consistency in the terminology used in the Bill,
- make the link between “health and social care purposes” and the “public interest” clear and explicit.



PROPOSED AMENDMENT 2

Current wording:

1.- (3) Regulations under subsection (1) which make provision in relation to the authorisation of the processing of confidential information of a relevant person **may provide** that such information may only be processed if authorisation is granted by the committee established under section 2(1).

Proposed wording:

1.- (3) Regulations under subsection (1) which make provision in relation to the authorisation of the processing of confidential information of a relevant person **must provide** that such information may only be processed if authorisation is granted by the committee established under section 2(1).

Clause 2(1) would be amended to ensure that the Department establishes a committee.

PROPOSED AMENDMENT 3

Current wording:

1.--(11) For the purposes of this Act, "a relevant person" means an individual who is a recipient of—

- (a) services designed to secure improvement—
 - (i) in the physical or mental health of people in Northern Ireland, or
 - (ii) in the prevention, diagnosis or treatment of illness, or
- (b) services designed to secure improvement in the **social well-being** of people in Northern Ireland, (including all forms of personal care and other practical assistance provided for individuals who, by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs, or **any other similar circumstances**, are in need of such care or other assistance).

Proposed wording

1.--(11) For the purposes of this Act, "a relevant person" means an individual who is a recipient of—

- (a) health care; or
- (b) social care.

This amendment would remove from this Clause-

- the term "social well-being", and
- the phrase "any other similar circumstances"

from the Bill.

Consequential amendments would also be required to clause 1(2) (a) and (b), (5), (6) and (7) in relation to the definition of "relevant person" and to clause 3 to move the definitions of "health care and "social care" to clause 5 to ensure those definitions apply to the entire Bill.

PROPOSED AMENDMENT 4

Current wording

1-- (14) In this section "social care purposes" means the purposes of any of—

- (a) assessment of social care needs, research into social care or social wellbeing, and the provision and management of **social care services**, and
- (b) informing individuals about their social care needs or the provision of **social care services** in relation to them.

Proposed wording

(14) In this section "social care purposes" means the purposes of any of—

- (a) assessment of social care needs, research into social care or social wellbeing, and the provision and management of **social care**, and
- (b) informing individuals about their social care needs or the provision of **social care** in relation to them.

Remove the word "services"

This is not necessary as the definition of "social care" refers to the 2009 Reform Act and means any services designed to secure improvement in the social well-being of people in NI.

CLAUSE 2 ESTABLISHMENT OF A COMMITTEE TO AUTHORISE PROCESSING OF CONFIDENTIAL INFORMATION

PROPOSED AMENDMENT 5

Current wording:

2.—(1) For the purposes of subsection (2), the Department **may by regulations** establish a committee.

Proposed wording:

2.—(1) For the purposes of subsection (2), the Department **must by regulations** establish a committee.

This amendment would impose a mandatory duty to establish a committee upon the Department. A committee will have to be established and authorisation for processing will have to be given by this committee to ensure the process operates as intended.

CLAUSE 3 CODE OF PRACTICE

PROPOSED AMENDMENT 6

Current wording:

3-- (4) Health and social care bodies must **have regard** to the Code of Practice in exercising their functions in relation to the provision of health and social care.

3-- (5) Any other person who provides health and social care under arrangements made with a public body who exercises functions in relation to the provision of health and social care, must, in providing such care, have regard to the Code of Practice.

Proposed wording:

3-- (4) Health and social care bodies must have due regard to the Code of Practice in exercising their functions in relation to the provision of health and social care.

3-- (5) Any other person who provides health and social care under arrangements made with a public body who exercises functions in relation to the provision of health and social care, must, in providing such care, have due regard to the Code of Practice.

This amendment would strengthen this provision.