

COMMITTEE FOR HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

MINUTES OF PROCEEDINGS

Wednesday 22 April 2015
Senate Chamber, Parliament Buildings

Present: Ms Maeve McLaughlin MLA (Chairperson)
Ms Paula Bradley MLA (Deputy Chairperson)
Mrs Pam Cameron MLA
Mr Paul Givan MLA
Mr Kieran McCarthy MLA
Ms Rosie McCorley MLA
Mr Michael McGimpsey MLA
Mr Fearghal McKinney MLA
Mr George Robinson MLA

Apologies: Ms Jo-Anne Dobson MLA

In Attendance: Dr Kathryn Aiken (Clerk)
Ms Sohui Yim (Assistant Clerk)
Mr Innis Mennie (Clerical Supervisor)
Mr Craig Mealey (Clerical Officer)

The meeting commenced at 2.07 p.m. in public session.

1. Apologies

Apologies are detailed above.

2. Chairperson's Business

i The Chairperson advised Members that the Mental Capacity Bill will be introduced to the Assembly in May, subject to Executive approval.

Agreed: The Committee agreed to write to the Speaker to request that the Business Committee establishes an Ad Hoc Joint Committee in accordance with Standing Order 64C, comprising Members from the membership of the Committee for Health, Social Services and Public Safety and the Committee for Justice.

The Committee noted that given the resource implications of staffing for the Ad Hoc Committee, the production of hard copy Committee meeting packs would cease from 7 May 2015.

- iii The Chairperson advised Members that Daniel Greenberg, as part of the Politics Plus programme, would be available on 27 May 2015, to facilitate an information session on the draft Health and Social Care (Control of Data Processing) Bill.

Agreed: The Committee agreed that the information session with Daniel Greenberg should be arranged and the Committee meeting scheduled for that day should commence after the information session.

- iv The Chairperson advised Members that both she and the deputy Chairperson had met recently with the new Children’s Commissioner to discuss the key issues with which her office would be dealing.

Agreed: The Committee agreed to write to the Department to clarify whether an action plan has been produced to implement the Marshall Report recommendations; to outline the extent of the role of the Children’s Commissioner and the voluntary and community sectors in the implementation of the recommendations; and, for details of how often the cross-departmental officials group has met to date.

3. Draft Minutes of the meeting on Wednesday 15 April 2015

The minutes of the Committee meeting on Wednesday 15 April 2015 were agreed.

4. Food Hygiene Rating Bill – Formal clause-by-clause scrutiny

The Committee commenced its formal clause-by-clause consideration of the Food Hygiene Rating Bill.

Clause 1 - Food hygiene rating

The Committee considered Clause 1 as drafted.

Question: “That the Committee is content with Clause 1 put and agreed to”.

Clause 2 - Notification and publication

The Committee considered amendments proposed by the Department to allow councils to provide some information at an earlier date than the notification of a rating; to introduce a timescale of 34 days within which councils must inform the FSA of a rating; to introduce a timescale of 7 days after the end of the appeal period in which the FSA must publish the rating online; to define the end of the appeal period; and to allow for the potential of there being different types of stickers and specify who will pay for the different types of stickers.

Agreed: The Committee is content with the following amendments proposed by the Department:

Clause 2, page 2, line 8, after second “must” insert “(in so far as the district council has not already provided the operator with the following)”.

Clause 2, page 2, line 19, leave out “Having given a notification under this section” insert “Within 34 days of carrying out an inspection of a food business establishment on the basis of which it prepares a food hygiene rating”.

Clause 2, page 2, line 24, leave out “on its website” and insert “online”.

Clause 2, page 2, line 25, after “appropriate” insert “; and, if it is required to publish the rating, it must do so no later than 7 days after the end of the appeal period in relation to the rating”.

Clause 2, page 2, line 25, at end insert -

“(5A) The “end of the appeal period”, in relation to a food hygiene rating, means—

- (a) the end of the period within which an appeal against the rating may be made under section 3, or*
- (b) where an appeal against the rating is made under that section, the end of the day on which the operator of the establishment is notified of the determination on the appeal (or, if the appeal is abandoned, the end of the day on which it is abandoned).”*

Clause 2, page 2, line 26, leave out “of sticker to be provided under subsection (3)(a)” and insert “or forms of stickers to be provided under subsection (3)(a); and, in the case of each form so prescribed, the regulations must specify whether the cost of producing stickers in that form is to be borne -

- (a) by the Food Standards Agency,*
- (b) by the district council which provides the stickers, or*
- (c) by the Food Standards Agency and the district council jointly in the specified manner.”*

Question: “That the Committee is content with Clause 2 subject to the Department’s proposed amendments put and agreed to”.

Clause 3 – Appeal

The Committee considered amendments proposed by the Department to require a council to inform the FSA of the outcome of an appeal, or if the appeal has been abandoned. If the rating has changed as a result of the appeal, the FSA will be required to publish the new rating online within 7 days.

Agreed: The Committee is content with the following amendments proposed by the Department:

Clause 3, page 3, line 11, at end insert -

“(6A) The district council to which the appeal is made must also, before the end of the period under subsection (5)—

- (a) inform the Food Standards Agency of its determination on the appeal (or, if the appeal is abandoned, that it has been abandoned), and*

(b) *if the district council has changed the establishment’s food hygiene rating on the appeal but considers that it would not be appropriate to publish the new rating, inform the Food Standards Agency accordingly.*

(6B) *The Food Standards Agency, having been informed under subsection (6A)(a) of the determination on the appeal, must, if the rating has been changed on the appeal, publish the new rating online, unless it has been informed under subsection (6A)(b) that publication would not be appropriate; and, if it is required to publish the new rating, it must do so within 7 days of having been informed of the determination on the appeal.”*

Clause 3, page 3, line 19, leave out “the” and insert “a”.

Question: “That the Committee is content with Clause 3 subject to the Department’s proposed amendments put and agreed to”.

Clause 4 – Request for re-rating

The Committee considered amendments proposed by the Department to require a council to notify the FSA of the outcome of a re-rating within 34 days; to require the FSA to publish the new rating online within 7 days of the end of the appeal period; and, to allow the Department through sub-ordinate legislation to limit the number of occasions on which a business can request a re-rating.

Agreed: The Committee is content with the following amendments proposed by the Department:

Clause 4, page 4, line 6, at end insert -

“(4A) Within 34 days of carrying out an inspection under subsection (2), a district council -

(a) must inform the Food Standards Agency of its determination on the review, and

(b) if the district council has changed the establishment’s food hygiene rating on the review but considers that it would not be appropriate to publish the new rating, inform the Food Standards Agency accordingly.

(4B) The Food Standards Agency, having been informed under subsection (4A)(a) of the determination on the review, must, if the rating has been changed on the review, publish the new rating online, unless it has been informed under subsection (4A)(b) that publication would not be appropriate; and, if it is required to publish the new rating, it must do so no later than 7 days after the end of the appeal period in relation to the new rating.”

Clause 4, page 4, line 25, after “applies” insert “, with such modifications as are necessary,”.

Clause 4, page 4, line 27, leave out “the” and insert “a”.

Clause 4, page 4, line 28, at end insert—

“(10) The Department may by order amend this section so as to limit, in the case of each food hygiene rating for an establishment, the number of occasions on which the right to request a review of the rating may be exercised.”

Question: “That the Committee is content with Clause 4 subject to the Department’s proposed amendments put and agreed to”.

Clause 5 - Right of reply

The Committee considered amendments proposed by the Department to specify a time period of 7 days in which the FSA must publish a right of reply online; and, to link the publication of the right of reply to the publication of the rating to which it refers.

Agreed: The Committee is content with the following amendments proposed by the Department:

Clause 5, page 5, line 1, leave out “having received” and insert “within 7 days of receiving”.

Clause 5, page 5, line 2, leave out “on its website” and insert “online”.

Clause 5, page 5, line 3, at end insert -

“(3A) But where, at the time when the Food Standards Agency receives the representations, it has yet to publish under section 2(5) the rating to which the representations relate, the duty under subsection (3) instead applies as a duty to publish the representations within 7 days of publishing the rating under section 2(5).”

Clause 5, page 5, line 4, leave out “(2)” and insert “(3)”.

Clause 5, page 5, line 5, after “2(4)(b)” insert “, 3(6A)(b) or 4(4A)(b)”.

Question: “That the Committee is content with Clause 5 subject to the Department’s proposed amendments put and agreed to”.

Clause 6 - Validity of rating

The Committee considered an amendment proposed by the Department to remove Clause 6(4) given that the “end of the appeal period” is now covered in the amendment to Clause 2.

Agreed: The Committee is content with the following amendment proposed by the Department:

Clause 6, page 5, line 29, leave out subsection (4).

Question: “That the Committee is content with Clause 6 subject to the Department’s proposed amendment put and agreed to”.

Clause 7 - Duty to display rating

The Committee considered an amendment proposed by the Department to provide for a regulation making power to require businesses supplying food by means of an online facility to ensure that the establishments' food hygiene rating is provided online. The Committee noted a written assurance from the Minister that the powers will be exercised in the first set of regulations drafted after the Act comes into operation.

Agreed: The Committee is content with the following amendment proposed by the Department:

Clause 7, page 6, line 2, at end insert -

“(3) The Department may by regulations provide that, in the case of a food business establishment which supplies consumers with food which they order by means of an online facility of a specified kind, the operator must ensure that the establishment’s food hygiene rating is provided online in the specified manner.

(4) The regulations may, for example, require a food hygiene rating to be provided online by means of a link to the rating in the form in which it is published by the Food Standards Agency under section 2(5).”

Question: “That the Committee is content with Clause 7 subject to the Department’s proposed amendment put and agreed to”.

Clause 8 - Duty to provide information about rating

The Committee considered Clause 8 as drafted.

Question: “That the Committee is content with Clause 8 put and agreed to”.

Clause 9 - Enforcement and powers of entry

The Committee considered Clause 9 as drafted.

Question: “That the Committee is content with Clause 9 put and agreed to”.

Clause 10 - Offences

The Committee considered an amendment proposed by the Department which is a consequence of the amendment to Clause 7, and will mean that a failure to comply with the duty under Clause 7 would be an offence.

Agreed: The Committee is content with the following amendment proposed by the Department:

Clause 10, page 6, line 32, leave out “7” and insert “7(1) or a duty in regulations under section 7(3)”.

Question: “That the Committee is content with Clause 10 subject to the Department’s proposed amendment put and agreed to”.

Clause 11 - Fixed penalty

The Committee considered Clause 11 as drafted.

Question: "That the Committee is content with Clause 11 put and agreed to".

Clause 12 - Provision of information for new businesses

The Committee considered an amendment proposed by the Department to allow councils the flexibility to provide information to businesses at different stages of the registration process.

Agreed: The Committee is content with the following amendment proposed by the Department:

Clause 12, page 8, line 8, after "regulations" insert "(in so far as the district council has not already done so)".

Question: "That the Committee is content with Clause 12 subject to the Department's proposed amendment put and agreed to".

Clause 13 - Mobile establishments

The Committee considered Clause 13 as drafted.

Question: "That the Committee is content with Clause 13 put and agreed to".

Clause 14 - Review of operation of Act

The Committee considered amendments proposed by the Department to limit and specify more precisely the Food Standards Agency's powers to make changes to the Act following review; and, to require the Food Standards Agency to promote the food hygiene rating scheme.

Agreed: The Committee is content with the following amendments proposed by the Department:

Clause 14, page 9, line 6, at end insert -

"(7A) The Department must publish its response to the report; and its response must indicate -

- (a) whether it proposes to exercise one or more of the powers under sections 1(7), 3(10), 4(10) and [Adjustment of time periods](1),*
- (b) in so far as it does so propose, the amendments it proposes to make and its reasons for doing so, and*
- (c) in so far as it does not so propose, its reasons for not doing so."*

Clause 14, page 9, line 7, leave out subsection (8).

Clause 14, page 9, line 8, at end insert -

"() The Food Standards Agency must promote the scheme provided for by this Act."

Question: “That the Committee is content with Clause 14 subject to the Department’s proposed amendments put and agreed to”.

Clause 15 - Guidance

The Committee considered Clause 15 as drafted.

Question: “That the Committee is content with Clause 15 put and agreed to”.

New Clause: Adjustment of time periods

The Committee considered a new clause proposed by the Department “Adjustment of time periods”, which would allow the Department to amend the time periods specified in the Act by substituting a different time period; and allow councils and the FSA itself flexibility around meeting various timescales in the Act because of Christmas closure of council/FSA premises and because of “exceptional circumstances”.

The Committee considered new clause “Adjustment of time periods” as drafted.

Question: “That the Committee is content with new clause “Adjustment of time periods” put and agreed to”.

Clause 16 - Interpretation

The Committee considered an amendment proposed by the Department in relation to the definition of the end of the appeal period.

Agreed: The Committee is content with the following amendment proposed by the Department:

Clause 16, page 9, line 19, at end insert -

““end of the appeal period”, in relation to a food hygiene rating, has the meaning given in section 2(5A);”.

Question: “That the Committee is content with Clause 16 subject to the Department’s proposed amendment put and agreed to”.

Clause 17 - Transitional provision

The Committee considered Clause 17 as drafted.

Question: “That the Committee is content with Clause 17 put and agreed to”.

Clause 18 - Regulations and orders

The Committee considered amendments proposed by the Department to take account of the amendments made to Clauses 7 and 14, and to specify how subordinate legislation will operate in relation to the new clause on Adjustment of time periods.

Agreed: The Committee is content with the following amendments proposed by the Department:

Clause 18, page 10, line 19, at end insert -

“(1A) No regulations shall be made under section 7(3) (online provision of ratings) unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.”

Clause 18, page 10, line 20, after “under” insert “any other provision of”.

Clause 18, page 10, line 21, leave out subsection (3).

Clause 18, page 10, line 27, at end insert -

“() section 4(10) (power to limit number of requests for review of rating);”

Clause 18, page 10, line 28, leave out paragraph (c).

Clause 18, page 10, line 29, at end insert -

() section [Adjustment of time periods](1) (power to amend time periods);”

Clause 18, page 10, line 30, at end insert -

“(4A) An order under any other provision of this Act, other than section 20 (commencement), is subject to negative resolution.”

Clause 18, page 10, line 31, leave out subsection (5).

Clause 18, page 10, line 32, leave out subsection (6).

Clause 18, page 10, line 33, at end insert -

“() An order under section 1(7) may, in reliance on subsection (1) of this section, amend sections 7, 10 and 11 (online provision of ratings, offences and civil penalties).”

Question: “That the Committee is content with Clause 18 subject to the Department’s proposed amendments put and agreed to”.

Clause 19 - Crown application

The Committee considered Clause 19 as drafted.

Question: “That the Committee is content with Clause 19 put and agreed to”.

Clause 20 - Short title and commencement

The Committee considered Clause 20 as drafted.

Question: “That the Committee is content with Clause 20 put and agreed to”.

Schedule

The Committee considered the Schedule to the Bill as drafted.

Question: “That the Committee is content with the Schedule to the Bill put and agreed to”.

Long Title

The Committee considered the Long Title as drafted.

Question: “That the Committee is content with the Long Title put and agreed to”.

5. Review of workforce planning in the context of Transforming Your Care – Briefing from the Royal College of Nursing and the Royal College of Midwives

The Committee heard evidence from:

Mr Garrett Martin	Deputy Director, Royal College of Nursing
Ms Rita Devlin	Head of Professional Development, Royal College of Nursing
Ms Maureen Dolan	Vice Chair of the RCN NI Board, Royal College of Nursing
Ms Breedagh Hughes	Director, Royal College of Midwives

2.42 p.m. Mr Fearghal McKinney joined the meeting.

A question and answer session ensued.

3.02 p.m. Mr Paul Givan left the meeting.

3.23 p.m. Ms Paula Bradley joined the meeting.

The Chairperson thanked the witnesses for attending.

4.09 p.m. Mrs Pam Cameron left the meeting.

Agreed: The Committee agreed to seek further information from the Department on the status of Transforming Your Care and related issues.

4.22 p.m. Ms Rosie McCorley left the meeting.

6. Forward Work Programme

The Committee noted the Forward Work Programme.

7. Matters Arising

- i. The Committee noted a response from the Minister regarding the Budget 2015/16.
- ii. The Committee noted a response from the Minister providing an update on the timeframe for public consultation on the draft Adoption and Children Bill.
- iii. The Committee noted a response from the Minister regarding the inclusion of provisions in the draft Health (Miscellaneous Provisions) Bill to ban smoking in cars carrying minors.

8. Correspondence

- i. The Committee noted correspondence from the Minister regarding the Health and Social Care (Control of Data Processing) Bill.
- ii. The Committee noted correspondence from the Minister regarding DHSSPS Care Standards for Nursing Homes.
- iii. The Committee considered correspondence from the Minister regarding the outcome of the public consultation on the Adult Safeguarding Policy.
Agreed: The Committee agreed to write to the Department for details of the key issues raised in relation to possible adult safeguarding legislation and the stakeholders who raised the issues.
- iv. The Committee noted correspondence from the Committee for Finance and Personnel regarding the Report on Sickness Absence in the Public Sector.
- v. The Committee noted correspondence from the Committee for Finance and Personnel regarding Employer and Employee Contributions in Public Service Pension Schemes.
- vi. The Committee noted a copy of correspondence to the Minister from the Committee for the Office of the First Minister and deputy First Minister regarding the Public Services Ombudsperson Bill.
- vii. The Committee considered correspondence from the AHPFNI asking to brief the Committee on workforce planning in the context of Transforming Your Care.
- viii. The Committee considered correspondence from Cancer Research UK requesting sponsorship to light the facade of Parliament Buildings.
Agreed: The Committee agreed to write to Cancer Research UK to advise of the Assembly's policy on the use of external lighting at Parliament Buildings.
- ix. The Committee noted correspondence from the British Geriatrics Society regarding the health and social care of older people in Northern Ireland.
- x. The Committee considered correspondence from ME Support requesting sponsorship to light the facade of Parliament Buildings.

Agreed: The Committee agreed to write to ME Support to advise of the Assembly's policy on the use of external lighting at Parliament Buildings.

- xi. The Committee considered correspondence from ME Support highlighting its concerns about the proposed Condition Management Programme.

Agreed: The Committee agreed to invite ME Support to the next Committee stakeholder event.

9. Any Other Business

None.

10. Date, Time and Place of Next Meeting

The next Committee meeting will be on Wednesday 29 April 2015, at 2.00 p.m. in Room 29, Parliament Buildings.

The Chairperson adjourned the meeting at 4.27 p.m.

Signed: _____
Chairperson

Date: _____