

Committee for Health, Social Services and Public Safety

Report on the Health and Social Care (Amendment) Bill (NIA Bill 27/11-15)

**Together with the Minutes of Proceedings, Minutes of Evidence
and Written Submissions relating to the Report**

**Ordered by the Committee for Health, Social Services and Public Safety
to be printed 4 December 2013**

Report: NIA 146/11-15 (Committee for Health, Social Services and Public Safety)

Membership and Powers

Powers

The Committee for Health, Social Services and Public Safety is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, section 29 of the Northern Ireland Act 1998 and under Standing Order 48.

The Committee has power to:

- Consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- Consider relevant secondary legislation and take the Committee stage of primary legislation;
- Call for persons and papers;
- Initiate inquiries and make reports; and
- Consider and advise on any matters brought to the Committee by the Minister for Health, Social Services and Public Safety.

Membership

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The current membership of the Committee is as follows:

Ms Maeve McLaughlin (Chairperson)
 Mr Jim Wells (Deputy Chairperson)
 Mr Roy Beggs
 Mr Mickey Brady
 Ms Pam Brown
 Mr Gordon Dunne
 Mr Sam Gardiner
 Mr Kieran McCarthy
 Mr David McIlveen
 Mr Fearghal McKinney

With effect from 23 January 2012 Ms Sue Ramsey replaced Ms Michaela Boyle
 With effect from 06 February 2012 Ms Sue Ramsey replaced Ms Michelle Gildernew as Chairperson
 With effect from 13 February 2012 Ms Michelle Gildernew was appointed as a member
 With effect from 23 April 2012 Mr Conall McDevitt replaced Mr Mark Durkan
 With effect from 02 July 2012 Ms Michelle Gildernew was no longer a member
 With effect from 10 September 2012 Ms Maeve McLaughlin was appointed as a member
 With effect from 15 October 2012 Mr Roy Beggs replaced Mr John McCallister
 With effect from 04 September 2013 Mr Conall McDevitt was no longer a member
 With effect from 16 September 2013 Mr David McIlveen replaced Ms Paula Bradley
 With effect from 16 September 2013 Ms Maeve McLaughlin replaced Ms Sue Ramsey as Chairperson
 With effect from 30 September 2013 Mr Fearghal McKinney was appointed as a member

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Executive Summary

1. The purpose of the Bill is to make a small number of amendments to the Health and Social Care (Reform) Act (NI) 2009. The amendments are designed to correct oversights or anomalies contained in the original legislation, rather than to introduce any new policies.
2. The main amendments are in relation to the functions of one of the Department of Health, Social Services and Public Safety's arm's-length bodies – the Business Services Organisation. The Bill will ensure that the Business Services Organisation has the legislative authority to provide support services to all the Department's arm's-length bodies, and to administer any health and social care functions on behalf of the Department. This is in line with the purpose for which the Business Services Organisation was originally established.
3. The other key amendment is in relation to the appointment of the Chairs to three of the Department's arm's-length bodies – the Health and Social Care Board, the Public Health Agency, and the Business Services Organisation. At present, the Department does not have the power to prescribe the conditions which Chairs of these bodies must satisfy, whereas it does have this power in relation to all its other arm's-length bodies. This was an oversight when the original legislation was made, and the Bill seeks to correct the position.
4. All of the organisations which responded to the Committee's call for evidence were in favour of the Bill, and there were no objections to any of the clauses.
5. The Committee was content that the Bill would serve to correct the anomalies contained in the Health and Social Care (Reform) Act (NI) 2009, and would result in more uniformity across the Department's arm's-length bodies.

Introduction

6. The Health and Social Care (Amendment) Bill (NIA 27/11-15) was referred to the Committee in accordance with Standing Order 33 on completion of the Second Stage of the Bill on 24 September 2013.
7. The Minister for Health, Social Services and Public Safety made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Health and Social Care (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly.”
8. The main aim of the Bill is to amend the Health and Social Care (Reform) Act (NI) 2009 to reflect the purpose for which the Business Services Organisation (BSO) was established. The Bill will allow the Business Services Organisation to provide support services to all departmental arm’s-length bodies, and to administer any health and social care functions on behalf of the Department of Health, Social Services and Public Safety.
9. The Bill also makes a number of minor amendments to the Health and Social Care (Reform) Act (NI) 2009 to correct oversights made in the original legislation, in relation to the posts of Chair of the Health and Social Care Board, Chair of the Public Health Agency, and Chair of the Business Services Organisation.
10. During the period covered by this report, the Committee considered the Bill and related issues at eight meetings. The relevant extracts from the Minutes of Proceedings for these meetings are included at Appendix 1.
11. At its meeting on 25 September 2013 the Committee agreed a motion to extend the Committee Stage of the Bill to 11 December 2013. The motion to extend was supported by the Assembly on 7 October 2013.
12. The Committee had before it the Health and Social Care (Amendment) Bill (NIA 27/11-15) and the Explanatory and Financial Memorandum that accompanied the Bill. On referral of the Bill, the Committee wrote on 25 September 2013 to key stakeholders and inserted public notices in the Belfast Telegraph, Irish News, and News Letter seeking written evidence on the Bill by 15 October 2013.
13. A total of seven organisations responded to the request for written evidence and a copy of the submissions received by the Committee are included at Appendix 3.
14. Prior to the introduction of the Bill, the Committee took evidence from Departmental officials on the policy intentions of the legislation on 15 May 2013 and 12 June 2013. During this period of pre-introductory scrutiny, the Committee raised concerns over the proposals requiring that the Chairs of the Health and Social Care Board, Public Health Agency, and Business Services Organisation must satisfy prescribed conditions. The Committee was concerned that there was an attempt to prescribe new criteria in relation to who could apply for the position of Chair within the three Departmental arm’s-length bodies mentioned above.
15. The Committee was of the view that the appointment criteria for a Chair should be consistent across all the Department’s arm’s-length bodies. The Department explained that the proposal contained in the Bill (clause 3) was actually aimed at correcting an anomaly in the original legislation, rather than implementing a new policy. An oversight had been made when the Health and Social Care (Reform) Act (NI) 2009 was made, so that the Chair of the Health and Social Care Board, Chair of the Public Health Agency, and Chair of the Business Services Organisation, did not need to satisfy prescribed conditions. This was not the intention of the Department, as its view is that the Chairs of all its arm’s-length bodies must satisfy prescribed conditions.

16. Following the clarification provided by the Department on this matter, the Committee indicated that it was content with the policy intention of the Bill in this regard.
17. During Committee Stage of the Bill, the Committee took oral evidence from Departmental officials on 16 October 2013. The Committee discussed further the evidence received at its meetings on 6 November and 13 November 2013.
18. The Committee carried out clause by clause scrutiny of the Bill on 27 November 2013. At its meeting on 4 December 2013 the Committee agreed its report on the Bill and that it should be printed.

Consideration of the Bill

19. The Bill has five clauses and one Schedule.
20. The Committee considered written evidence received from seven stakeholders, and took oral evidence from Departmental officials.

Clause 1: Functions of RBSO: support services

21. This clause seeks to insert a provision at Section 15 of the Health and Social Care (Reform) Act (NI) 2009 to give the Business Services Organisation legal cover to provide support to the Department and the full range of the Department's arm's-length bodies.
22. The Health and Social Care (Reform) Act (NI) 2009 currently does not provide the Department with the power to direct the Business Services Organisation to provide support services to the Department, or to the following Departmental arm's-length bodies – the Northern Ireland Social Care Council, the Northern Ireland Practice and Education Council for Nursing and Midwifery, and the Northern Ireland Fire and Rescue Service Board.
23. This clause also defines more accurately the counter-fraud support service provided by the Business Services Organisation.
24. The Health and Social Care Board and the Business Services Organisation in their written submissions welcomed this clause, in particular the clarification around the nature of the counter-fraud and probity services provided by Business Services Organisation.
25. The Committee raised concerns about whether the Business Services Organisation is currently providing services to arm's-length bodies without legislative cover. Departmental officials confirmed that this indeed was the case, but stated that they have made additional arrangements in the meantime to help mitigate the risks associated with the lack of legislative cover.

Clause 2: Other functions of RBSO

26. Clause 2 provides a power to allow the Business Services Organisation to administer health and social care functions on behalf of the Department.
27. At present, the Business Services Organisation is only able to exercise Departmental functions that were exercisable by the Central Services Agency at its dissolution. It is not able to exercise any new functions of the Department. This clause provides for an amendment to Section 15 of the Health and Social Care (Reform) Act (NI) 2009, which will enable the Department to direct the Business Services Organisation to exercise any new functions with respect to the administration of health and social care.
28. The Committee did not receive any comments in relation to this clause.

Clause 3: Minor amendments

29. Clause 3 deals with a number of minor amendments to the conditions of membership of the Health and Social Care Board, the Public Health Agency and the Business Services Organisation.
30. At present, the Health and Social Care (Reform) Act (NI) 2009 provides the Department with the power to make subordinate legislation to prescribe conditions for persons appointed by the Department as members of the three arm's-length bodies mentioned in the paragraph above, but does not include the Chairs.

31. This clause will amend sub-paragraph 3(3) of Schedules 1,2 and 3 of the Health and Social Care (Reform) Act (NI) 2009, to provide the Department with a power to make subordinate legislation to prescribe conditions for appointment for the Chair of the above three organisations in similar terms as the members.
32. The Health and Social Care Board, the Public Health Agency and the Business Services Organisation welcomed this clause. For example, the Business Services Organisation stated in its written submission:

“It is to be welcomed that Clause 3, Minor Amendments, should now enable DHSSPS to prescribe conditions for the appointment of Chairpersons of Arm’s Length Bodies which should deliver a consistent approach to all future appointments and reflect the public appointments process.”

Clause 4: Meaning of “the 2009 Act”

33. The Committee did not receive any comments in relation to this clause.

Clause 5: Short title

34. The Committee did not receive any comments in relation to this clause.

Schedule

35. The Schedule includes amendments that should have originally been included in Schedule 6 to the Health and Social Care (Reform) Act (NI) 2009.
36. In its written submission, the Regulation and Quality Improvement Authority (RQIA) suggested simplifying the wording in relation to its title. However, during the oral evidence session with the Department, officials explained that the RQIA’s full title – Health and Social Care Regulation and Quality Improvement Authority – needed to be used in the Bill, as this is the organisation’s legal title. The Committee was content with the Department’s explanation on this issue.

Clause by Clause Consideration of the Bill

37. The Committee undertook its clause by clause scrutiny of the Bill on 27 November 2013 – see Minutes of Evidence in Appendix 2.

Clause 1: Functions of RBSO: support services

38. The Committee indicated it was content with the clause as drafted.

Clause 2: Other functions of RBSO

39. The Committee indicated it was content with the clause as drafted.

Clause 3: Minor amendments

40. The Committee indicated it was content with the clause as drafted.

Clause 4: Meaning of “the 2009 Act”

41. The Committee indicated it was content with the clause as drafted.

Clause 5: Short title

42. The Committee indicated it was content with the clause as drafted.

Schedule

43. The Committee indicated it was content with the schedule as drafted.

Long Title

44. The Committee indicated it was content with the Long Title as drafted.



Northern Ireland
Assembly

Appendix 1

Minutes of Proceedings Relating to the Report

Wednesday 25 September 2013

Room 29, Parliament Buildings

Present: Ms Maeve McLaughlin MLA (Chairperson)
Mr Roy Beggs MLA
Mr Mickey Brady MLA
Ms Pam Brown MLA
Mr Gordon Dunne MLA
Mr Sam Gardiner MLA
Mr Kieran McCarthy MLA
Mr David McIlveen MLA
Mr Jim Wells MLA (Deputy Chairperson)

In Attendance: Dr Kathryn Aiken (Clerk)
Mr Mark McQuade (Assistant Clerk)
Ms Leanne Johnston (Clerical Supervisor)
Mr Craig Mealey (Clerical Officer)
Ms Roisin Kelly (Bill Clerk)

Apologies: None

2.06pm The meeting commenced in open session.

4. The Health & Social Care (Amendment) Bill.

The Committee Clerk briefed members on the timetable for the Committee stage.

The Committee agreed a motion to extend the Committee stage of the Bill.

The Committee agreed a call for evidence notice and a list of organisations to be invited to submit written evidence.

[EXTRACT]

Wednesday 2 October 2013

Senate Chamber, Parliament Buildings

Present: Ms Maeve McLaughlin MLA (Chairperson)
Mr Roy Beggs MLA
Mr Mickey Brady MLA
Ms Pam Brown MLA
Mr Gordon Dunne MLA
Mr Sam Gardiner MLA
Mr Kieran McCarthy MLA
Mr David McIlveen MLA
Mr Fearghal McKinney MLA
Mr Jim Wells MLA (Deputy Chairperson)

In Attendance: Dr Kathryn Aiken (Clerk)
Mr Mark McQuade (Assistant Clerk)
Ms Leanne Johnston (Clerical Supervisor)
Mr Craig Mealey (Clerical Officer)
Dr Janice Thompson (Research Officer)

Apologies: None

12.12pm The meeting commenced in open session.

5. The Health & Social Care (Amendment) Bill.

The Committee noted a delegated powers memorandum from the Department and agreed to forward this to the Examiner of Statutory Rules.

Dr Janice Thompson briefed the Committee on an Assembly Research paper on the Health & Social Care (Amendment) Bill.

[EXTRACT]

Wednesday 9 October 2013

Senate Chamber, Parliament Buildings

Present: Ms Maeve McLaughlin MLA (Chairperson)
Mr Roy Beggs MLA
Mr Mickey Brady MLA
Ms Pam Brown MLA
Mr Gordon Dunne MLA
Mr Sam Gardiner MLA
Mr Kieran McCarthy MLA
Mr Fearghal McKinney MLA
Mr Jim Wells MLA (Deputy Chairperson)

In Attendance: Dr Kathryn Aiken (Clerk)
Mr Mark McQuade (Assistant Clerk)
Ms Leanne Johnston (Clerical Supervisor)
Mr Craig Mealey (Clerical Officer)

Apologies: Mr David McIlveen MLA

2.05pm The meeting commenced in open session.

5. The Health & Social Care (Amendment) Bill.

Members noted that the Committee had issued a call for evidence on the Bill, that the closing date for this was 15 October and that the Committee would take evidence from the Department at its next meeting.

[EXTRACT]

Wednesday 16 October 2013

Room 29, Parliament Buildings

Present: Ms Maeve McLaughlin MLA (Chairperson)
Mr Roy Beggs MLA
Mr Mickey Brady MLA
Ms Pam Brown MLA
Mr Gordon Dunne MLA
Mr Sam Gardiner MLA
Mr Kieran McCarthy MLA
Mr David McIlveen MLA
Mr Fearghal McKinney MLA
Mr Jim Wells MLA (Deputy Chairperson)

In Attendance: Dr Kathryn Aiken (Clerk)
Mr Mark McQuade (Assistant Clerk)
Ms Leanne Johnston (Clerical Supervisor)
Mr Craig Mealey (Clerical Officer)

Apologies: None

2.07pm The meeting commenced in open session.

4. The Health & Social Care (Amendment) Bill.

The Committee took evidence from:

Mr Peter Toogood Director of Finance, DHSSPS

Mr Craig Allen Legislation Unit, DHSSPS

Ms Maura O'Brien Legislation Unit, DHSSPS

A question and answer session ensued. The Chairperson thanked the witnesses for attending.

[EXTRACT]

Wednesday 6 November 2013

Room 29, Parliament Buildings

Present: Ms Maeve McLaughlin MLA (Chairperson)
Mr Roy Beggs MLA
Ms Pam Brown MLA
Mr Gordon Dunne MLA
Mr Sam Gardiner MLA
Mr Kieran McCarthy MLA
Mr David McIlveen MLA
Mr Fearghal McKinney MLA

In Attendance: Dr Kathryn Aiken (Clerk)
Mr Mark McQuade (Assistant Clerk)
Ms Leanne Johnston (Clerical Supervisor)
Mr Craig Mealey (Clerical Officer)
Dr Lesley-Ann Black (Assembly Research & Library Service)

Apologies: Mr Jim Wells MLA (Deputy Chairperson)
Mr Mickey Brady MLA

1.06pm The meeting commenced in open session.

5. The Health & Social Care (Amendment) Bill.

The Committee noted that seven submissions had been received on the Bill and that no issues of concern have been raised.

The Committee noted that the Examiner of Statutory Rules was content with the delegated powers contained within the Bill.

[EXTRACT]

Wednesday 13 November 2013

Minor Hall, Magee Campus

Present: Ms Maeve McLaughlin MLA (Chairperson)
Mr Roy Beggs MLA
Mr Mickey Brady MLA
Ms Pam Brown MLA
Mr Sam Gardiner MLA
Mr Kieran McCarthy MLA
Mr Fearghal McKinney MLA
Mr Jim Wells MLA (Deputy Chairperson)

Apologies: Mr Gordon Dunne MLA
Mr David McIlveen MLA

In Attendance: Dr Kathryn Aiken (Clerk)
Mr Mark McQuade (Assistant Clerk)
Ms Leanne Johnston (Clerical Supervisor)
Mr Craig Mealey (Clerical Officer)

2.18pm The meeting commenced in open session.

4. The Health & Social Care (Amendment) Bill.

The Committee discussed the clauses of the Health & Social Care (Amendment) Bill.

[EXTRACT]

Wednesday 27th November 2013

Room 29, Parliament Buildings

Present: Ms Maeve McLaughlin MLA (Chairperson)
Mr Roy Beggs MLA
Mr Mickey Brady MLA
Ms Pam Brown MLA
Mr Gordon Dunne MLA
Mr Sam Gardiner MLA
Mr Kieran McCarthy MLA
Mr Fearghal McKinney MLA
Mr Jim Wells MLA (Deputy Chairperson)

Apologies: Mr David McIlveen MLA

In Attendance: Dr Kathryn Aiken (Clerk)
Mr Mark McQuade (Assistant Clerk)
Ms Leanne Johnston (Clerical Supervisor)
Mr Craig Mealey (Clerical Officer)
Dr Janice Thompson (Assembly Research & Library Service)

2.00 p.m The meeting commenced in open session.

4. The Health & Social Care (Amendment) Bill.

Clause 1 (Functions of RBSO: support services)

Question: Is the Committee content with Clause 1 as drafted, put and agreed to.

Clause 2 (Other functions of RBSO)

Question: Is the Committee content with Clause 2 as drafted, put and agreed to.

Clause 3 (Minor amendments)

Question: Is the Committee content with Clause 3 as drafted, put and agreed to.

Clause 4 (Meaning of “the 2009 Act”)

Question: Is the Committee content with Clause 4 as drafted, put and agreed to.

Clause 5 (Short title)

Question: Is the Committee content with Clause 5 as drafted, put and agreed to.

Schedule

Question: Is the Committee content with the schedule as drafted, put and agreed to.

Long Title

Question: Is the Committee content with the Long Title of the Bill as drafted, put and agreed to.

[EXTRACT]

Wednesday 4th December 2013

Senate Chamber, Parliament Buildings

Present: Ms Maeve McLaughlin MLA (Chairperson)
Mr Roy Beggs MLA
Mr Mickey Brady MLA
Ms Pam Brown MLA
Mr Gordon Dunne MLA
Mr Sam Gardiner MLA
Mr Kieran McCarthy MLA
Mr David McIlveen MLA
Mr Fearghal McKinney MLA
Mr Jim Wells MLA (Deputy Chairperson)

Apologies: None

In Attendance: Dr Kathryn Aiken (Clerk)
Mr Mark McQuade (Assistant Clerk)
Ms Leanne Johnston (Clerical Supervisor)
Mr Craig Mealey (Clerical Officer)

2.06 p.m. The meeting commenced at in open session.

4. The Health & Social Care (Amendment) Bill.

The Committee considered the draft report on the Committee Stage of the Health & Social Care (Amendment) Bill paragraph by paragraph.

The Committee agreed the Executive Summary:

Paragraph 1-5, read and agreed.

The Committee agreed the main body of the report:

Paragraph 1-13, read and agreed.

Paragraph 14-31, read and agreed.

Paragraph 32-39, read and agreed.

The Committee agreed that the Committee Membership & Powers, Table of Contents and Appendix 1 to 4 be included in the report.

The Committee agreed that an extract of today's Minutes of Proceedings should be included in Appendix 1 of the report and were content that the Chairperson agrees the minute relating to this.

The Committee ordered the Report on the Health & Social Care (Amendment) Bill NIA 27/11-15 to be printed.

[EXTRACT]



Northern Ireland
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Appendix 2

Minutes of Evidence

16 October 2013

Members present for all or part of the proceedings:

Ms Maeve McLaughlin (Chairperson)
 Mr Roy Beggs
 Mr Mickey Brady
 Ms Pam Brown
 Mr Gordon Dunne
 Mr Samuel Gardiner
 Mr Kieran McCarthy
 Mr David McIlveen
 Mr Fearghal McKinney

Witnesses:

Mr Craig Allen	<i>Department of Health,</i>
Ms Maura O'Brien	<i>Social Services and</i>
Mr Peter Toogood	<i>Public Safety</i>

1. **The Chairperson:** Peter, Craig and Maura, you are very welcome. I will hand over to you to make a 10-minute presentation. We will then open the meeting to questions from members.
2. **Mr Peter Toogood (Department of Health, Social Services and Public Safety):** Thank you for the opportunity to brief the Committee on the Health and Social Care (Amendment) Bill. I will provide a summary of the main clauses and what they propose to do, as outlined in the paper provided.
3. First, the Health and Social Care (Reform) Act (Northern Ireland) 2009 established the Regional Business Services Organisation (BSO) and defined its role as being:

“to provide or secure the provision of a range of support services to the health and social care bodies defined at section 1(5) of the Reform Act.”
4. However, as currently framed, the Act 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 its arm's-length bodies: the Northern Ireland Health and Social Care Council; the

Northern Ireland Practice and Education Council for Nursing and Midwifery (NIPEC); and the Northern Ireland Fire and Rescue Service.

5. Clause 1 therefore seeks to give the BSO the legal cover it requires to provide support services to the Department and all of its arm's-length bodies. It also seeks to provide greater clarity on the nature of the fraud prevention support service provided by the BSO. The counter-fraud and probity services unit in BSO carries out a range of activities, which include fraud investigation, fraud prevention and probity services. However, the Act refers only to fraud prevention. Although it was felt that this definition covers the complete range of activities currently undertaken by BSO, the Department is taking the opportunity to provide further clarity by adding the words, “fraud investigation and probity services” after fraud prevention. The amendment does not alter the activity or scope of services currently undertaken by the counter-fraud and probity services unit. Those remain unchanged.
6. Section 26 of the Act contains a provision that enables the BSO to exercise the functions that the Central Services Agency had exercised immediately before its dissolution in 2009. However, the Act does not permit the BSO to exercise any new functions relating to the administration of health and social care. Clause 2, therefore, enables the Department to direct the BSO to exercise any new functions of the Department with respect to the administration of health and social care.
7. Clause 3 seeks to deal with the membership of the Health and Social Care Board, the Public Health Agency (PHA) and the Business Services Organisation. The Act currently provides the Department with the power to prescribe conditions for persons appointed as members of

- those organisations. However, the Department does not have the power to prescribe conditions for their chairs. Therefore, clause 3 seeks to provide the Department with a power to make subordinate legislation to prescribe conditions for the appointment of the chair of the Health and Social Care Board, the Public Health Agency and the Business Services Organisation. We propose to prescribe in similar terms to those for the members of those organisations. Members will recall that we previously provided evidence on that matter in June.
8. The schedule includes amendments that should have been made under schedule 6 to the Act, which deals with minor and consequential amendments. These include blanket amendments to particular references to bodies in other existing legislation: for example, the name of the health and social services trusts was changed to health and social care trusts.
 9. Section 1 of the Act renames the Health and Personal Social Services Regulation and Improvement Authority to reflect the correct legal title of the organisation, which is the Health and Social Care Regulation and Quality Improvement Authority (RQIA). However, schedule 6 to the Act did not carry across that organisation's change of title to other legislation, so the amendments proposed at paragraphs 1 and 2 of the schedule seek to do so.
 10. Finally, paragraph 3 of the schedule seeks to amend the reference to personal social service in the Carers and Direct Payments Act (Northern Ireland) 2002 to "social care service".
 11. Thank you for your time. Those are the key points, and we are happy to take any questions.
 12. **The Chairperson:** Thank you for that, Peter. Clause 1 allows the BSO to provide services to the board of the Fire and Rescue Service, the Social Care Council and NIPEC. Does that mean that the BSO currently provides services to those bodies without legislative cover?
 13. **Mr Toogood:** It currently provides services to the Northern Ireland Social Care Council and NIPEC but not to the Fire and Rescue Service. We are aware of the anomaly, and we seek to minimise the risk associated with the lack of legal cover through other mechanisms. For example, we have service level agreements between the BSO and those organisations.
 14. The view of the Department is very much a pragmatic one, in that the role of the BSO is to provide a range of services to all health and social care bodies. It would be more expensive to get those services provided elsewhere. The BSO is geared up to provide those services and currently does so. However, the income that the BSO generates from those bodies is small in relation to its overall income. We believe that there is a range of mitigating factors, while retaining a degree of pragmatism, in delivering those services.
 15. **The Chairperson:** There is still an anomaly there.
 16. **Mr Toogood:** Yes, there is still an anomaly, and that will be resolved.
 17. **The Chairperson:** I just want to clarify this: did the arm's-length bodies included in the amendment not exist in 2009? What is the rationale that necessitates their inclusion?
 18. **Mr Toogood:** They did exist. My understanding is that it was a simple oversight. We carried out a review to try to determine why they were missed out, but we could not. We believe that it was a simple oversight. The process involved in putting through the Reform Act was very extensive and covered a lot of aspects. So we believe that it was an oversight, which we now seek to rectify.
 19. **The Chairperson:** What have been the implications of that oversight?
 20. **Mr Toogood:** The BSO does not have the legal cover to provide services, so we have taken the pragmatic view that the organisations need those services and the BSO is equipped to provide them. We have put in place additional

- arrangements to help to mitigate that lack of legal cover.
21. **The Chairperson:** I am directing this question to you, Peter, because you are the Department's director of finance: does cost have anything to do with this? Is this ultimately viewed as potentially making efficiencies or savings?
22. **Mr Toogood:** No, it is not. Genuinely, the amendment Bill simply rectifies the legislative anomaly whereby the BSO does not have that legal cover. The day-to-day business is ongoing: services are being provided by the BSO, and those organisations are paying the BSO for them. In this process, there is nothing to do with savings or whatever that we would not be dealing with in the normal course of business.
23. **The Chairperson:** So it is to correct an anomaly; it is not being driven by any cost efficiencies. Thank you for that.
24. **Mr Brady:** Thanks for the presentation. During Second Stage, a Member asked the Minister whether the Bill could be used as a vehicle for privatisation. The Minister replied that the NHS would be free at the point of delivery, but he did not elaborate and did not really answer the question. So there is a suspicion that privatisation is on its way by whatever means. If you watch the news, you will see that there is a general erosion of the Health Service in England. Hospitals are dealing with acute and elective services, and everything else seems to go back into the community. Is this Bill part of that process? The Act came out in 2009, which is only four years ago, and a lot seems to have been missed out. With respect, if I were cynical, which, of course, I am not, I might think that it was being used as another means of progressing that trend. I would be grateful if you could reassure me.
25. **Mr Toogood:** Absolutely. I will say again that the purpose of the Bill is not to change the policy intent, which was established in the 2009 Reform Act. Nothing has changed in that regard. The only change is the opportunity to correct and clarify a number of small matters. There is no change in policy; that was established in 2009, and that remains the case.
26. **Mr Brady:** There was mention of a minor amendment in one clause. You specifically defined that as "minor", so is correct to assume that there are major amendments in other clauses, or is that my suspicious mind again?
27. **Mr Toogood:** I do not think that there is a major amendment. It is a technicality in respect of how it is described. There are amendments, and these are particular amendments.
28. **Mr Beggs:** You said that there was an anomaly in that three health bodies — the Social Care Council, the Northern Ireland Practice and Education Council and the Northern Ireland Fire and Rescue Service — had been excluded from a list of organisations that could be looked after by the BSO. Does clause 3 simply enable change? Will there still have to be a business case to justify any change, or does this incorporate the finance functions in a central body?
29. **Mr Toogood:** The clause simply provides a legislative base for the business that the BSO provides to these organisations.
30. **Mr Beggs:** So the BSO already provides the service.
31. **Mr Toogood:** It is already being provided. The BSO provides a range of services for NIPEC, which is similar to those that they provide to other organisations. It provides a range of finance, HR, internal audit, legal services and procurement functions.
32. **The Chairperson:** No other members have indicated that they wish to ask a question. I have one final question. The RQIA raised an issue. It suggested using its shorter title, the Regulation and Quality Improvement Authority. Is there any major rationale for using the longer title?
33. **Mr Toogood:** There are a couple of points on that. The Bill does not

propose to change the name of the RQIA. That was established in the 2009 Reform Act. The Act changed the name to the Health and Social Care Regulation and Quality Improvement Authority — that is the definition. However, in 2009, there was no read-across to other legislation, which still has the old name. The purpose of the Bill is to make sure that the carry-across to other legislation now reflects the true name of the organisation. The proper and legal title of the RQIA is the Health and Social Care Regulation and Quality Improvement Authority, as defined in the Reform Act. If the RQIA, in its literature and headings, uses Regulation and Quality improvement Authority, as it does, that is fine. However, from a legal perspective, its name is the Health and Social Care Regulation and Quality Improvement Authority, and we do not propose to change that in this legislation.

34. **The Chairperson:** OK, thank you.
35. **Mr Craig Allen (Department of Health, Social Services and Public Safety):** It is in the same way as the legal title of the Public Health Agency is the Regional Agency for Public Health and Social Well-being. That is its legal title, but, to all intents and purposes, the organisation uses PHA in its literature.
36. **The Chairperson:** Thank you for clarifying that and for your presentation and attendance today. We will continue to work through the Bill.

27 November 2013

Members present for all or part of the proceedings:

Ms Maeve McLaughlin (Chairperson)
 Mr Jim Wells (Deputy Chairperson)
 Mr Roy Beggs
 Mr Mickey Brady
 Ms Pam Brown
 Mr Gordon Dunne
 Mr Samuel Gardiner
 Mr Kieran McCarthy

37. **The Chairperson:** I remind members that this is the formal clause-by-clause consideration of the Bill, which is a vital and essential part of the Committee's duties and is needed for the preparation of the Committee report. This is the final opportunity for the Committee to propose amendments to the Bill. I advise members that I will formally put the Question on each clause. What the Committee is required to do is vote that it is content with the clause as drafted, that it is not content and wishes to amend the clause or that it is not content and wishes to oppose the clause.

38. I remind members that no issues were raised with the Bill and no amendments have been proposed by the Department. I ask members to keep the Bill folder, which is the red folder that is being handed out now, in front of them as we go through the clauses. If members are in agreement, we will move directly to the clause-by-clause scrutiny.

Clause 1 (Functions of RBSO: support services)

39. **The Chairperson:** Clause 1 provides the Business Services Organisation with legal cover to provide support to the Department and the full range of its arm's-length bodies.

Question, That the Committee is content with the clause, put and agreed to.

Clause 2 (Other functions of RBSO)

40. **The Chairperson:** Clause 2 provides a power to allow the Business Services Organisation to administer health and social care functions on behalf of the Department.

Question, That the Committee is content with the clause, put and agreed to.

Clause 3 (Minor amendments)

41. **The Chairperson:** Clause 3 deals with minor amendments to the conditions of membership of the Health and Social Care Board, the Public Health Agency and the Business Services Organisation.

Question, That the Committee is content with the clause, put and agreed to.

Clause 4 (Meaning of "the 2009 Act")

42. **The Chairperson:** Clause 4 explains that any references in the Bill to "the 2009 Act" mean the Health and Social Care (Reform) Act (NI) 2009. Is the Committee content with clause 4?

43. **Mr Dunne:** Is that Northern Ireland?

44. **The Chairperson:** That is your very place.

45. **Mr Dunne:** That is good. I will agree with that.

Question, That the Committee is content with the clause, put and agreed to.

Clause 5 (Short title)

46. **The Chairperson:** Clause 5 is the short title of the Bill. Is the Committee content with clause 5?

47. **Mr Dunne:** What was that, Chair? I missed that.

48. **The Chairperson:** I take it that that is agreement.

Question, That the Committee is content with the clause, put and agreed to.

Schedule (Amendments consequential on the 2009 Act)

49. **The Chairperson:** The schedule contains amendments that should have been in schedule 6 to the reform Act.

Question, That the Committee is content with the schedule, put and agreed to.

Long title agreed to.

50. **The Chairperson:** I inform members that the Committee will consider the draft report on the Bill's Committee Stage at its next meeting.



Northern Ireland
Assembly

Appendix 3

Written Submissions

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Regulation and Quality Improvement Authority (RQIA)

NI Guardian Ad Litem Agency (NIGALA)

Northern Ireland Social Care Council (NISCC)

Northern Ireland Ambulance Service (NIAS)

Business Services Organisation (BSO)

Public Health Agency (PHA)

Health and Social Care Board

Regulation and Quality Improvement Authority

Thank you for your letter of 25 September regarding the above Bill.

I have reviewed the consultation document, and the Bill itself, and looked with particular interest at Clause 3.

The consultation document states that ‘the purpose of this clause is to reflect the correct title of the Regulation and Quality Improvement Authority in other extant legislation’.

Clause three states –

- (a) For ‘Northern Ireland Health and Personal Social Services Regulation and Improvement Authority’ substitute ‘Health and Social Care Regulation and Quality Improvement Authority’ and
- (b) For ‘Regulation and Improvement Authority (where it occurs other than in the phrase Northern Ireland Health and Personal Social Services Regulation and Improvement Authority) substitute ‘RQIA’

Might I suggest a simplified phraseology as follows –

‘For Northern Ireland Health and Personal Social Services Regulation and Improvement Authority’ substitute ‘**Regulation and Quality Improvement Authority (RQIA)**’

For all other references to Regulation and Improvement Authority substitute ‘**RQIA**’

I have no comment to make in respect of clauses 1, 2, 4 or 5.

I trust this is satisfactory.

NI Guardian Ad Litem Agency (NIGALA)

Re: Health and Social Care (Amendment) Bill

Thank you for inviting me to make a written submission on behalf of the Northern Ireland Guardian ad Litem Agency (NIGALA) regarding the Health Social Care (Amendment) Bill.

I note that Special health and social services agencies established under Article 3 of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990 (NI 3) were renamed special health and social care agencies; and are referred to in the Health and Social Care (Reform) Act (NI) 2009 as “special agencies”.

Under the meaning of the Act NIGALA is a health and social care body as it is a special agency and is currently availing of the support services that the Business Services Organisation (BSO) can provide.

I note the content of the Bill and it’s explanatory memorandum, as introduced to the Assembly on 16 September 2013, and the fact that the Bill seeks to make two main amendments to the Health and Social Care (Reform) Act (Northern Ireland) 2009. The first addresses the support services that the Business Services Organisation (BSO) can provide and the second deals with functions that can be delegated to the Business Services Organisation.

My submission is as follows;

Clause 1. Functions of RBSO: support services

NIGALA is in agreement with the content of this clause as drafted in order to ensure that BSO provide support services to: the Northern Ireland Social Care Council; the Northern Ireland Practice and Education Council for Nursing and Midwifery; and the Northern Ireland Fire and Rescue Service.

NIGALA is also in agreement with amendments to the legislation as drafted to include counter-fraud and probity services.

Clause 2. Other functions of RBSO

NIGALA is in agreement to the clause as drafted and seeks assurance that in circumstances wherein BSO is directed under this section to exercise any function that before giving any directions to a body under subsection (1) the Department must consult with BSO and any effected or relevant health and social care body.

Clause 3. Minor amendments

NIGALA has no comment to make on these draft provisions.

Clause 4. Meaning of “the 2009 Act”

NIGALA has no comment to make on these draft provisions.

Clause 5. Short title

NIGALA has no comment to make on these draft provisions.

Northern Ireland Social Care Council (NISCC)

Thank you for your recent correspondence in relation to the above. The response from this organisation to the consultation was solely on the issue of ensuring that NISCC was mentioned. This is to do with an issue around Corporation Tax.

As I understand it, Mr Peter Toogood has dealt with this and the NISCC would not have any further comment to add.

I trust this meets with your requirements. Should you wish to discuss further, please do not hesitate to contact me.

Northern Ireland Ambulance Service (NIAS)

Thank you for your letter dated 25 September 2013.

NIAS have no comment to make.

Business Services Organisation (BSO)

Thank you for your letter of 25 September 2013. I would advise the HSC Business Services Organisation (BSO) supports the Health and Social Care Amendment Bill, in particular Clause 1, paragraph 5 (b) which clarifies the nature of the counter-fraud and probity services provided by BSO.

In addition, it is to be welcomed that Clause 3, Minor Amendments should now enable the DHSSPS to prescribe conditions for the appointment of Chairpersons of Arm's Length Bodies which should deliver a consistent approach to all future appointments and reflect the public appointments process.

Public Health Agency

Further to your correspondence of 25 September 2013 regarding the above, I would wish to respond as follows:

The Public Health Agency notes that Paragraph 3 of the Reform Act gives the DHSSPS a regulation making power through which it can prescribe conditions that a person must satisfy or posts that a person must hold in order to be eligible for appointment. This currently applies to the appointment of Board Members of HSC organisations such as the PHA but not to the appointment of Chairpersons. The proposed amendment would rectify this and the PHA would consider this a reasonable and appropriate adjustment.

If you require any further information please do not hesitate to contact me.

Health and Social Care Board

Thank you for your letter of 25 September 2013. I would advise the Health and Social Care Board (HSCB) supports the Health and Social Care (Amendment) Bill, and would provide the following specific comments:

Clause 1 the clarification of the counter-fraud and probity services provided by BSO is helpful.

Clause 3 the HSCB welcomes the minor amendments to prescribe conditions for the appointment of Chairpersons of Arm's Length Bodies which should deliver a consistent approach to all future appointments and reflect the public appointments process.



Northern Ireland
Assembly

Appendix 4

Other information considered by the Committee



Northern Ireland
Assembly

Research and Information Service
Bill Paper

26th September 2013

Dr Janice Thompson

**The Health and Social Care
(Amendment) Bill**

NIAR 712-13

This paper examines the Health and Social Care (Amendment) Bill that was introduced to the Assembly by the Minister for Health, Social Services and Public Safety on 16th September 2013 and passed the second stage on 24th September 2013. The proposed amendments and the reasons behind them are considered.

Executive Summary

This paper examines the Health and Social Care (Amendment) Bill that was introduced to the Assembly by the Minister for Health, Social Services and Public Safety on 16th September 2013 and passed the second stage on 24th September 2013. The proposed amendments and the reasons behind them are considered.

The Health and Social Care (Amendment) Bill appears to be a straight-forward piece of legislation designed to put in place measures to correct certain oversights or gaps now identified in the Health and Social (Reform) Act (NI) 2009.

The Department for Health, Social Services and Public Safety's consultation on the proposals ran from 1 February until 29 March 2013 and received three replies, "*which were all in favour of the proposed amendments*".¹

The main intention of the Bill is to amend the Health and Social (Reform) Act (NI) 2009 (The Reform Act) to properly reflect the purpose for which the **Business Services Organisation** was established, which is, to provide support services for **all** Department of Health Social Services and Public Safety (DHSSPS) Arm's Length Bodies and to administer health and social care functions on behalf of the DHSSPS.

The Bill also proposes a number of other amendments to enable the DHSSPS to prescribe that the Chair of the Regional HSC Board, the Regional Public Health Agency and the Business Services Organisation must satisfy certain prescribed conditions.

The Schedule of the Bill includes amendments that, according to the Explanatory and Financial Memorandum, should have originally been included in Schedule 6 of the 2009 Reform Act.

The Explanatory and Financial Memorandum accompanying the Bill highlights that the DHSSPS believes:

- There are no financial implications as a result of its implementation of the Bill;
- That the provisions are compatible with the European Convention on Human Rights;
- That there are no Section 75 implications; and
- That it is not anticipated that the Bill will have any impact on the business or the voluntary and community sector.

1 Health and Social Care (Amendment) Bill, Explanatory and Financial Memorandum, DHSSPS, paragraph 7

1. Introduction

This paper examines the Health and Social Care (Amendment) Bill that was introduced in the Assembly by the Minister for Health, Social Services and Public Safety on 16th September 2013 and passed the second stage on 24th September 2013 with general support for the amendments proposed in the Bill.

The Health and Social Care (Reform) Act (NI) 2009 (the Reform Act) represented one of the most significant pieces of legislation affecting the Northern Ireland health service in recent decades. It delivered a major overhaul of the structures underpinning the health and social care system and contained the legislative provision for the reconfiguration or creation of a number of key organisations including:

- The creation of a smaller DHSSPS;
- An amalgamation of the four health boards into the Regional Health and Social Care Board;
- Creation of five Local Commissioning Groups;
- Creation of the Regional Public Health Agency;
- The amalgamation of four Health and Social Services Councils into the Patient and Client Council; and
- The creation of the **Regional Business Services Organisation (BSO)** to replace the Central Services Agency.
- The **BSO** was established under section 14 of the Reform Act and its role is to provide or secure a range of support services to the health and social care bodies defined at section 1(5) of the Reform Act.

At the time of the consultation on the draft Bill, the purposes of the proposed Health and Social Care (Amendment) Bill were as follows:²

- The Reform Act does not provide the DHSSPS with the power to direct the BSO to provide support services to the DHSSPS itself, nor to the NI Health and Social Care Council (NISCC), the NI Practice and Education Council for Nurses and Midwives (NIPEC) and the NI Fire and Rescue Service (NIFRS) (all Arm's Length Bodies ALBs) – the draft Bill proposes to amend the Reform Act to enable the BSO to provide support service to the DHSSPS and these ALBs;
- The Reform Act transferred the functions of the Central Services Agency to the BSO – the draft Bill proposes an amendment to the Reform Act to ensure that the BSO can administer any *similar* functions that the DHSSPS may confer on it in the future;
- The draft Bill proposes a technical amendment to reflect the correct title of the Regulation and Quality Improvement Authority (RQIA) in other existing legislation; and
- The draft Bill also proposes a technical amendment to provide greater clarity on the nature of the fraud prevention support service that is provided by the BSO.

During the consultation process on the draft Bill, the DHSSPS discovered that there was also a need for a number of amendments to the Reform Act to clarify that the Chairs of the HSC Board, the Public Health Agency and the BSO “*must satisfy prescribed conditions, or hold prescribed posts, in order to be eligible for appointment by the Department*”.³ Presently those conditions only apply to the appointment of the Members of those boards and not the Chairs. The necessary amendments are proposed in the Bill.

² The Health and Social Care (Amendment) Bill, Proposals for a Draft Bill, Consultation Document, February 2013, paragraphs 4-7

³ Health and Social Care (Amendment) Bill: DHSSPS Briefing, Committee for HSSPS, Official Report (Hansard), 15 May 2013

The DHSSPS believes that the only feasible option to provide the BSO with the necessary legislative cover to provide support services to both the Department and all the ALBs, and to exercise any new functions for the Department (in relation to the administration of health and social care) is to make an amendment to the Reform Act.⁴

4 Health and Social Care (Amendment) Bill, Explanatory and Financial Memorandum, paragraph 8

2. The Clauses and Schedule

2.1 Clause 1 – Functions of the BSO: support services

Clause 1 (1) to (4) will amend section 15 of the Reform Act and extends the support service authority of the BSO to the DHSSPS itself and to the additional three ALBs of the NI Health and Social Care Council (NISCC), the NI Practice and Education Council for Nurses and Midwives (NIPEC) and the NI Fire and Rescue Service (NIFRS). The Reform Act, as currently framed, does not enable the BSO to provide support services to the DHSSPS or to three of the ALBs as listed above. In a briefing to the Committee for HSSPS, the DHSSPS stated that it had been “unable to determine why these 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”.⁵

Clause 1 also amends section 15 to clarify the counter-fraud support service provided by the BSO. The Reform Act states that the BSO can provide ‘fraud prevention’ as one of its support services. The BSO had highlighted to the DHSSPS that the counter-fraud and probity services unit within the BSO also carries out investigation and probity services and had requested clarity from the DHSSPS on this matter. The DHSSPS thought it advisable for the sake of clarity to “take this opportunity to include fraud investigation and probity services” in the functions of the BSO.⁶

2.2 Clause 2 – Other functions of the BSO

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. However, it is apparent that section 26 did not allow for BSO to exercise any new functions relating to the administration of health and social care.⁷

Clause 2 will allow this to happen as it will provide the DHSSPS with a power similar to that provided for in section 8(1) of the Reform Act in relation to the HSC Board. The new power will enable the DHSSPS to direct the BSO to exercise any functions of the DHSSPS with respect to the administration of health and social care.⁸

In September 2008, the Committee for HSSPS took evidence from the CSA when it outlined its role at that time and indicated that its replacement by the BSO would “represent a natural progression with the new organisation providing a wider range of services”.⁹ It would therefore seem that it was expected that the BSO would do more than just replace the CSA and would be exercising new functions. The Reform Act at present does not allow for that.

5 Health and Social Care (Amendment) Bill: DHSSPS Briefing, Committee for HSSPS, Official Report (Hansard), 15 May 2013

6 Health and Social Care (Amendment) Bill: DHSSPS Briefing, Committee for HSSPS, Official Report (Hansard), 15 May 2013

7 Health and Social Care (Amendment) Bill: DHSSPS Briefing, Committee for HSSPS, Official Report (Hansard), 15 May 2013

8 The Health and Social Care (Amendment) Bill, Proposals for a Draft Bill, Consultation Document, February 2013, Commentary on Clauses.

9 Report on the Health and Social Care Reform Bill, NIA 21/07, 10/08/09, Committee for HSSPS, Executive Summary, paragraph 19, http://archive.niassembly.gov.uk/health/2007/mandate/reports/report10_08_09r.htm

2.3 Clause 3 – Minor Amendments

Clause 3 makes a number of minor amendments to correct anomalies in Schedules 1, 2 and 3¹⁰ of The Reform Act to enable the DHSSPS to prescribe that the *Chair* of the Regional HSC Board, Regional Public Health Agency and the Regional BSO must satisfy prescribed conditions or hold a post of a prescribed description.

Currently, The Reform Act provides the DHSSPS with the power to prescribe that members of the Regional HSC Board, *excluding the Chair*, must satisfy prescribed conditions or hold a post of a prescribed description. The Regional HSC Board (Membership) Regulations (NI) 2009 prescribe the conditions that would disqualify someone from appointment to the Board. Similar conditions are also included in the Regulations for the Public Health Agency and the BSO.¹¹

The disqualifications are in line with those for appointments to other ALBs of the DHSSPS and also to those that apply to persons applying for appointment to similar bodies in other parts of the UK.¹²

The fact that the Reform Act does not allow the DHSSPS to prescribe conditions in respect of the appointment of the Chair is not in line with the Department's public appointments policy and hence the need for the amendments. The DHSSPS officials advised the Committee for HSSPS in an evidence session on 12th June 2013 that,

*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 to further consultation on them.*¹³

In an evidence session on 15th May 2013 with the DHSSPS, the Committee for HSSPS requested further clarification on this particular issue. At a follow-up evidence session on 12th June 2013, the Committee were satisfied that the amendment would ensure consistency across the public appointments process for Chairs of the ALBs.¹⁴

In the second stage debate on 24th September 2013, Jim Wells MLA highlighted that since the Review of Public Administration (concerning the health and social care service) the role of Chair of an ALB had become an increasingly important one, so it is prudent that the appointment of all such Chairs falls within the Code of Practice for such Public Appointments.

2.4 The Schedule

The Schedule of the Bill is described as including amendments that should have originally been included in Schedule 6 to the Reform Act but were not included in Schedule 6 at that time.¹⁵

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| 10 | The constitutions of the Regional HSC Board, the Regional Agency for Public Health and Social Wellbeing, and the Regional Business Services Organisation |
| 11 | Health and Social Care (Amendment Bill): DHSSPS Briefing, Committee for HSSPS, Official Report (Hansard), 12 June 2013 |
| 12 | Health and Social Care (Amendment Bill): DHSSPS Briefing, Committee for HSSPS, Official Report (Hansard), 12 June 2013 |
| 13 | Health and Social Care (Amendment Bill): DHSSPS Briefing, Committee for HSSPS, Official Report (Hansard), 12 June 2013 |
| 14 | Health and Social Care (Amendment Bill): DHSSPS Briefing, Committee for HSSPS, Official Report (Hansard), 12 June 2013 |
| 15 | Health and Social Care (Amendment) Bill, Explanatory and Financial Memorandum, paragraph 8 |
-

The amendments listed in the Schedule refer to:

- The renaming of the 'NI Health Personal Social Services Regulation and Improvement Authority' to the 'Health and Social Care Regulation and Quality Improvement Authority' (RQIA), by section 1(2) of the 2009 Reform Act;
- The *Commissioner for Complaints (NI) Order 1996 (NI 7)* – in Schedule 2 the omission of the term the 'NI Health Personal Social Services Regulation and Improvement Authority' and replacing this with the new name – 'the Health and Social Care Regulation and Quality Improvement Authority'; and
- In the *Carers and Direct Payments Act (NI) 2006 (NI 6)* in section 8, subsection (2)(a) for '*personal social service*' substitute '*social care service*'. Also the insertion of a new subsection (8) giving a definition of '*social care service*'.

3. Other Issues

3.1 Financial Effects

It is not anticipated by the DHSSPS that there will be any need for additional financial resources to implement the Bill, and that any resources will be met from within existing budgets.¹⁶

3.2 Equality and Human Rights Issues

As the Bill is amending the 2009 Reform Act, it is the DHSSPS view that the amendments were, in practice, subject to the Equality Impact Assessment as part of the original policy consultation in 2008 and that *“they are believed to be compatible with the Convention on Human Rights, and with statutory obligations, including equality and overarching Government policy. It is not considered that the proposals will have any adverse impact on any of the Section 75 groups”*.¹⁷

3.3 Regulatory Impact Assessment

The DHSSPS highlight that the main purpose of the Bill is to clarify the original policy position in relation to the services and functions of the BSO, as specified in the 2009 Reform Act, *“It is not anticipated that the amendments will have any impact on the business or voluntary and community sector”*.¹⁸

16 The Health and Social Care (Amendment) Bill, Proposals for a Draft Bill, Consultation Document, February 2013, paragraph 13

17 The Health and Social Care (Amendment) Bill, Proposals for a Draft Bill, Consultation Document, February 2013, paragraph 14

18 The Health and Social Care (Amendment) Bill, Proposals for a Draft Bill, Consultation Document, February 2013, paragraph 15

Departmental Briefing Paper - Health and Social Care (Amendment) Bill

FROM THE MINISTER FOR HEALTH,
SOCIAL SERVICES AND PUBLIC SAFETY
Edwin Poots MLA



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Our Ref: AGY/675/2013

Date: 8 October 2013

Dear Ms McLaughlin

HEALTH AND SOCIAL CARE (AMENDMENT) BILL

Following the successful completion of the Health and Social Care (Amendment) Bill's second stage on 24 September 2013, I understand that officials have been invited to give evidence to the Committee about the Bill on 16 October 2013.

I attach for your information a briefing paper which provides an explanation of what each clause in the Bill proposes to do.

The names of the officials who will attend the evidence session are: Peter Toogood (Director of Finance), Craig Allen (Legislation Unit) and Maura O'Brien (Legislation Unit).

I trust this material will be helpful to the Committee in carrying out its scrutiny of the Bill.

Edwin Poots MLA
Minister for Health Social Services and Public Safety

THE HEALTH AND SOCIAL CARE (AMENDMENT) BILL

Background

1. The purpose of the Health and Social Care (Reform) Act (NI) 2009 ("the Reform Act") was to provide the legislative framework within which the current health and social care system operates. It sets out the high level functions of the various health and social care bodies and provides the necessary governance and accountability arrangements which support the effective delivery of health and social care in Northern Ireland.

Proposed amendments in the Health and Social Care (Amendment) Bill

Clause 1: Functions of RBSO: support services

2. The Regional Business Services Organisation (BSO) was established under section 14 of the Reform Act and its role is to provide or secure the provision of a range of support services to the health and social care bodies listed at Section 1 (5) of the Reform Act.
3. As currently framed, Section 15 of the Reform Act does not provide the Department with the power to direct the BSO to provide support services to (a) the Department or (b) the following departmental arm's length bodies: Northern Ireland Health and Social Care Council (NISCC), Northern Ireland Practice and Education Council for Nursing and Midwifery (NIPEC), Northern Ireland Fire and Rescue Service Board (NIFRS).
4. Clause 1 of the Health and Social Care (Amendment) Bill seeks to insert a provision at Section 15 of the Reform Act which will give the BSO the legal cover to provide support services to the Department and to the full range of the Department's Arm's Length Bodies.

5. Clause 1 of the Health and Social Care (Amendment) Bill also seeks to amend paragraph 15(2) (i) of the Reform Act which provides that BSO may provide "fraud prevention" as one of its support services.
6. The range of activities carried out by the Counter Fraud and Probity Services Unit in the BSO include fraud investigation, fraud prevention and probity services. A question arose as to whether fraud investigation and probity services fall within the definition of "fraud prevention". Whilst it was felt that it does, the Department is taking the opportunity to amend paragraph 15(2) (i) by adding the words "*fraud investigation*" and "*probity services*" after "*fraud prevention*" in order to provide greater clarity to this definition.

Clause 2: Other Functions of RBSO

7. Section 26 of the Reform Act contains a provision which enables the BSO to exercise the functions which the Central Services Agency (CSA) had exercised on behalf of the Department, Health and Social Services Boards and Health and Social Services trusts immediately before its dissolution. However, the BSO cannot exercise any new functions relating to the administration of health and social care.
8. Clause 2 of the Health and Social Care (Amendment) Bill includes an amendment to be inserted after Section 15 of the Reform Act which will enable the Department to direct the BSO to exercise any new functions of the Department with respect to the administration of health and social care as the Department may direct.

Clause 3: Minor amendments

9. Clause 3 of the Health and Social Care (Amendment) Bill seeks to amend sub-paragraph 3 (3) of Schedules 1, 2 and 3 to the Reform Act which deal with the membership of the Regional Board, Public Health Agency and Business Services Organisation.

10. Sub-paragraph 3 (3) to each of the Schedules 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*".
11. As currently drafted, the Reform Act provides the Department with the power to make subordinate legislation to prescribe conditions for persons appointed by the Department as *members* of the organisations but this does not include the *Chairs*.
12. Clause 3 will amend sub-paragraph 3 (3) of Schedules 1, 2 and 3 to the Reform Act which will provide the Department with a power to make subordinate legislation to prescribe conditions for appointment for the Chair of the Regional Board, Public Health Agency and the Business Services Organisation in similar terms as for the members of these organisations.
13. This amendment will ensure consistency with the powers that the Department currently has in relation to the appointment of members of these organisations.

Clause 4: *Meaning of "the 2009 Act"*

14. This clause explains that any references in the Bill to "the 2009 Act" means the Health and Social Care (Reform) Act (Northern Ireland) 2009.

Clause 5: *Short title*

15. This clause states that the Act may be cited as the Health and Social Care (Amendment) Act (Northern Ireland) 2013.

Schedule

16. The Schedule to the Health and Social Care (Amendment) Bill includes amendments that should have originally been made by Schedule 6 to the Reform Act.

Amendment to reflect the correct title of the Regulation and Quality Improvement Authority

17. Schedule 6 to the Reform Act makes amends references to certain bodies in other existing pieces of legislation (e.g. Health and Social Services trusts were changed to Health and Social Care trusts).
18. One change that was overlooked in this process was the name of the Health and Social Care Regulation and Quality Improvement Authority which is still referred to as the "*Northern Ireland Health and Personal Social Services Regulation and Improvement Authority*". Similarly, other references to "*Regulation and Improvement Authority*" need to be changed to "*Regulation and Quality Improvement Authority*".
19. The amendments proposed at paragraphs 1 and 2 to the Health and Social Care (Amendment) Bill seek to address this matter by including the correct title of the organisation in other existing legislation.

Amendment to the references to "personal social service" in the Carers and Direct Payments Act (Northern Ireland) 2002 to "social care service"

20. Schedule 6 to the Reform Act amends references to "personal social services/social services" to "social care services". However, it does not amend references such as that in section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002 to "a particular personal social service." (i.e. references to the singular form).

21. Paragraph 3 to the Health and Social Care (Amendment) Bill aims to address this issue by making the necessary amendment to the Carers and Direct Payments Act (Northern Ireland) 2002.



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