



Northern Ireland
Assembly

Committee for Health, Social Services and
Public Safety

OFFICIAL REPORT (Hansard)

Health and Social Care (Reform) Act
(Northern Ireland) 2009: DHSSPS Briefing

12 June 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
Ms Pam Brown
Mr Samuel Gardiner
Ms Maeve McLaughlin

Witnesses:

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

The Chairperson: The next item is the evidence session on the proposed legislation to amend the Health and Social Care (Reform) Act. Members will remember that we got a paper on this late last week. The Department originally briefed the Committee on the proposals on 15 May, and we asked for clarification on a number of issues regarding the change of the present board membership. Members have the briefing paper in their packs.

I assume that the person in the middle is taking the lead, so, Peter, I assume that you are taking the lead.

Mr Peter Toogood (Department of Health, Social Services and Public Safety): I will.

The Chairperson: Do you want to briefly introduce your team and then make a presentation?

Mr Toogood: I am Peter Toogood, director of finance in the Department with sponsorship responsibility for the Business Services Organisation (BSO). With me are Craig Allen and Stephani Johnston from the legislative unit in the Department, who lead on the technical aspects of the proposed amendment to the legislation.

Thank you for the opportunity to address the issues raised in your letter of 20 May about the provision in the Health and Social Care (Amendment) Bill regarding the appointment of the chairs of the regional board, the Public Health Agency (PHA) and the BSO.

Currently, the 2009 Reform Act provides the Department with the power to prescribe that members of the regional board, excluding the chair, must fulfil the prescribed conditions or hold posts of a prescribed description. That power has already been exercised by the Department. For example, the

Regional Health and Social Care Board (Membership) Regulations (Northern Ireland) 2009 prescribe the conditions that would disqualify someone from appointment to the regional board. The relevant extract from those regulations has been included at annex 1 in the Minister's response to your letter of 20 May. Similar conditions are also included in the respective regulations for the PHA and the BSO.

The reason why the Department has prescribed such disqualifications is to provide a robust legislative basis, ensuring that there are no conflicts of interest and that members are suitable persons to be managing large organisations such as the regional board. The disqualifications themselves are in line with those for appointments to the other arm's-length bodies (ALBs) of the Department and those that apply to persons applying for appointment to similar bodies in other parts of the UK, such as the NHS Commissioning Board Authority. The relevant comparison is the NHS Commissioning Board Authority Regulations 2011. They are also broadly in line with the disqualifications for councillors set out in the Local Government Act (Northern Ireland) 1972. Again, the relevant extracts from those pieces of legislation are included in annex 2 and annex 3 respectively in the Minister's letter.

Turning to what the amendments propose to do, as currently framed, and as I have already said; the 2009 Reform Act only allows the Department to prescribe in respect of the members of the regional board. It does not allow the Department to make similar prescriptions for the chairperson. This is not reflective of the Department's public appointments policy, which is to ensure that, as far as possible, persons appointed to public bodies are suitable for the advertised posts. A similar anomaly exists in relation to the PHA, which is in schedule 2 to the Reform Act, and the BSO, which is in schedule 3 to the Reform Act. The Health and Social Care (Amendment) Bill seeks to rectify the anomaly in all three schedules to the Reform Act by providing the Department with the powers to prescribe conditions for the appointment of the chair of each body in similar terms as for the members. It is also important to highlight that, should the Department exercise that power, any resultant regulations will be subject to scrutiny by the Committee, as, indeed, are any amendments to existing regulations.

In conformity with the public appointments process, all appointments to the Department's ALBs are made in accordance with the principles and practices set out in the code of practice for ministerial public appointments in Northern Ireland. The regulation-making powers to prescribe conditions for appointments to its ALBs allows the Department to make clear at the outset of the appointments process the conditions that would disqualify a person from appointment. Those disqualifications would also be clearly stated in any information pack going out to any prospective candidates.

These particular amendments were not included as part of the consultation on the proposed Bill, as we only became aware of the need for them in about mid-March, which was close to the end of the process. However, as the proposed amendments do not represent a shift in the original policy intent and are intended to regularise an existing anomaly in the Reform Act, it was not felt necessary to go out for further consultation on them.

As part of the legislative process, the Minister is required to obtain Executive approval to introduce the amendment Bill to the Assembly. At that point, he will be drawing these amendments to the attention of the Executive and explaining the reason for their inclusion in the Bill.

Thank you. I am happy to take questions.

The Chairperson: Apologies for having to bring you up in this direction, but it is a nice day.

Mr Craig Allen (Department of Health, Social Services and Public Safety): Apologies for getting the paper to you late.

The Chairperson: I was going to say that now that I am apologising, I will allow you to apologise. It could have been over last week. Your presentation was very useful because it answers a lot of the questions. When do you expect to introduce the Bill?

Mr Toogood: We plan to prepare the relevant Executive paper, subject to the outcome of this meeting, and we aim to introduce the Bill early in September.

Mr Allen: We were hoping to try to get it before summer recess, but we have to get Executive permission, and then we have to give the Speaker seven days' notice, but, due to the way in which the Executive meetings have fallen, it is not physically possible to do that, even if we do get clearance today. We will try to get Executive clearance. I think they are meeting on 27 June, if not 5 July. That means that we can introduce it as soon as possible in September.

The Chairperson: OK. Will you drop us a wee note to let us know whether you are getting it on to the Executive's agenda?

Mr Toogood: Yes.

The Chairperson: That means that we can keep it in our heads.

Mr Beggs: Am I right in my interpretation that if the chairperson of one of the bodies was made bankrupt or given a three-month prison sentence for a drink-driving offence, you could not sack him, but you could sack a member of the board. Is that correct?

Mr Toogood: That is the understanding at the moment.

Mr Beggs: So, you could sack an ordinary member, but not the chairperson?

Mr Allen: The provision applies to a member, but not to the chairperson. We are trying to put the chairperson on a par with the members. It was an oversight in the initial Health and Social Care (Reform) Act (Northern Ireland) 2009, which was just discovered. The same provisions would apply for the chair of the Safeguarding Board, for example.

The Chairperson: Are there any other questions? Someone, please ask a question. I am embarrassed about bringing you here.

Mr Allen: You are all right; you are fine.

The Chairperson: Thank you very much for your presentation.