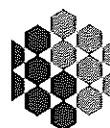


FROM THE MINISTER FOR HEALTH,
SOCIAL SERVICES AND PUBLIC SAFETY



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

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Our Ref: COR/1861/2015

Date: 7 January 2016

Dear Alastair

Thank you for your recent letter seeking the views of the Department of Health, Social Services and Public Safety in relation to a number of issues arising following discussion at the Committee for Justice of an amendment to the Justice No.2 Bill proposed by Lord Morrow MLA.

Consideration has previously been given to the introduction of legislation that would create a specific offence of assaulting or impeding a healthcare worker whilst that worker was in pursuit of their duties and which would provide that anyone found guilty under that legislation would be liable to possible imprisonment or a fine.

These considerations identified a number of practical problems with any such legislation. In particular:-

- The fact that it was already an offence to assault or abuse a health and social care worker. (The offence of common assault under the Offences Against the Person Act and offences under the Protection from Harassment Order (Northern Ireland) 1997.) It was not apparent how an additional offence would increase the protection afforded to health and social care staff. It was also considered unlikely that an assailant would be deterred by a separate criminal offence related specifically to the assault or abuse of health and social care workers.
- Decisions on whether or how to prosecute any individual for a criminal offence are matters for the Public Prosecution Service. They are not matters that can be determined or influenced by any employer. While employers can legitimately encourage employees to report criminal offences to the police it remains a matter primarily for the police in terms of investigation and ultimately for the PPS terms of prosecution decisions.
- The individuals who would be protected by the Bill would have to be clearly

identified e.g. there would have to be decisions taken as to whether a bank nurse was covered if he/she worked in a private care nursing home and whether cover should be extended to independent contractors such as dentists, pharmacists etc. carrying out NHS work.

- Clear decisions would be required on where (in terms of physical location) the protection afforded would have effect – and whether it would cover individuals who are on-call at home or elsewhere, or individuals travelling to work. Decisions would be required as to whether, in a situation where a person was assaulted as a result of their activities in the course of their health service duties, but the assault occurred at an entirely different time or place, it should be covered.

Following consideration, and taking account of the practical difficulties with drafting any HSC specific legislation, it was agreed to set up a working group to examine in further detail what measures could be undertaken to improve the effectiveness of existing legislation.

Physical assaults on health service staff working in A&E and on paramedics have attracted considerable media attention. However, the majority of attacks on health service staff are carried out by patients with mental health issues, and it would not be appropriate to impose fines or other sanctions on such patients.

It should also be noted that any proposal to impose on the spot fines is unlikely to be welcomed by HSC staff, who are likely to see this as possibly inflaming any situation rather than providing a solution.

Each HSC Trust has a robust Zero Tolerance policy in place with a Senior Director responsible for ensuring staff safety and support is properly and consistently managed across the Trust and is underpinned by health and safety legislation, which places a duty on HSC Trusts to provide a safe and secure environment for staff and others.

In order to help reduce attacks a number of measures have taken place within the Department's Zero Tolerance regional campaign. These include major publicity campaigns, both poster and badges within the HSC, and a leaflet drop in rates bills to all homes detailing the Department's policy on abuse of HSC staff.

There is also a joint Memorandum of Understanding (MOU) between the PSNI, PPS and the Department, which is aimed at promoting communication and establishing a framework for the exchange of information at local level and to provide a clear statement on prosecution policy.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Simon', written in a cursive style.

SIMON HAMILTON MLA