



Northern Ireland
Assembly

Committee for Health, Social Services and
Public Safety

OFFICIAL REPORT (Hansard)

Health and Social Care (Amendment) Bill:
DHSSPS Briefing

15 May 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Sue Ramsey (Chairperson)
Mr Roy Beggs
Ms Paula Bradley
Mr Mickey Brady
Mr Kieran McCarthy
Mr Conall McDevitt

Witnesses:

Mr Craig Allen	Department of Health, Social Services and Public Safety
Mr Peter Toogood	Department of Health, Social Services and Public Safety

The Chairperson: Are you leading on this, Craig?

Mr Craig Allen (Department of Health, Social Services and Public Safety): Peter will have the pleasure of leading on this item.

The Chairperson: OK, Peter. We will just go straight into your presentation.

Mr Peter Toogood (Department of Health, Social Services and Public Safety): Thank you for the opportunity to brief the Committee today about the outcome of the consultation on the Health and Social Care (Amendment) Bill. I would like to give the Committee a brief explanation of what the Bill seeks to do, provide a brief update on the consultation and set out what has to happen next.

The overall purpose of the Bill is to amend the Health and Social Care (Reform) Act (Northern Ireland) 2009 (the Reform Act) to reflect the purpose for which the Business Services Organisation (BSO) was established; that is, to provide support services to all the Department's arm's-length bodies (ALBs) and to administer health and social care functions on behalf of the Department.

There are, therefore, two main amendments to the Reform Act. The first deals with the support services that the BSO can provide. The second covers the functions that can be delegated to the BSO.

I will begin by dealing with the provision of support services. The Reform Act, as currently framed, does not enable the Department to secure support services from the BSO, nor does it provide the Department with the power to direct the BSO to provide support services to three of the Department's ALBs — the Northern Ireland Health and Social Care Council, the Northern Ireland Practice and Education Council for Nursing and Midwifery and the Northern Ireland Fire and Rescue Service.

We have been unable to determine why those bodies were not named in the Reform Act. However, it is clear that the intention of establishing the BSO at the time was to provide an economic, efficient and effective support service to all the Department's ALBs. Therefore, the Bill will provide the BSO with the necessary legal cover in that regard.

I will now turn to the issue of delegation of functions. Section 26 of the Reform Act contains a provision that enables the BSO to exercise those functions that the Central Services Agency (CSA) had exercised before its dissolution in 2009. Examples of the types of function performed by the CSA include the Department's functions in relation to the remuneration of members of ALBs and functions under the arrangements for general medical, dental, ophthalmic and pharmaceutical services.

However, it is apparent that the BSO cannot exercise any new functions relating to the administration of health and social care. For that reason, the Bill will provide the Department with the power to delegate to the BSO the exercise of any new functions relating to the administration of health and social care.

At this point, I want to highlight to the Committee that the Department will use other legislative vehicles to allow the BSO to perform two specific non-health and social care departmental functions. The first relates to the Healthy Start scheme and to the Day Care Foods scheme, which is a UK-wide statutory scheme providing a nutritional safety net to low-income families and supporting around 14,500 households across Northern Ireland.

Prior to 2009, the Department's functions under the Healthy Start scheme were carried out by its finance directorate. However, as part of the review of public administration, those functions were passed to the BSO in April 2009. It has since transpired that legislative cover is required to underpin the exercise of those functions by the BSO.

Therefore, it is proposed to amend the Healthy Start scheme and Day Care Foods scheme regulations to enable the Department to delegate its functions under the Healthy Start scheme to any person or body. Delegation will be achieved by means of an instrument in writing. Those regulations should come to the Committee shortly.

The second function relates to superannuation, whereby the Department has powers to make regulations that provide for the superannuation of persons engaged in health or social care services. Prior to 2009, the Department's superannuation functions were carried out by its human resources directorate. However, as part of the review of public administration, those were also passed to the BSO in April 2009. At present, the superannuation function performed by the BSO is covered by an agency agreement between the Department and the BSO. However, it is now proposed to make a set of regulations that will enable the Department to delegate the superannuation functions to the BSO. Again, I highlight that those regulations will be coming to the Committee in the near future.

The Bill also proposes to make some technical amendments to the Reform Act. One will seek to provide greater clarity on the nature of the fraud prevention support service that is provided by the BSO, and another is to reflect the correct title of the Regulation and Quality Improvement Authority. It also seeks to amend the references to "personal social service" in the Carers and Direct Payments Act (Northern Ireland) 2002.

Turning to the consultation process itself, the policy informing the Bill was agreed by the Minister and the Executive at their meeting on 5 July 2012. As the proposed amendments to the Reform Act are either of a technical nature or seek to clarify the original policy position specified in 2009, it was decided to run the consultation for an eight-week period and to target the audience to all the Department's arm's-length bodies. Consultation ran from 1 February until 29 March this year and attracted three responses: one from the Northern Ireland Social Care Council, one from the South Eastern Health Trust and the other from the BSO itself. All the responses were supportive of the proposed amendments, and in that context, the Department intends to proceed with the amendments as agreed by the Minister and the Executive.

During the consultation period, the need for a number of small amendments was identified, primarily to clarify that the chairs of the regional board, Public Health Agency and the BSO must satisfy prescribed conditions, or hold prescribed posts, in order to be eligible for appointment by the Department. Currently, that only applies to the board members of those bodies. Further details of that are provided in paragraphs 12 to 14 of your briefing paper.

Finally, as regards our next steps, the Minister has written to the Attorney General for a view on the legislative competence of the Bill. Indeed, before I arrived here today, we received confirmation from the Attorney General's office that it is within legislative competence, so in that context, we can now proceed to get the Bill introduced to the Assembly before the summer recess. Of course, the Committee will continue to be informed of and involved in all developments relating to the Bill as we move forward. That is the end of my presentation. Thank you for listening. I am happy to take any questions.

The Chairperson: Thank you, Peter. Your briefing paper states:

"must fulfil prescribed conditions or hold posts of a prescribed description".

What does that mean?

Mr Craig Allen: As I understand it, people may have to have met particular criteria. At the moment, if we are appointing a chairperson, we can say that they have to meet certain conditions or prerequisite requirements to be a chair of a board, or they may have had to have held the post of chair in a board for so many years.

The Chairperson: I am sorry, your briefing paper states:

"Paragraph 3 of Schedules 1, 2 and 3 deals with membership of the Regional Board, Public Health Agency and Business Services Organisation and sub-paragraph 3 (3) provides that, "Regulations may provide that all or any of the persons appointed under sub-paragraph (1)(b) must fulfil prescribed conditions or hold posts of a prescribed description" ... These provisions, as currently drafted, apply only to persons appointed by the Department as members of the Boards, excluding the Chairs."

So, if the Department is appointing somebody, they will need to fulfil prescribed conditions, which are what? Do you need to be 5 ft 5 ins tall?

Mr Allen: It is a discretionary power at this stage. It would depend on the nature of the posts.

The Chairperson: Will you find out what those prescribed conditions are?

Mr Allen: Sure.

Mr Toogood: I think it is essentially giving the Department the ability to specify skills, as particular to the post.

The Chairperson: So, where does that fit in with the public appointment issue when people apply for it?

Mr Toogood: We can confirm that for you.

Mr Allen: I assume that it would have to be part of the application pack. It would say that, in order to apply, you would have to have, whatever.

The Chairperson: Will you get us some more detail on that?

Mr McCarthy: Your briefing paper refers to technical amendments. One is:

"To provide greater clarity on the nature of the fraud prevention support service provided by the BSO".

Will you give us some more information on that aspect of what you are proposing?

Mr Allen: The Reform Act states that the BSO might provide fraud prevention as one of its support services, but the counter-fraud and probity services unit in the BSO also carries out investigation and probity services. It asked us for clarification as to whether the term "fraud prevention" encompassed those two services. We felt that it did, but just to be absolutely crystal clear, we thought that we would

take this opportunity to revise the Bill to include fraud investigation and probity services. It was just to clarify the definition.

Mr Toogood: There is no change to what it is doing, in that regard. Its functions are not being changed.

The Chairperson: To go back to a point that I raised; you said that the Attorney General said that the Bill has legal competence. I know you are coming back to me about the point raised under paragraph 12 in your briefing paper: can I also have the information about how that fits in with the issue of public appointments and whether that is a criterion for all Departments?

Do members have any other questions? No. Thank you, Peter and Craig. You can come back to us with that information.

My next question was whether members are content. The answer is that we are not content with the proposals, based on outstanding issues. OK. Thank you.