



Northern Ireland  
Assembly

**Committee for Health**

# Report on the Adult Protection Bill

Ordered by the Committee for Health to be published 26 March 2026.

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Report: NIA 127/22-27 Committee for Health

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## Powers and Membership

The Committee for Health is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement 1998 and under Assembly Standing Order 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department for Health and has a role in the initiation of legislation.

The Committee has power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- consider delegated legislation and take the Committee Stage of primary legislation;
- call for persons and papers;
- initiate inquiries and make reports; and
- consider and advise on matters brought to the Committee by the Minister of Health.

The Committee has nine members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows:

Phillip McGuigan MLA, Chairperson

Danny Donnelly MLA, Deputy Chairperson

Alan Chambers MLA

Linda Dillon MLA

Diane Dodds MLA

Órlaithí Flynn MLA

Nuala McAllister MLA

Colin McGrath MLA

Alan Robinson MLA

## List of Abbreviations and Acronyms used in this Report

Abbreviation/ Acronym	Explanation
ALBs	Arms-length bodies
APBNI	Adult Protection Board for Northern Ireland
ARCNI	Association for Real Change Northern Ireland
BASW	British Association of Social Workers
BHSCT	Belfast Health & Social Care Trust
BMA	British Medical Association
CCTV	Closed Circuit Television
COPNI	Commissioner For Older People, Northern Ireland
DoH	Department of Health
DoJ	Department of Justice
DUP	Democratic Unionist Party
ECHR	European Convention on Human Rights
EFM	Explanatory & Financial Memorandum
ETI	Education & Training Inspectorate

<b>Abbreviation/ Acronym</b>	<b>Explanation</b>
FINI	Families Involved NI
GDPR	General Data Protection Regulation
HSC	Health & Social Care
IAPBNI	Interim Adult Protection Board for Northern Ireland
MCA	Mental Capacity Act (Northern Ireland) 2016
NHSCT	Northern Health & Social Care Trust
NIHRC	Northern Ireland Human Rights Commission
NIPS	Northern Ireland Prison Service
NMC	Nursing & Midwifery Council
OLC	Office of the Legislative Counsel
PBNI	Probational Board for Northern Ireland
PCC	Patient & Client Council
PSNI	Police Service of Northern Ireland
QUB	Queen's University Belfast
RaISe	Research and Information Service
RASNN	Regional Adult Safeguarding Nurse Network

<b>Abbreviation/ Acronym</b>	<b>Explanation</b>
RCGPNI	Royal College of General Practitioners, Northern Ireland
RCN NI	Royal College of Nursing, Northern Ireland
RQIA	Regulation and Quality Improvement Authority
SBNI	Safeguarding Board for Northern Ireland
SCRs	Serious Case Reviews
SHSCT	Southern Health & Social Care Trust
SPPG	Strategic Planning and Performance Group
WHSCT	Western Health & Social Care Trust
2003 Order	The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003

## Executive Summary

1. This report sets out the Committee for Health's consideration of the Adult Protection Bill.
2. The Adult Protection Bill was introduced in the Northern Ireland Assembly on 17 June 2025 by the Minister of Health, Mike Nesbitt MLA, and was referred to the Committee for Health for consideration on completion of the Second Stage of the Bill on 30 June 2025.
3. The purpose of the Bill, which contains 51 clauses, is to make provision for the purposes of protecting adults from harm, and for connected purposes.
4. The Committee received 29 written submissions to its call for evidence on the Bill. The Committee considered the Bill at 25 meetings.
5. As part of its consideration of the Bill through Committee stage, the Committee took oral evidence from relevant stakeholders and the Department of Health at 12 meetings. Overall, the Committee heard from 19 stakeholder groups, in some cases bringing multiple groups on a panel together to give oral evidence.
6. Following consideration of the written and oral evidence, the Committee agreed a number of amendments to the Bill. The Committee agreed a number of its own amendments and to support the amendments brought forward by the Department.
7. The Committee also agreed to highlight that it reserves the right to bring forward further amendments and recommendations after it receives legal advice and following the publication of the Muckamore Abbey Hospital Inquiry Report. Members also highlighted that they reserve the right to bring forward further amendments as an individual MLA.
8. At its meeting of 24 March 2026, the Committee undertook its formal clause-by-clause consideration of the Adult Protection Bill and agreed them as outlined in the section 'Clause by Clause Scrutiny of the Bill'.
9. At its meeting of 26 March 2026, the Committee considered the final version of this report and ordered it to be published.

10. The Committee would like to thank all of those who submitted written evidence and to those organisations who provided oral evidence to the Committee. The Committee would also like to thank the Departmental officials for responding to issues raised by the Committee, the Assembly Bill Clerk for providing advice and drafting of committee amendments, the Assembly's RaISe team for the comprehensive research papers on the Bill and the Assembly's Legal Services for the advice they provided to the Committee.

## **Key Areas of Consideration**

### **Muckamore Abbey Hospital Inquiry**

11. The Committee came to the view that the Consideration Stage of the Bill should be delayed by the Minister until the release of the Muckamore Abbey Hospital Inquiry Report. The Committee outlined this was important as it would allow consideration of any recommendations in the Inquiry Report and that amendments may be introduced where legislative change is required. Furthermore, the Committee initially believed that it would have sight of the Inquiry Report before finalising its report and recommendations from the Committee Stage of the Adult Protection Bill.
12. The Committee Chair wrote to the Minister to request that the Consideration Stage of the Bill be delayed until after the publication of the Inquiry Report. The Minister responded to advise that he is content to delay consideration stage of the Bill until September 2026 to allow time to consider the recommendations. The Committee thanks the Minister for agreeing to delay Consideration Stage.
13. Following publication of the Inquiry Report, the Committee may bring forward further amendments or make further recommendations in relation to the Adult Protection Bill.

## Duty to Report

14. One of the key areas the Committee took evidence on was in relation the duty to report. Clause 4 of the Bill places a statutory duty to report to the relevant HSC trust in any cases where they believe there is a reasonable cause to suspect that an adult meets the criteria of 'an adult at risk'.
15. Both the BMA and RCGP outlined their concerns in relation to the requirement for health professionals to report 'an adult at risk' and the conflict with the clinical duties of confidentiality. The Committee also took evidence from the GMC who advised that there is scope for health and care professionals to exercise their professional judgement in deciding whether to refer 'an adult at risk'.
16. The Committee sought assurances from the Department on this matter, who confirmed that Clause 4 asks medical professionals to make a judgement of whether an adult is at risk of harm and that action needs to be taken. The Department advised that it had been liaising with the BMA, RCGP and GMC on this issue. The Committee sought confirmation from the GMC that it was still content with the clause.
17. The GMC responded to the Committee outlining that it was content that clause 4 was drafted in such a way that would allow professional discretion when making referrals, and that in some circumstances it may be justifiable to not refer an individual. The GMC advised that, following discussions with the Department, further detail to support decision making under the proposed legislation will be clearly set out in the statutory guidance.
18. The Committee recommends continued engagement by the Department with BMA, RCGP and GMC on this issue.
19. The Committee also recommend that the accompanying statutory guidance provides a clear framework for making reports and provides worked examples of when to report.

## Independent Advocates

20. Following consideration of the evidence provided, the Committee had concerns in relation to independent advocates and when they would be used in the process. The Committee raised concerns in relation to the Mental Capacity Act 2016 and the phased approach taken with that Act, which saw detention powers introduced, but independent advocates were not introduced.
21. The Committee agreed an amendment that would provide that Clauses 5-8 could not be introduced until Clause 26 (Independent Advocates) was introduced. This amendment ensures that the Department cannot introduce the powers in Clauses 5-8 without independent advocates being offered to the 'adult at risk'.
22. The Committee also had concerns in relation to the how an independent advocate would be allocated. At the request of the Committee, the Department brought forward a number of amendments that would ensure that at every stage 'an adult at risk' is offered an independent advocate.

## Statutory Guidance

23. While the Bill sets out the legislative framework for protecting 'adults at risk', much of the operational processes and procedures will be set out in statutory guidance. The Bill outlined in Clause 22 that *'the Department must review the guidance from time to time and may, following such a review, revise it'*.
24. The Committee expressed concern to the Department that the Clause provided no clear timeframes for reviewing the guidance and that it was key that guidance was reviewed regularly to take into account changes in legislation and practice. The Department brought forward an amendment that provides that guidance must be reviewed at least every 4 years.
25. As the Committee has highlighted, the statutory guidance is the key document in relation to the practical outworkings of this legislation and recommends that the guidance is comprehensive and includes:

- Clear and concise definitions of key terms in the legislation;
  - Clear processes, procedures and criteria when using the powers contained in this legislation;
  - Clear enforcement pathways;
  - How it interacts with other legislation and policies, such as the Mental Capacity Act 2016, domestic violence frameworks and the Right Care, Right Person policy; and
  - Worked examples within the guidance.
26. The Committee also agreed an amendment to the Bill that would add the Adult Protection Board to the list of those organisations who must be consulted in relation to the guidance. The Committee should also be consulted on the statutory guidance.

### **The Adult Protection Board**

27. The majority of those who gave evidence to the Committee outlined the importance of the Adult Protection Board (APBNI) being independent and specifically the need for the Chair to be independent.
28. The Committee agreed an amendment that would provide that the Chair could not be an employee of those organisations listed at Clause 30(3)(a-e). The Department provided assurances that the appointment of the Chair would be through the public appointments process.
29. The Committee outlined the importance of providing the rationale for appointments by statutory bodies to the Board and that the appointments of lay members to the Board are undertaken in a transparent manner.
30. The Committee for Health will also schedule regular briefings from APBNI on its functions following the publishing of each annual report.

31. The Committee re-iterates the importance of ensuring the APBNI is independent and some Members outlined their concerns in relation to Clause 33 (Directions to the Board), which allows the Department of Health to make a direction to the APBNI. The Committee agreed to seek legal advice on the implications of removing this clause from the Bill. The Committee has therefore not taken a position on Clause 33 at present and reserves the right to bring forward amendments or agree that Clause 33 not stand part of the Bill.

### **Investigations into Trusts**

32. During Committee deliberations on the Bill, Members raised the Muckamore Abbey Hospital Inquiry and issues in relation to Health & Social Care (HSC) trusts investigating incidents involving care in trust settings. The Committee is concerned that this could result in a perception of the process not being truly independent.
33. The Committee highlighted the importance for there to be independence throughout all processes in this Bill to provide confidence in the processes and procedures and that families can be assured there will be no cover-up of ill-treatment and wilful neglect. The Committee noted that it will be for the statutory guidance to outline the processes and procedures for how any inquiries take place.
34. The Committee is clear that there is a need to ensure full transparency in the investigative process and that many issues within trusts are due to there being insufficient independence in the investigative process and trusts investigating their own complaints.
35. The Committee is concerned about trusts investigating their own complaints and outlines the need for independent investigations. The Department advised that further legislation would be required to allow independent investigations into complaints against trusts.
36. The Committee has sought legal advice in relation to this issue and how the Committee can ensure there is independence in any enquiries and

investigations that are undertaken under this legislation. The Committee reserves the right to bring forward further amendments and recommendations following the consideration of that legal advice.

## **CCTV**

37. Clauses 43-47 provide the Department with the ability to bring forward regulations regarding the introduction of closed-circuit television (CCTV) systems in certain establishments where adults are present. The Committee received considerable evidence with a range of views on the introduction of CCTV into adult care settings.
38. The Department made clear in its evidence that the policy intention was not for mandated use of CCTV, and indeed that legal advice was that any such mandate would not be within the legislative competence of the Assembly as it would not be compatible with European Convention on Human Rights (ECHR) Article 8.
39. This is only a regulation making power as the Department has not consulted on the use of CCTV. There was discussion in Committee in relation to introducing CCTV through regulations or a stand-alone primary legislation.
40. The Department advised that it intends to fully consult on proposals before introducing the draft regulations to the Committee and then for approval by the Assembly. The Committee outlined the importance of that consultation and that there will need to be an extended period for the Committee to consider the draft regulations, take evidence and, if necessary, make recommendations.
41. The Committee considered and agreed an amendment to enhance the level of Assembly control in respect of any draft regulations laid under Clause 44. The amendment sets out specified organisations with whom the Department must consult including the Committee.
42. The Committee highlighted the important role CCTV played in the Muckamore Abbey Hospital Inquiry and noted that the Report may make some recommendations in relation to the use of CCTV and therefore welcomes the

Minister confirming he will delay Consideration Stage of the Bill until September to allow time to consider the recommendations.

43. The Committee took the decision to not take a position on Clauses 44-47 until after the publication of the Inquiry Report.

### **Funding and Implementation**

44. The Department outlined in its evidence that the business case for implementing the Bill was approved on the condition that it would not be enacted until such a time as funds were available. The EFM advises that the total cost of the business case is £120.8m over 10 years, with the cost of £12m in the first year.
45. The Committee heard many times the concerns of those who gave evidence that the Bill would be phased in, with multiple stakeholders noting that the Mental Capacity Act 2016 remains only partially implemented. However, many commented that it is better to have some of the provisions brought into place rather than nothing.
46. The Committee wants to ensure that alongside the powers to undertake visits, have interviews, undertake medical assessments and examine records, that the provisions to offer independent advocates comes into place at the same time, providing a level of protection to 'adults at risk'.
47. The Committee appreciates the difficult financial position of the Department. However, the Committee does see this legislation providing protection for vulnerable adults and wants to see this legislation enacted as soon as possible. The Department should, at the earliest stage, bring forward a detailed implementation plan outlining the timeframes for the phasing of the Act and the associated costs.

## Introduction

48. Following the high-profile adult safeguarding failures in Dunmurry Manor Care Home, the Commissioner for Older People in Northern Ireland (COPNI) produced the *Home Truths* report in January 2020.
49. A further independent review to examine the health and social care system's response to care failings was carried out by CPEA (Independent Social Services Consultancy).
50. Both of these reviews recommended legislation to place adult safeguarding on a statutory footing in Northern Ireland and served as the catalysts for reform of the legislation, as well as parallel reports on safeguarding failures at Muckamore Abbey Hospital which resulted in the establishment of a Public Inquiry.
51. Existing frameworks, such as the Department's *Adult Safeguarding: Prevention and Protection in Partnership* launched in July 2015, set out policy but have not had a basis in legislation.
52. In September 2020, the then Health Minister Robin Swann announced his intention to consult on legislative options to inform an Adult Protection Bill. The consultation took place between December 2020 and April 2021.
53. Following analysis of the 89 consultation responses (and 19 engagement sessions) by the Department, strong general support for change in legislation was identified and an Executive paper was developed recommending policy proposals for inclusion in the draft Bill.
54. The policy development was informed by ongoing engagement with families affected by safeguarding failures at Muckamore and Dunmurry Manor, and by the Department of Health's Adult Safeguarding Unit with colleagues in England, Scotland and Wales.
55. The draft Adult Protection Bill was approved by the Executive at its meeting on Thursday 5 June 2025 and introduced to the Assembly on 17 June 2025.
56. The Attorney General confirmed the Bill's legislative competence at this time.

57. The Department of Finance approved the business case for the Bill, on the basis that the legislation would not be commenced until the funding to do so was available. First year costs were estimated at £12 million, and £120.8 million over the first ten years of implementation.
58. Officials from the Department gave oral evidence to the Health Committee at its meeting of 19 June 2025. Officials noted that some powers could be commenced earlier than others, but that the nature of the Bill meant that parts could be introduced independently of other parts.
59. A motion was tabled in early July 2025 to extend the Committee stage until 27 March 2026, and this was carried in plenary on 9 September 2025.
60. In his speech at Second Stage, Minister Nesbitt set out the key policy objectives:
  - To place adult protection on a statutory footing in Northern Ireland;
  - To align Northern Ireland with existing legislation in England, Scotland and Wales, as well as work ongoing in the Republic of Ireland; and
  - To introduce additional powers and responsibilities to support the health and social care system in the protection of adults at risk of harm.
61. The seven key principles of the Bill are set out in the Explanatory and Financial Memorandum (EFM): prevention, autonomy, empowerment, dignity, proportionality, partnership and accountability.

## Consideration of Evidence

62. This section outlines the Committee's consideration of the oral and written evidence it received on the Bill. As outlined in the introduction, the Committee received a significant volume of written evidence as part of its consultation, with 27 organisations and 3 individuals making submissions.
63. Further to this, oral evidence sessions were scheduled, in some cases with multiple stakeholder groups invited to provide evidence together in the interests of time. The Committee received 14 oral evidence sessions.

### **Part 1 – Protection of Adults at Risk of Harm**

#### **Clause 1 - Principles for performing functions under this Part**

64. Clause 1 sets out the principles that HSC trusts and social workers must have regard to when exercising their functions under Part 1 of the Bill. The specific principles are not named on the face of the Bill but are set out in the accompanying EFM as follows: prevention, autonomy, empowerment, dignity, proportionality, partnership and accountability.
65. Stakeholders were largely supportive of the principles in written and oral evidence.
66. The Northern Ireland Human Rights Commission (NIHRC) noted that they aligned with human rights obligations, especially Article 8 of the ECHR. However, NIHRC recommended that the Bill text went further and explicitly reference ECHR obligations.
67. The Royal College of Nursing (RCN), General Medical Council (GMC) and Nursing and Midwifery Council (NMC) noted support for the principles and the values which come with them but emphasised that clear statutory guidance and extensive workforce training will be essential to allow staff to apply them in day-to-day practice.

68. The term “*have regard to*” in the Bill text in reference to the principles was highlighted as a concern, with the COPNI asserting that this may be too weak and recommending a more binding form of words.
69. In oral evidence, Action for Muckamore (AFM) made clear that the Bill’s principles would not alone address the cultural change needed, noting that safeguarding failures at Muckamore were in large part due to rules and guidance not being followed and principles being ignored.
70. In their written responses and oral evidence to the Committee, Departmental officials confirmed that the Bill as drafted had been deemed to be fully compliant with human rights legislation and that Bills generally do not require an explicit reference to the ECHR, given that legislative competence is approved on the basis that they are ECHR-compliant.
71. The Department shared that the Office of Legislative Council (OLC) had advised in relation to the usage of “*have regard to*”. This term has established legal precedence and understanding, and mirrors what is in the equivalent legislation in Scotland. Any change to this phrase may have unintended consequences by reducing the flexibility it provides.
72. The Department also confirmed that the principles will be used to form the basis of statutory guidance and procedures, training, and oversight arrangement, especially via the Adult Protection Board for Northern Ireland (APBNI).
73. The Committee discussed the wording of “*have regard to*” with the Assembly Bill Office, including whether any alternatives such as “*due regard*” may strengthen this Clause. In its response of 25 February 2026, the Department set out that this wording arrived following discussions with OLC and with the intention to mirror the wording of the equivalent legislation in Scotland, the Adult Support and Protection (Scotland) Act 2007. The legal meaning of “*have regard to*” is that social workers must be guided by the principles in their actions, decisions and interactions with adults at risk and their families. Further advice from the Bill Clerk was that “*due regard*” could potentially have the unintended consequence of reduced flexibility.

74. The Committee also agreed that statutory guidance and training will be key in implementing the principles-based approach and that a consistent approach across trusts will be of high importance.
75. In informal deliberations on 19 March 2026, the Committee Chairperson noted that he was in favour of the NIHRC proposal to specifically reference ECHR rights on the face of the Bill and proposed a Committee amendment to do so. Alliance Members expressed that they would be broadly in favour of this and DUP members put on the record that they would reserve a position on this issue while awaiting legal advice to come at a later date. The Bill Clerk was asked to prepare an amendment to Clause 1 for consideration at the meeting of 24 March 2026 which will specifically reference consideration of ECHR rights.
76. Prior to formal clause by clause consideration of the Bill on 24 March 2026, the Bill Clerk provided further legal advice to the Committee that the amendment as worded could potentially be viewed to bring the Bill outside of the Assembly's legislative competence. The Committee agreed that in view of this further legal assessment, they were content not to take this amendment forward.

## **Clause 2 – Adult at Risk**

77. Clause 2 defines an adult at risk under the Adult Protection Bill as an adult who is unable to protect their own well-being or property; who is being harmed or is likely be to be harmed by another person's conduct; and whose personal circumstances increase their exposure to harm. Harm is noted to include physical, psychological, and financial harm, but self-harm and self-neglect are not intended to be within the scope of this definition.

### *Capacity issue*

78. This Clause received substantial comment from stakeholders. On 4 December 2026, the Committee took evidence from stakeholders from the Royal College of General Practitioners (RCGP) and the British Medical Association (BMA) who were of the view that adults with the capacity to make their own decisions should not be included within the scope of the Bill.

79. They put forward a suggestion to amend the Bill to only define adults at risk as those “*who lack capacity under the Mental Capacity Act 2016*” and that if this amendment was not made, they would not be in agreement with the Bill as drafted.
80. Further to this, on 15 January 2026, the General Medical Council (GMC) gave evidence to Committee and submitted a supplementary paper indicating their view that the situation was more nuanced and that the ultimate decision would be for health professionals to exercise their own professional judgement, balancing a number of factors including the duty to report at Clause 4 of the Bill, the existing duty of confidentiality, relevant ECHR rights including Article 8, data protection, and GMC professional standards and guidance.
81. A suggested approach was set out by the GMC, making clear that in a scenario where an adult was deemed at risk but had capacity and did not consent to a referral being made, there could be cases where not referring can be justified, but that ultimately an assessment should be made as to whether the risk of harm that may follow making a referral outweighs the risk of harm that may follow not making the referral. In such scenarios, they would advise their registrants seek advice from senior colleagues and clearly document decision-making. GMC argued that this approach is consistent with relevant guidance issued in relation to the equivalent adult safeguarding legislation in Scotland and Wales.
82. Evidence from NMC at the same meeting was that if the legislation is to apply in a multitude of circumstances and contexts to do with care, it should be as broad as possible to allow for individual context-building and professional decision-making, for example in situations where someone’s capacity fluctuates. A very strict definition of an adult at risk could result in a narrow interpretation.
83. The Committee agreed to seek urgent further advice from the Department in relation to this clause, especially on the feedback from GP stakeholders and self-harm not being included within the Bill. A response from the Minister was received on 15 January 2026.
84. In this response, the Department set out its view that including only adults who lack capacity would undermine the purpose and policy intention of the Bill and

narrow its scope to the point of making certain parts unworkable – for example, the APBNI would only be able to deal with issues involving adults who do not have capacity.

85. The Department’s policy position is that all adults at risk, whether they have capacity or not should be included within the scope of the Bill and the new protections it offers, and that this is supported by the Department’s legal advice from the OLC.
86. The Department contended that concerns around confidentiality could be managed as there are already exceptions to confidentiality when “required by law” and any disclosure of medical records under the Adult Protection Bill would fall under these exceptions. A commitment was given to continue to engage with RCGP and BMA on these issues as the Bill progressed.

*Definitions and exclusion of self-harm and self-neglect*

87. Other stakeholders such as COPNI, RCN, PSNI (Police Service of Northern Ireland) and HSC trusts highlighted that clearer definitions of “*harm*” and “*serious harm*” were necessary, as well as that a reference to “*socio-economic factors*” may be too broad.
88. Charity stakeholders and families from Action for Muckamore, in contrast, wish to see a broader definition of “*harm*”. Hourglass proposed an amendment to Clause 2(3) which would expand the definition to explicitly include coercion, exploitation and self-harm.
89. Regarding the issue of self-harm and self-neglect not being included within the scope of the Bill, the Department response was that the Bill is intended to address harm cause by others and that these types of harm would be dealt with within existing trust pathways. Furthermore, a broad definition of harm will help to cover emerging new forms, but will be elaborated upon in statutory guidance, as will “*socio-economic factors*”.
90. The Committee also considered the Department’s response to the ECHR Convention Rights Memorandum dated 17 February 2026, in which the Department outlined the view that Clause 2 was unlikely to engage with Article

3 of ECHR given that self-directed harm and neglect are not included within its scope.

91. The Committee agreed that the definitions in statutory guidance should be clear and accompanied by detailed examples.
92. The Committee agreed that they would like to see the issue of addiction addressed in guidance, as this could be considered a form of self-harm and self-neglect but could also result in the adult being at risk.

### **Clause 3 – Duty to make inquiries**

93. Clause 3 places the statutory duty on trusts to make inquiries where there is “*reasonable cause to suspect*” that an adult is at risk and intervention could be required.
94. Stakeholders broadly welcomed this duty, while seeking clarity on what thresholds will be for a “*reasonable cause to suspect*”.
95. Some charity and voluntary sector stakeholders suggested that the duty could go further – while acknowledging the risk that expanding to further agencies and professions could lead to overly cautious reporting, their view is that a universal duty would ultimately reduce and prevent abuse.
96. COPNI and the Belfast Health and Social Care Trust (BHSCCT) flagged the wording of “*have regard to*” in relation to the provision of an independent advocate as unclear, and several stakeholders recommended that the right to an independent advocate should be automatic.
97. The Southern HSC Trust (SHSCT) proposed an amendment to extend the duty to cover both the inquiry **and** any subsequent investigation.
98. In its evidence, the Department advised that “*reasonable cause to suspect*” is intentionally worded in order to be used as a low threshold to encourage reporting at early stages. Detailed criteria and thresholds are intended to be set out in statutory guidance rather than on the face of the Bill.

99. In a response of 17 February 2026, regarding the Convention Rights Memorandum, the Department were clear that the duty is a proportionate means of achieving protection for the individual in line with Article 8 of ECHR and that all trusts must carry out their functions in a manner compatible with ECHR.
100. The Department were also of the view in a written response of 3 March 2026 that any amendment to add a duty to cooperate in any subsequent investigation as proposed by SHSCT would not fundamentally change what this Clause does as a formal distinction is not made between inquiries and investigations in this regard. The policy intent is that Clause 3 refers to the investigation as a whole.
101. The Committee was content with these responses but outlined that clear guidance and criteria will be essential.
102. On 13 March 2026, in response to Committee concerns around strengthening the provision of independent advocates, the Department provided a number of amendments intended to resolve this. As part of these amendments, the Department proposed to amend Clause 3 to leave out Clause 3(2). This amendment should be considered in conjunction with later amendments at Clauses 18 and 26. At informal clause by clause deliberations on 19 March 2026, the Committee agreed that it was content with this amendment.
103. On 19 March 2026, the Committee also put on record its concerns that while resourcing concerns across trusts are fully understood, it is not entirely satisfactory to have a trust social worker making initial inquiries when a report is made about a facility that is run by that same trust (as could have been the case at Muckamore). The Committee agreed to recommend that the Department clearly address this issue in guidance.

#### **Clause 4 – The duty to report and co-operate in inquiries**

104. Clause 4 creates the statutory duty on named professions and bodies to make a report where there is suspicion of an adult being at risk, and to cooperate with

subsequent inquiries by the trust. This Clause generated significant response from stakeholders.

### *Capacity issue*

105. In evidence to the Committee on 4 December 2025, GP stakeholders from the BMA and RCGP expressed concerns related to the concerns raised around Clause 2: namely that a medical professional could be obligated under Clause 4 to make a report about an adult at risk who has capacity and does not consent to the report being made.
106. Their view is that this conflicts with long-established medical ethics and that it could result in a loss of trust from patients who are reluctant to disclose sensitive information as they do not want a report to be made.
107. In contrast, in evidence on 15 January 2026, the GMC set out their belief that there is scope for professional judgement under Clause 4 and that the duty does not automatically override confidentiality in all cases. Under current laws and GMC guidance, doctors must already share confidential information in situations in which others are at risk; crime may be involved; they suspect coercion or undue influence from others; and/or that sharing the information may be necessary to prevent serious harm or protect life.
108. The GMC's preference is for clear and robust statutory guidance which will allow for the flexibility and professional judgement necessary.
109. The NMC were aligned with this position and noted their initial concerns similar to the BMA and RCGP had been eased after discussions with the Department. Upon comparisons with the situation in Scotland and Wales and how their legislation is implemented in practice, they believe that the situation is more nuanced and that there is the necessary flexibility for the medical professional to consider all factors.
110. The NMC also noted that the statutory guidance which deals with this clause should work through specific scenarios or case studies and talk through the steps that a professional might take.

111. In a written response of 2 February 2026, the Department noted its intention that guidance will support decisions about whether the thresholds within the legislation are met. This will include the factors that need to be considered when making a decision, and professional assessment and judgement will be central to this given the complexity of adult protection and the multiple factors which could be at play.
112. The Department also clarified that there are no sanctions for not reporting under this clause and it was not felt necessary or appropriate to include these. Individual trusts or regulators may look at sanctions given existing organisation requirements to report suspected abuse.
113. In informal deliberations on 19 March 2026, the Committee noted further feedback from GP stakeholders and agreed to urgently follow up with the GMC for further clarity on its position.
114. A response from the GMC was received on 23 March 2026, which set out that it was content with Clause 4 as drafted and that the clause allows room for professional discretion when making referrals and that in some circumstances it may be justifiable not to refer an individual. GMC also outlined that further detail was required in the statutory guidance in relation to the exercise of professional judgement and that relevant bodies should be consulted with on this issue.
115. The Committee recommended that further engagement between the Department and the BMA, RCGP and GMC should continue to take place in relation to resolving this issue. Guidance should also make clear examples of the duty in practice.

*Other feedback and issues*

116. The GMC, BMA and RCGP all also oppose the naming of individual professions at Clause 4 as drafted, stating that this was not in line with other legislations.
117. Trusts were broadly in support of the duty but warned of implications for workload and resources given the potential for large volumes of referrals.
118. Action for Muckamore strongly supported a legal duty to report and emphasised that repeated failures to report were central to the failures at Muckamore. They

also stressed that whistleblowers must be protected and staff must feel comfortable to raise concerns without fear of consequences.

119. Providing evidence to Committee on 12 February 2026, the Department set out their intention to bring an amendment to this clause which would see the specific naming of professions at Clause 4 (1)(g) and (h) replaced with naming the relevant pieces legislation which governs those professions.
120. The explanation for this was to avoid the inclusion of a very long list of professions which would require for the Clause to be constantly updated, and to avoid unintentionally omitting any professions.
121. The Department also outlined in evidence its position that the Northern Ireland Prison Service (NIPS) should be included in Clause 4 and that a separate Departmental amendment adds “*governor of prison or young offenders’ centre*” to the professions at this clause.
122. The NIPS itself raised concerns around this with the Department and set out its position that there is no need for an additional statutory duty under this legislation, especially one which could impose safeguarding duties which it feels are beyond the legal remit of NIPS.
123. In a written paper of 25 February 2026, the Department explained its counter argument that NIPS is already obligated to report safeguarding concerns to trusts and engage with external partners through multi-agency agreements, and that Clause 4 does not impose anything additional to this.
124. The Department set out that a final agreement has not yet been reached with the NIPS and the Department for Justice on this matter. The Committee agreed to put on record its desire to see both parties come to a resolution on this issue.
125. The Committee considered these two amendments in informal clause by clause deliberations on 19 March 2026 and agreed that it was content with them.
126. The Committee also expressed concern that in some cases of domestic abuse, a visit from a social worker to the home may not be the adequate first means to make an inquiry where a report is made and in fact could put the adult at an increased risk of harm. The Committee agreed to request that Department

explores further how to take this into consideration when preparing operational guidance.

### **Clause 5 – Visits by social worker**

127. Clause 5 permits a social worker to enter a premises for the purposes of making initial inquiries to establish whether an adult may be at risk and whether any intervention under the scope of the Bill is required. This Clause is closely linked to Clause 18 which sets out supplementary information in relation to this Clause.
128. Stakeholders broadly supported this Clause while raising operational and rights-based concerns.
129. Trusts and nursing stakeholders suggested that the Clause be amended to allow a social worker to enter accompanied by a “*suitably qualified health professional*”.
130. The British Association of Social Workers, Northern Ireland (BASW) raised ethical concerns regarding the power of entry and a potential for its use to damage an existing trust-based relationship between the social worker and the adult. They urged for training and clear guidance to be provided so that this power is only used when necessary.
131. COPNI similarly argued for clearer thresholds for intervention and that independent advocacy should be mandatory for any adult who is subject to a visit from a social worker conducting an initial inquiry.
132. PSNI raised concerns that police presence as part of such visits should be a last resort in exceptional circumstances and clearly defined in guidance, not something that is routinely expected.
133. In a letter dated 26 February 2026, the Department clarified that operational processes for capacity and coercion assessments will be set out in statutory guidance rather than on the face of the Bill.

134. Furthermore, the Department outlined that while accompaniment of the social worker is possible and provided for under Clause 18, the core statutory right of entry must remain with Adult Protection Social Workers only. This is consistent with other jurisdictions and to expand this right to include other professions could risk increasing legal risk and reducing accountability. Naming a specific professional who could accompany the social worker would risk losing flexibility, with the Department providing several examples of scenarios where someone may need to accompany the social worker who would not meet the definition of a “*suitably qualified health professional*”.
135. The Committee expressed its desire to the Department to close any room for interpretation around the provision of an independent advocate in relation to Clauses 5-8 (inclusive). On 13 March 2026, the Department provided proposed amendments to Clauses 3, 18 and 26 which are intended to fulfil this purpose.
136. The Committee considered Clause 5 along with the amendments regarding independent advocates proposed by the Department at Clause 3, 18 and 26 and amendment proposed by the Committee at Clause 50, which will ensure that this clause cannot be implemented without Clause 26 being implemented.

### **Clause 6 - Interviews**

137. Clause 6 provides that a social worker will be permitted to interview a suspected adult at risk in private on the premises entered under Clause 5.
138. Representatives from the Regional Adult Safeguarding Nurse Network (RASNN) recommended specific training for nurses and health professionals who will be involved in any such interviews, particularly if they involve adults with complex needs. Meanwhile, COPNI recommended stronger safeguards including mandatory independent advocates.
139. More generally and not specific to this Clause, trusts highlighted the importance of trauma-informed practice and ensuring that adults understand their rights, especially the right not to answer a question.

140. The Committee expressed its desire to the Department to close any room for interpretation around the provision of an independent advocate in relation to Clauses 5-8 (inclusive). On 13 March 2026, the Department provided proposed amendments to Clauses 3, 18 and 26 which are intended to fulfil this purpose.
141. The Committee considered Clause 6 along with the amendments regarding independent advocates proposed by the Department at Clause 3, 18 and 26 and amendment proposed by the Committee at Clause 50, which will ensure that this Clause cannot be implemented without Clause 26 being implemented.

### **Clause 7- Medical Examinations**

142. Clause 7 provides for a health professional to conduct a medical examination in a situation when a social worker is visiting a premises under Clause 5 and has reasonable grounds to believe that the person is an adult at risk.
143. Stakeholders from COPNI raised concern that older people may feel pressured into consenting to the medical examination taking place. RCN welcomed that the adult has the right to refuse the examination.
144. In response to the Convention Rights Memorandum, the Committee sought assurances from the Department regarding engagement with ECHR Article 8 rights and how the social worker or health professional will know if the adult at risk is capable of understanding their right to refuse the examination. In its response of February 17 2026, the Department underlined that social workers and medical professionals work for organisations which are obligated to carry out their functions in compliance with ECHR and that this will be addressed in guidance.
145. The Department intend to set out operational processes for capacity and coercion assessments in statutory guidance.
146. The Committee expressed its desire to the Department to close any room for interpretation around the provision of an independent advocate in relation to Clauses 5-8 (inclusive). On 13 March 2026, the Department provided proposed amendments to Clauses 3, 18 and 26 which are intended to fulfil this purpose.

147. The Committee considered Clause 7 along with the amendments regarding independent advocates proposed by the Department at Clause 3, 18 and 26 and amendment proposed by the Committee at Clause 50, which will ensure that this Clause cannot be implemented without Clause 26 being implemented.

### **Clause 8 - Examination of records**

148. Clause 8 details that a social worker may access health, financial or other records of the individual who they believe to be an adult at risk, including access to any relevant financial records where there is suspected financial abuse. This clause also enables a magistrates' court to make an order (production order) requiring records to be produced to a social worker and sets out what conditions need to be met to allow examination of records to take place.

149. GP stakeholders from RCGPNI and the BMA once again raised concerns around medical confidentiality, especially in scenarios where the adult has capacity and has not consented to the sharing of such records.

150. This was put to the Department in an urgent letter by the Committee along with other issues raised in relation to Clauses 2 and 4. The Department response on 15 January 2026 noted that disclosure under the Bill would be covered by existing 'required by law' exceptions.

151. The Committee put the issue of Article 8 ECHR rights to the Department as per the Convention Rights Memorandum and how Clause 8 of the Bill aligns with this. The Department's response of 17 February 2026 made clear that they believe this to be a proportionate engagement of the person's rights for the purpose of protecting adults at risk.

152. COPNI welcomed this Clause generally and access to financial records, as this may be crucial in cases of suspected financial exploitation. However, they expressed a desire for this Clause to strictly limit disclosure to the documents that are absolutely necessary to investigate the case.

153. COPNI also sought clarity on the Department's definition of what could constitute "*other records*".
154. BHSCT raised the issues of whether this Clause allows the social worker to remove documents from an adult's home, and whether banks or solicitors could be legally compelled to provide documents through this power.
155. The Committee put the question of "*other records*" to the Department. In a written response of 12 March 2026, the Department provided examples such as social care records which are not specifically health-related, for example, relating to personal care, social activities etc. in a supported living setting or care home. Another example provided was social media messages or text messages between parties which may be relevant evidence for an investigation. The Department emphasised that "*other records*" is deliberately flexible and allows for future-proofing.
156. The Committee expressed its desire to the Department to close any room for interpretation around the provision of an independent advocate in relation to Clauses 5-8 (inclusive). On 13 March 2026, the Department provided proposed amendments to Clauses 3, 18 and 26 which are intended to fulfil this purpose.
157. The Committee considered Clause 8 along with the amendments regarding independent advocates proposed by the Department at Clause 3, 18 and 26 and amendment proposed by the Committee at Clause 50, which will ensure that this Clause cannot be implemented without Clause 26 being implemented.
158. The Committee recommended that there is a clear pathway for families to access records where appropriate.
159. The Committee also recommended, in line with earlier Clauses 2 and 4, that further engagement takes place with the BMA, RCGP and GMC in relation to resolving concerns around confidentiality. Guidance should also be clear in relation to examples of when to co-operate.
160. Furthermore, the Committee agreed that this Clause should be implemented taking into account both the existing Mental Capacity Act 2016, and any future legislation in relation to a duty of candour.

### **Clause 9 - Applications for production orders: procedure**

161. Clause 9 details the procedures to be followed in relation to the application for a production order for records to be made available.
162. COPNI recommended a means for the adult suspected to be at risk to challenge the disclosure of their records.
163. BHSCT requested clarification on what the procedure will be for urgent or emergency situations.
164. In a response dated 25 February 2026, the Department set out that the reason for no right to appeal is that the intention is that the magistrate will only use this power with the consent of the adult at risk. Urgent applications under this power will be handled by the existing Regional Emergency Social Work Service, with procedures modelled on similar urgent access arrangements under the Children (Northern Ireland) Order 1995.
165. Furthermore in relation to appeals, similarly to removal and assessment orders, there is a time element that does not lend itself to an appeal process. For production orders specifically, this is that the production order (if it is to be enforced) must specify a date and/or time by which the order has to be complied with.
166. The Department's Bill team also confirmed that they met with COPNI representatives in January 2026 and provided this advice.

### **Clause 10 - Assessment orders**

167. This clause details that a social worker may (as the HSC trust) apply to a magistrates' court for an order to take the adult from premises to a more suitable location to carry out an interview.

168. There are a number of conditions that have to be met before the assessment order will be granted and the assessment order would, under normal circumstances, only be able to be used where the adult at risk has consented.
169. Multiple stakeholders sought further clarity on thresholds and the definition of “*serious harm*”.
170. The PSNI requested further information on how these orders will be received and tracked, as any new technical solution or changes to existing systems can have a lengthy timeframe to implement.
171. As per its briefing paper of 3 February 2026 and oral evidence to Committee on 12 February 2026, the Department intend to clarify definitions and thresholds as well as operational instructions via the statutory guidance.
172. The Committee put the issue of Article 8 ECHR rights to the Department as per the Convention Rights Memorandum and sought further assessment of how powers at Clause 10 of the Bill align with Articles 5 and 8. The Department’s response of 17 February 2026 made clear that they believe this to be a proportionate engagement of the person’s rights for the purpose of protecting adults at risk.
173. As part of the initial amendments provided to Committee on 25 February 2026, the Department proposed an amendment which makes clear that this Clause “...*does not apply in the case of an adult who is detained in a prison or young offenders centre.*” The purpose of this amendment is to avoid any doubt or misinterpretation that the Clause could allow for removal of adults from those settings.
174. At informal deliberations on 19 March 2026, the Committee agreed that it was content with this amendment.

### **Clause 11 - Removal orders**

175. Clause 11 provides that a social worker may (as the HSC trust) apply to a magistrates’ court for an order to remove the adult from the premises to another location for up to seven days if the adult is likely to be seriously harmed. There

are a number of conditions that have to be met before the removal order will be granted. The removal order would, under normal circumstances, only be able to be used where the adult at risk has consented.

176. Stakeholders once again requested information on thresholds and a definition of “*serious harm*”.
177. In its briefing paper of 3 February 2026 and in oral evidence to Committee on 12 February 2026, the Department set out its intention to clarify definitions and thresholds via the statutory guidance, including for when PSNI involvement may be needed.
178. In informal deliberations, the Committee also discussed the issue of capacity assessments and how these will be conducted in practice. The Department responded on 13 March 2026 that the Bill places an obligation on the trust applying for the order to place reliable professional evidence regarding capacity before the court. This is envisaged to be something equivalent to the formal capacity assessment conducted under the Mental Capacity Act 2016 and that this could be conducted by social workers and health care professionals as defined in the Bill. In addition, in a prior letter dated 26 February 2026, the Department clarified that operational processes for capacity and coercion assessments will be set out in statutory guidance rather than on the face of the Bill.
179. Similar to Clause 10, the Department proposed an amendment which makes clear that this Clause “...*does not apply in the case of an adult who is detained in a prison or young offenders centre.*” The purpose of this amendment is to avoid any doubt or misinterpretation that the Clause could allow for removal of adults from those settings.
180. At informal deliberations on 19 March 2026, the Committee agreed that it was content with this amendment.
181. The Committee agreed to recommend that guidance should clearly outline the process for capacity assessments and who may conduct them. The guidance should also cover how this legislation will interact with the existing ‘Right Care, Right Person’ policy.

## **Clause 12 - Banning orders**

182. Clause 12 provides that a social worker may (as the HSC trust) apply to a magistrates' court for a banning order which would ban a person from being in a specified location for up to six months if the adult is being or is likely to be seriously harmed by that person. There are a number of conditions that have to be met before the banning order will be granted. The banning order would, under normal circumstances, only be able to be used where the adult at risk has consented.
183. COPNI welcomed banning orders while BHSCT and BASW highlighted that the Bill appears to give little consideration to the rights of the person served with a banning order, who themselves could conceivably be at risk.
184. These stakeholders also requested clarity on the interaction between a banning order and an existing non-molestation order. In its written response of 13 March 2026, the Department advised that both orders offer a form of protection to a person who is at risk of harm. The differences lie in the persons who can apply for the order, the courts who can grant the order, the procedures for making the order, the grounds on which the order can be made are different, the persons that can be protected by the order, the provisions which the order can contain and the consequences of non-compliance with the order.
185. Regarding the rights of the person served with a banning order, in the same response, the Department referenced that there exists a right of appeal for both a banning order and the temporary banning orders. The Bill also provides that Legal Aid is available with regard to these orders.
186. Both statutory guidance and trust procedures will direct social workers to have regard to the welfare of the person being served with the banning order, particularly when the serving of the order would result in that person becoming at risk. This is a key point that a trust would need to take this into account.
187. The Committee put on record its recommendation that where repeated Banning Orders are sought, clear reasons should be recorded and there should be an onus to justify this rather than any reliance on the mechanism by default.

### **Clause 13 - Temporary banning orders**

188. This clause provides that temporary banning orders may be granted by the magistrates' court pending determination of an application for a banning order. The temporary banning order may include any provision which may be included in a banning order.
189. In evidence to the Committee, COPNI recommended more flexibility than a fixed 6-month period and asked for a requirement for review to ensure orders remain needed and proportionate.
190. Again, the Committee put on record its recommendation that where repeated Banning Orders are sought, clear reasons should be recorded and there should be an onus to justify this rather than any reliance on the mechanism by default.

### **Clause 14 - Right to apply for banning order**

191. Clause 14 provides detail on the conditions that must be satisfied before the HSC trust can apply for a banning order.
192. No specific issues were raised in written or oral evidence in relation to this clause.

### **Clause 15 - Variation or revocation of banning order**

193. Clause 15 provides that a banning order or temporary banning order may be varied or revoked by a magistrates' court, if the variation or revocation of the order is justified.
194. No specific issues were raised in written or oral evidence in relation to this clause.

**Clause 16 - Offence: failure to comply with banning order or temporary banning order**

195. This clause explains that a person who fails to comply with a banning order or temporary banning order will be committing an offence. A person guilty of this offence will be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
196. No specific issues were raised in written or oral evidence in relation to this clause.

**Clause 17 - Consent of affected adult**

197. Clause 17 explains that a protection order must not be made or carried out if the person or the magistrates' court knows that the affected adult at risk has refused to consent to the granting of the order. Although a refusal of consent may be ignored if the magistrates' court or person reasonably believes that the affected adult at risk has been unduly pressurised to refuse consent.
198. In its evidence to the Committee, COPNI asked for a clearer definition of "*unduly pressurised*" at 17(2)(b) along with statutory guidance and tests for scenarios where this is suspected. COPNI recommended a duty that clear records must be kept when a decision is taken to rely on this Clause and/or override consent.
199. BHSCT requested clarity on capacity assessment processes, stating that the current reliance on Consultant Psychiatrists to assess capacity is unrealistic in emergency cases.
200. Regarding capacity assessments, in relation to the earlier Clause 11 and this Clause, the Department responded on 13 March 2026 that the Bill places an obligation on the trust applying for the order to place reliable professional evidence regarding capacity before the court. This is envisaged to be something equivalent to the formal capacity assessment conducted under the Mental Capacity Act 2016. In addition, in a prior letter dated 26 February 2026, the Department clarified that operational processes for capacity and coercion

assessments will be set out in statutory guidance rather than on the face of the Bill.

201. The Department also highlighted that the difference with Clause 17 of the Bill when compared to the Mental Capacity Act 2005 sections 9(1) and 13 is that here it is the court and not the person taking direct action in relation to the adult who must consider the question of capacity and that this assessment could be conducted by social workers and health care professionals as defined in the Bill.
202. The Committee sought legal advice in relation to the issue of capacity in the Bill and how it is defined, and reserves the right to bring forward further amendments and recommendations following the consideration of that legal advice.

#### **Clause 18 - Visits: supplementary**

203. This clause provides the conditions that must be met by the social worker in terms of the visit that is taking place.
204. In its written evidence to the Committee, the BHSCT sought clarity on what would be considered “*evidence of authorisation*” and additionally stated that the wording of 18(2) is very broad in terms of what the social worker could do.
205. In informal deliberations on 19 March 2026, the Committee raised concerns around Clause 18 (3), which seemingly allows the social worker to do “*anything...which is reasonably required to fulfil the purpose of the visit*”. Members noted that this is vague terminology and expressed concerns around approving legislation as worded that permitted “*anything*”. Urgent clarification was sought from the Department on why the Clause was worded in this way.
206. In a response of 20 March 2026, the Department addressed these concerns by asserting that if what the social worker does in the course of a visit is challenged, the validity of the social worker’s actions does not depend on what the social worker believed was reasonably required but whether, objectively viewed, what the social worker did was reasonably required to fulfil the stated purpose of the visit.

207. The main element that the other elements of Clause 18(2) do not mention is the social work assessment. What this involves will vary on a case by case basis; social workers often do not know what to expect before they visit a home. They may need to consider the person's capacity, or the presence of other people/family members, and they may need to take interim steps to support or protect an adult at risk. What this looks like will depend on the situation in front of them. It is important that the clause is broad enough to allow for this nuance and enable social workers to perform their function and the wording of "*anything*" is deliberately worded to allow this.
208. On 13 March 2026, in response to Committee concerns around strengthening of the provision of independent advocates, the Department provided a number of amendments intended to resolve this. As part of these amendments, the Department proposed to amend Clause 18 to insert that the offer of an independent advocate must be made during the visit if one has not been made already. This amendment should be considered in conjunction with other amendments at Clauses 3 and 26. At informal clause by clause deliberations on 19 March 2026, the Committee agreed that it was content with this amendment.

#### **Clause 19 - Warrants for entry: visits under section 5 or 11(5)**

209. Clause 19 explains that when an assessment order is granted by the magistrates' court a warrant for entry must also be granted in relation to the visit of the premises from which a person may be taken in pursuance of the assessment order. This clause also provides detail on the warrant for entry.
210. PSNI outlined the need for police involvement to be the exception rather than the norm. PSNI highlighted the need for detailed criteria and clear guidance on the use of "*reasonable force*" as referenced at Clause 19(4)(b). The Department responded in oral evidence that it is meeting regularly with the PSNI in relation to their role in this process and will continue to engage with them on these issues as part of the APBNI.
211. No specific issues were raised in oral or written evidence in relation to this clause.

### **Clause 20 - Applications: procedure**

212. This clause provides the procedures that must be followed in relation to any application for an assessment order, a removal order, a banning order, a temporary banning order or the variation or revocation of a banning order or temporary banning order.

213. No specific issues were raised in oral or written evidence in relation to this clause.

### **Clause 21 - Legal aid: production orders and protection orders**

214. This clause brings various applications under Part 1 of the Bill within the scope of legal aid legislation.

215. No specific issues were raised in oral or written evidence in relation to this clause.

### **Clause 22 - Guidance**

216. Clause 22 explains that the Department must prepare guidance about the performance of functions under Part 1 of the Bill for HSC trusts, social workers, and other officers of HSC trusts and health professionals.

217. The issue of needing strong and clear statutory guidance was highlighted by all of those who gave evidence. There were many discussions with the Department in relation to what would be contained in the guidance.

218. The Committee recommends that the guidance includes:

- The need for clear and concise definitions of key terms in the legislation;
- Clear processes, procedures and criteria when using the powers contained in this legislation;
- Clear enforcement pathways;

- Interaction with other legislation and policies, such as the Mental Capacity Act 2016, domestic violence frameworks and the Right Care, Right Person policy; and
- The need for worked examples within the guidance.

219. The Committee was not content with the wording at part 2 of the clause that stated that guidance must be reviewed “*from time to time*”. The Committee requested the Department amend part 2 and the Department provided the Committee with an amendment that means guidance must be reviewed at least every 4 years. The Committee agreed it was content with the amendment.

220. The Committee received evidence from NMC which stated that part 3 of the clause should be amended to add ‘professional regulators’ to the list of those who must be consulted. The Department brought forward an amendment that adds the bodies responsible for the regulation of social workers and of health professionals. The Committee agreed it was content with the amendment.

221. The Committee agreed an amendment that will include the APBNI in the list of those that must be consulted with.

222. Due to the importance of the statutory guidance, the Committee recommends the Department undertakes a comprehensive consultation on the guidance and that the Committee be consulted with on the content of the guidance.

### **Clause 23 - Obstruction**

223. This clause provides that a person will commit an offence if, without reasonable excuse, that person prevents or obstructs any other person from doing anything which the other person is authorised or entitled to do relating to an assessment order, a removal order, a banning order, a warrant for entry or any other relevant provision.

224. COPNI outlined the need for clarity on what constitutes ‘reasonable excuse’. The Committee sought clarity from the Department on this issue.

225. The Department advised that guidance would set out how trusts, PSNI and PPS should handle obstruction including escalation and referral pathways, and

specific training will assist staff in understanding the nuances between honest error, obstruction and criminal offence. The Department advised the purpose of the “*without reasonable excuse*” provision is to prevent actions being categorised as criminal where they could technically amount to obstruction.

226. The Committee recommended that the Department must ensure that the guidance contains examples of what could constitute “*reasonable excuse*”.

#### **Clause 24 - Offences by bodies corporate, etc**

227. Clause 24 details what will occur if an offence has been committed by a corporate body or an unincorporated association.

228. Evidence received by the Committee highlighted the need for clear definitions in relation to this clause, including the terms “*consent*”, “*connivance*” and “*neglect*”. The Department confirmed that definitions of these terms would be included in the statutory guidance.

229. The Committee sought clarification from the Department on whether a trust is a body corporate in relation to this Bill. The Department responded to confirm that a trust is a body corporate and would therefore be covered by this clause.

230. The Committee raised concerns in relation to how trusts investigate incidents involving trusts. Members stressed that accountability is key and they are not satisfied that a trust will be sufficiently held accountable if it is the trust’s own social worker raising the concern or undertaking the investigation.

231. The Committee sought legal advice in relation to this issue and how the Committee can ensure there is independence in any enquiries and investigations that are undertaken under this legislation. The Committee reserves the right to bring forward further amendments and recommendations following the consideration of that legal advice.

232. Members noted that any duty of candour legislation would be relevant to this clause.

### **Clause 25 - Appeals**

233. This clause provides the processes around appealing a banning order or temporary banning order, or for the variation or revocation of such an order. No appeal lies against the granting of an assessment order, a removal order, or a warrant for entry.
234. In evidence COPNI were critical of the lack of a right to appeal for production, assessment, removal and entry orders. The Department advised that it has met regularly with COPNI to provide updates on the Adult Protection Bill and the aim of the orders is to allow the inquiry to proceed as quickly as possible while allowing recourse to a court where those affected dispute the trust's approach.
235. The Department outlined the reason for not allowing an appeal is that there is a time element that militates against an appeal.

### **Clause 26 - Independent advocates**

236. Clause 26 provides that the HSC trust must make arrangements to secure that an independent advocate is available to provide support and assist adults at risk to be involved in and influence decisions taken about their care.
237. All the organisations who gave evidence welcomed the advocate role, many of the organisations outlined the need to ensure the independence of the advocate.
238. The Committee was clear that the role of the independent advocate was key to ensuring protections for 'adults at risk'. The Committee had concerns that the wording of the clause would result in the social worker deciding if an advocate was required. The Committee outlined that it would prefer that an independent advocate would be offered at all points of the process. The Department agreed to bring forward amendments that would outline that the trust must offer to assign an independent advocate. The Department also brought forward an amendment to ensure that there would be no delays in protecting adults at risk. The Committee was content with these amendments.

239. Members also raised concerns in relation to the planned phasing of the Bill and reflected on the Mental Capacity Act 2016 and that the detention powers in the Act had been commenced, but the advocate clause had not been implemented. The Committee outlined the importance of the independent advocate role in protecting the interests of ‘adults at risk’ and therefore the Committee has agreed a Committee amendment (to Clause 50) that will ensure that the powers in Clauses 5-8 can only be commenced alongside the commencement of this Clause.

**Clause 27 - Exercise of functions of social worker, health professional and HSC trust.**

240. Clause 27 provides the requirements of the HSC trust in relation to the appointment of a sufficient number of social workers and health professionals and the requirements of them for the purpose of performing the functions set out in the Bill. This clause also provides clarification on which functions are exercisable only by specially qualified adult protection social workers

241. No specific issues were raised in oral or written evidence in relation to this clause.

**Clause 28 - Involvement by HSC trust of relevant persons**

242. This clause provides that the HSC trust must, as reasonably practicable, establish and have regard to the views of relatives, carers and other interested persons, as well as keep them informed on the HSC trust actions in terms of the adult at risk.

243. In evidence, Action for Muckamore outlined its support for this Clause, making clear that the involvement of family members is crucial.

244. In a written response on 3 February 2026, the Department responded to the Committee that family involvement will be taken forward through mandatory consultation and communication. It is also the Department’s intention that views of family members will be integrated into the Learning Review process.

245. The Committee took into account advice in the Convention Rights Memorandum on the Bill which advised that this Clause engages Article 8 rights but as a public authority, the relevant trust is required to carry out its functions in a manner compatible with ECHR.
246. The Committee would highlight the importance of keeping relatives and carers informed in relation to any actions taken under this legislation.

**Clause 29 - Interpretation of this Part**

247. This clause provides explanations of a number of definitions used throughout this Part.
248. No specific issues were raised in oral or written evidence in relation to this clause.

## **Part 2 – The Adult Protection Board for Northern Ireland**

249. Part 2 of the Bill (clauses 30 to 37) provides for the creation and functions of the APBNI. These clauses define the Board’s legal status, outlines its membership and core functions; and sets out its reporting duties and powers to request information from relevant bodies.

### **Clause 30 - Establishment of the Board**

250. Clause 30 places a duty on the Department of Health to establish the APBNI. This clause also sets out provisions for the APBNI’s membership.

#### *Independence of the Board*

251. Stakeholders broadly welcomed the establishment of the APBNI. Action for Muckamore however, stated its preference for an Independent Adult Safeguarding Commissioner, separate from the Department and reporting directly to the Assembly.

252. A number of stakeholders raised concerns about the independence of the APBNI (COPNI, ARC NI, Hourglass, Action for Muckamore), with some suggesting that its independence should be explicitly expressed in the Bill. ARC NI asked for amendments to add “*Independent Chair*” at Clause 30(2)(a) and that members would be appointed by “*the Independent Chair in consultation with the Department*” at Clause 30(2)(b).

253. ARC NI also provided its view that a Board made up of members from statutory organisations. as set out in the Bill, creates a clear conflict of interest and asked for the inclusion of non-statutory experts. PCC raised similar concerns about HSC employed Board members holding HSC staff to account and suggested that subject matter experts in areas such as governance, data and public-engagement should be included on the APBNI. COPNI suggested the inclusion of at least one lay member with lived experience.

254. The Committee heard oral evidence from the Interim Adult Protection Board (IAPB) on 12 February 2026 on the preparatory work it has undertaken in anticipation of the creation of a new permanent board. IAPB advised that the future chairing and staffing structure of the permanent board will require careful

consideration to ensure its full independence and that it has sufficient capacity to carry out its functions effectively. In exploring potential models, the IAPB examined the Safeguarding Board for NI and identified several practices that could be beneficial for the new board. This included: the use of an online platform for updated policies and procedures; a five-year strategic planning cycle; a focus on emerging thematic priorities; and the delivery of annual learning events to embed learning in practice.

255. Other issues raised by stakeholders included: BHSCCT requested clarity on the Board's links with the Department's Strategic Planning and Performance Group (SPPG); NMC asked how the regulators would engage with the Board; COPNI suggested amendments to provide a specific statutory pathway for the Board to escalate concerns to the Minister, the NI Assembly or a regulator; and suggested a requirement for the Board to engage with older people and carers.
256. In its deliberations on Part 2 of the Bill, the Committee emphasised the need for a fully independent Board and had concerns that the Board would be weighted towards the statutory sector. The Committee asked the Department for information on the Board member appointment process and whether lived experience or voluntary sector voices would be represented.
257. In response, the Department advised that there should be Members who are not associated with statutory services and that these appointments will be through the public appointments process. The Bill outlines there should be at least two but no more than four persons from outside the statutory sector and this requirement mirrors the Safeguarding Board NI (SBNI) legislation.
258. In earlier correspondence of 3 February, the Department advised it is intended that membership will include representation from Voluntary and Community Sector and from people with lived experience, although the Board will need to consider the best way to do this as there are many people with different lived experiences and one, two or even five people cannot speak for all. The Department advised it has engaged with the SBNI to learn from its experience, and this engagement will continue as the regulations for the APB are developed in detail.

259. In a July 2025 response to an Assembly Written Question, the Health Minister also emphasised that this mixed composition is consistent with the model used for other arms-length bodies (ALBs). While statutory members are drawn from within the health and social care system, the inclusion of publicly appointed members and the Board's arm's-length status are intended to provide an appropriate level of independence and safeguard against potential conflicts of interest.<sup>1</sup>
260. At its meeting on 19 March, the Committee agreed that the independence of the Board needed to be emphasised in the text of the Bill and requested an amendment to be drafted for this purpose. The Committee requested that the amendment prevents the Board Chair being an employee of the organisations listed at clause 30(3). After discussion with the Bill Clerk, the Committee agreed that this should not include clause 30(3)(f) which is not an organisation but states "*such other persons exercising functions or engaged in activities relating to the protection of adults at risk as may be prescribed.*" This was to avoid any unintended consequences and ensure the intent of the amendment was clear.
261. At its meeting on 23 March the Committee agreed the amendment to disqualify representatives of the persons or bodies listed in Clause 30(3) (a) to (e) from being appointed as the Chair of the APBNI.

#### *Removal of PCC from Clause 30(3)(c)*

262. In written and oral evidence the Patient and Client Council (PCC) raised significant concerns about being named as a statutory Member of the APBNI due to a perceived threat to its statutory independence and recommended that instead, PCC should be named as a designated consultee on the face of the Bill.
263. In correspondence of 19 February, the Department confirmed that following the request from the PCC, an amendment would be made to remove them from the membership of the APBNI at Clause 30(3)(c).

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<sup>1</sup> [Assembly Written Question 29508/22-27](#)

264. At its meeting on 19 March, the Committee agreed it was content with the Department's amendment to remove PCC from the membership of the APBNI at Clause 30(3)(c).

#### *Remuneration of the APBNI*

265. The Committee requested further information from the Department on the remuneration of the APBNI Members.

266. In its response of 19 February, the Department provided a breakdown of the £396,296 estimated overall running costs for year 1 of the APBNI covering salaries, accommodation and other costs. The Department confirmed that the total cost included an estimate of £60k for salary costs for the Chair. The Department advised that there would be no cost associated with the participation of the statutory APBNI Members listed at clause 30(3).

267. The Department further advised that the costs associated with the appointed APBNI Members as provided for in clause 30(2) had not yet been captured. The Department advised that ultimately the remuneration of the Chair and Non-Executive Members of ALBs is outlined in the annual Payment of Remuneration of Chairs and Non-Executive Members Determination (Northern Ireland) Circular issued by the Department, this is uplifted every year based on a Department of Finance Directors letter. The terms and conditions of the Chair and APBNI members will have to be agreed with Public Appointments Unit and DoH Finance ahead of establishing APBNI and recruiting for the posts.

#### **Clause 31 - Objective of the Board .**

268. This clause provides the main objective of the APBNI, which is to co-ordinate and ensure the effectiveness of what is done by each person or body represented on the APBNI for the purposes of protecting adults at risk.

269. No specific issues were raised in oral or written evidence in relation to this clause.

## Clause 32 - Functions of the Board

270. Clause 32 provides details on a number of functions that the APBNI must do for the protection of adults at risk. This includes undertaking Serious Case Reviews (SCRs), where an adult at risk has died or suffered serious harm and there is potential learning for agencies.
271. In written and oral evidence provided to the Committee concerns were raised relating to SCRs. NIHRC pointed to a lack of detail regarding SCRs. COPNI suggested an amendment to set out the clear statutory thresholds and triggers for a serious case review and to make these reviews as transparent and public as possible. Hourglass welcome the requirement for SCRs, but was critical of a lack of provision for a central record of reviews and proposed an amendment to impose the requirement for the Board to establish and maintain such a database. BASW called for the Board to promote a culture of learning, not blame. PCC proposed an amendment to extend entitlement to independent advocate to the serious case review process.
272. The Department advised (in correspondence of 19 February) of its intention to amend the Bill to rename “*Serious Case Reviews*” as “*Adult Protection Learning Reviews*” and to set minimum review standards. The Department believes this change will better reflect the focus on learning from the cases being examined rather than governance or accountability, which is not the purpose of the Reviews. The text of the amendment to Clause 32 was provided to the Committee in the Department’s correspondence of 25 February.
273. At its meeting on 19 March the Committee agreed that it was content with the proposed Department amendment.
274. The Committee sought clarity from the Department on how data will be standardised and compliant with General Data Protection Regulation (GDPR). In its response of 3 February, the Department advised that the Board must operate all information-gathering powers in full compliance with UK GDPR legislation and that operating procedures will be developed jointly by the Department and the Board and put into the statutory guidance.

275. The Committee also requested further information from the Department on how the Board's work will align with other bodies such as SBNI, RQIA and trusts and how the Board will ensure consistent high quality reviews and effective follow-through on recommendations. The Department advised that the IAPB has developed a draft protocol outlining the referral criteria for undertaking and completing a review and they are now considering how to best share and cascade learning.

276. At its meeting on 19 March, the Committee recommended that:

- The Board's Terms of Reference clearly sets out its role and remit including how the Board aligns with other organisations;
- The statutory guidance outlines how the Board will ensure learning is implemented following Reviews and must provide a framework for the implementation of recommendations; and
- The Board provides an annual briefing to the Committee for Health upon publication of its annual report.

277. The Committee sought further information in relation to organisations investigating themselves and asked for clarity on how independence will be safeguarded. An initial response was received from the Department outlining the pathways available to families. However, Committee remained concerned about how complaints against trusts are reported and has requested its own legal advice on this issue. The Committee will consider whether it wishes to make amendments or recommendations following its consideration of this legal advice.

### **New Clause 32A – Adult Protection Learning Reviews**

278. In correspondence of 19 February, the Department advised the Committee of its intention that a new Clause (32A) will be added to the Bill to make provision for independent advocates in relation to the newly re-named Adult Protection Learning Reviews (formerly Serious Case Reviews). In addition, further detail around the reviews would be included, setting out minimum procedural

standards for serious case reviews, including requirements for independence, timeliness, public scrutiny, and involvement of the next-of-kin. The Department advised that this would be in accordance with the Bill's principles and with Article 2 of the ECHR.

279. The text of new Clause 32A was provided to the Committee in the Department's correspondence of 25 February.

280. At its meeting on 19 March the Committee agreed that it was content with the inclusion of new Clause 32A.

### **Clause 33 - Directions to the Board**

281. This clause provides a power for the Department to give directions (either general or specific) to the APBNI on how the APBNI should carry out its functions. The Department is required to consult with the APBNI before issuing directions.

282. The clause also provides for the Department to give directions without consulting in cases where the urgency of the matter necessitates it but requires the Department to report retrospectively to the APBNI with reasons for taking this course of action.

283. Given the concerns expressed by some organisations and shared by Members in relation to the importance of the independence of the Board, the Committee requested clarification from the Department on the rationale for the inclusion of such a power.

284. In its written response of 13 March, the Department advised that all Arms' Length Bodies are accountable to the Department, and the power of direction is a standard provision found in legislation establishing statutory bodies. The existence of the power (rather than its exercise) defines the relationship with the Department. The Department advised that it considered the need for directions would be limited. It cited similar provision in respect of the Safeguarding Board and advised that this power has been used on only one occasion to give direction to the Safeguarding Board to carry out a thematic review of case management reviews which related to child exploitation of looked after children.

285. In further correspondence of 19 March, the Department reiterated that clauses similar to clause 33 are very common when setting up statutory bodies. The Department pointed to the example of the PCC and RQIA, stating that both organisations maintain operational independence to carry out their statutory functions and have the power to hold the Department and other Arm's Length Bodies to account. However, they remain formally accountable to the Department, which must oversee their performance and use of public funds. The Minister and Department have a duty to ensure these bodies operate effectively, and occasionally it is necessary to issue formal directions. The Department provided further examples of instructing RQIA during the Covid-19 pandemic to reduce inspection activity, and directing RQIA in 2024 to take on and Health and Social Care Quality Improvement function.
286. The Committee noted the Department's intention to work collaboratively to develop a Partnership Agreement which will set out an overall governance framework within which the Board will operate, and further define the roles and responsibilities of each organisation to each other.
287. At its meeting on 19 March, the Committee agreed to seek legal advice on the impact of removing this clause. The Committee agreed to reserve its position in relation to this clause and will consider whether to make amendments or recommendations following its consideration of the requested legal advice.

### **Clause 34 - Annual report**

288. Clause 34 places a requirement on the Department to lay in the Assembly a copy of the annual report prepared by the APBNI. The annual report will include details on the implementation of the APBNI's strategic plan, including an assessment of the effect of the plan and information on the activities carried out in pursuance of the plan. The APBNI are required to compile the report after the end of each financial year.
289. Hourglass NI both welcomed this commitment, emphasising that proactive communication and visible accountability are essential to restoring confidence following high profile institutional failures such as at Muckamore Abbey.

290. On 25 February 2026, the Department shared the text of an amendment to Clause 34 which is linked to the creation of new Clause 32A regarding Adult Protection Learning Reviews. The purpose of the amendment is to obligate the APBNI to include details of the reviews carried out in a given year in its annual report.
291. At its meeting on 19 March the Committee agreed that it was content with the amendment to Clause 34.

### **Clause 35 - Committees and sub-committees of the Board**

292. This clause enables the APBNI to establish one or more committees. It gives a power to the APBNI or a committee to establish one or more sub-committees.
293. No specific issues were raised in oral or written evidence in relation to this clause.

### **Clause 36 - Supply of information requested by Board**

294. Clause 36 places a duty on bodies or persons to supply information requested by the APBNI but sets out the specific conditions to be satisfied before such requests for information can be met.
295. The Committee sought further information from the Department on the impact of the introduction of the Public Office (Accountability) Bill on this clause. The Public Office (Accountability) Bill which was introduced in the House of Commons on 16 September 2025, aims to enhance public sector accountability. It will create a legal duty of candour and assistance on public authorities and officials at inquiries, inquests and other investigations. Under this duty, public bodies and officials will be required to assist inquiries, inquests and other investigations to achieve their objectives: with candour; promptly and

proactively; with full disclosure of evidence - and without favour to their own position<sup>2</sup>.

296. The Department advised that it had sought advice from OLC on this matter. The Department confirmed that the duty of candour as set out in the current Public Office (Accountability) Bill applies only in relation to an 'inquiry or investigation' as defined in the Bill. The Bill specifies the particular inquiries and investigations to which the Bill will apply. The new APBNI is not authorised to conduct any investigation or inquiry to which the Bill would apply. Even if it were, the duty to provide information to the APBNI would be entirely consistent with the duty of candour.

### **Clause 37 – Consequential Amendments**

297. This clause makes minor or consequential amendments to other legislation so that they will apply in relation to APBNI.

298. No specific issues were raised in oral or written evidence in relation to this clause.

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<sup>2</sup> [Public Office \(Accountability\) Bill Explanatory Notes as introduced on 16 September 2025.](#)

### **PART 3: Offences involving ill-treatment or wilful neglect**

#### **Clause 38 - Ill-treatment or neglect: care worker offence**

299. Clause 86 provides that it is an offence for an individual who has the care of an adult by virtue of being a care worker to ill-treat or wilfully neglect an adult. An individual guilty of an offence under this clause would be liable on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both); or on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both). The clause also details who qualifies as a care worker.

300. There was discussion on this clause in relation to definitions of terms such as “*wilful neglect*” and “*gross breach*”. The Department advised that the definitions in this clause will be outlined in the statutory guidance and staff training. There would also be clear guidelines on the difference between what could be considered honest error and “*wilful neglect*”.

301. The Committee would again re-iterate the importance of the statutory guidance and training for staff and encourages the department to ensure the guidance is as comprehensive as possible and provide examples.

#### **Clause 39 - Ill-treatment or neglect: care provider offence**

302. Clause 39 provides that it is an offence if an individual who has the care of an adult by virtue of being part of the care provider’s arrangements ill-treats or wilfully neglects that adult, the care provider’s activities are managed or organised in a way which amounts to a gross breach of a relevant duty of care owed by the care provider to the adult who is ill-treated or neglected, and in the absence of the breach, the ill-treatment or wilful neglect would not have occurred or would have been less likely to occur. The clause also provides further detail on what a care provider means, as well as further information on definitions used within the clause.

303. The Committee did not hear any evidence from organisations on this clause. Members had some discussions with the Department on how organisations might be held to account for their complicity in harm to an adult at risk. The

Department confirmed that Clauses 39-41 specifically address the issues of ill-treatment and wilful neglect, while Clause 24 relates to Part 1 of the Bill.

**Clause 40 - Care provider offence: penalties**

304. This clause provides the penalties linked to the care provider offence. Namely that a person guilty of an offence under Clause 39 will be liable on conviction on indictment to a fine, or on summary conviction to a fine not exceeding the statutory maximum. In addition, the court may also make, instead of or in addition to imposing a fine, a remedial order or a publicity order. The clause provides further detail on the definition of these orders and consequences of such.

305. A number of those who gave evidence were of the view that the penalties for care provider offences were too lenient when compared to the care worker offences in Clause 38. The Department advised that it provided details on the proposed criminal sanctions offences and penalties to the Offences and Penalties Branch of the Department of Justice (DoJ) in December 2022 and that the Head of the Criminal Law Branch confirmed that they were content with the proposed offences and that they are consistent, proportionate and will not have a detrimental impact on the justice system.

306. The Committee agreed to seek sight of the advice provided by the DoJ. The Department provided the Committee with a copy of that advice.

**Clause 41 - Care provider offence: application to unincorporated associations**

307. This clause provides the relevant procedures around bringing a case to court where the offence is alleged to have been committed by an unincorporated association.

308. No written or oral evidence was received in relation to this clause.

**Clause 42 - Care provider offence: liability for ancillary and other offences**

309. This clause provides the liability of an individual for ancillary and other offences.

310. There were no issues raised in the evidence that the Committee received. The Committee did seek a further explanation on why an individual cannot be found liable for "*aiding, abetting, counselling or procuring the commission of an offence under section 39*" as per Clause 42(1).

311. The Department advised that Clause 42(1) prevents individuals from being held secondarily liable for the care provider offence so that responsibility remains with the care provider organisation as a whole, although secondary liability still applies to the care worker offence at Clause 38.

## **Part 4 – Regulation of CCTV systems on certain establishments**

312. Part 4 of the Bill (clauses 43 to 47) established a regulatory framework for the use of CCTV systems in certain adult care settings. These provisions respond to public concern about abuse and neglect in care settings and the potential role of surveillance in safeguarding adults at risk.
313. The Assembly RaISe Bill Paper sets out that the evidence on the use of CCTV in adult care settings remains limited and inconclusive.

### **Clause 43 – Establishments to which this Part applies**

314. Clause 43 provides that Part 4 of the Bill applies to the following establishments – a day care setting, a nursing home, a residential care home, and a mental health unit.
315. Expanding the named settings in clause 43 was suggested by stakeholders in their evidence to the Committee. RCN suggested that settings are amended to include ‘dementia inpatient units’ and ‘learning-disability inpatient units’ and BHSCT propose amendment to include ‘Supported Living services’. BHSCT also suggested that this part of the Bill should specifically make reference to body-worn cameras.
316. At its meeting on 12 March, the Committee agreed to seek the Department’s assessment of adding “*dementia inpatient units*” and “*learning disability inpatient units*” to the list of settings at clause 43(1). The Department responded on 19 March, advising that dementia and learning disability inpatient units are already covered under the Bill’s reference to “*mental health units*” as defined in the legislation referenced at Clause 43(2).
317. During its deliberations on the Bill at its meeting on 12 March, the Committee discussed concerns that the named settings would not offer protection to vulnerable adults in other hospital settings. The Department advised in response that this issue had been considered however it was concluded that it would be difficult to have a CCTV system in operation that would only cover ‘adults at risk’ in other hospital settings.

318. Members considered that the operation of CCTV in residential settings in particular was a difficult issue and consideration should be given to unintended consequences. Correspondence from the Department (of 3 February) set out that the regulations for CCTV provision will be informed by legal advice and consideration of ECHR concerns about the right to a private life.
319. The Committee noted that the use of CCTV was likely to be referenced in the Muckamore Abbey Inquiry Report and that the Committee was undertaking its consideration of CCTV provisions in the Bill in advance (and without the benefit) of seeing the outcome of this Inquiry.
320. The Committee wrote to the Minister on 6 March regarding the revised publication timeline for the Muckamore Report and requested a delay in scheduling the Consideration Stage of the Adult Protection Bill until after the Inquiry Report is available in June 2026.
321. The Minister acknowledged the value of ensuring that the Bill is aligned with the recommendations from the Inquiry and to provide opportunity to bring forward amendments that may strengthen the Bill. The Minister agreed to delay scheduling Consideration Stage of the Bill until September 2026 for this purpose.
322. At the formal clause-by-clause consideration of the Bill, the Committee agreed not to take a position on clauses 43-47 and would consider these clauses once the Muckamore Abbey Hospital Inquiry Report is published.

#### **Clause 44 – Regulation of CCTV systems in establishments to which the Part applies**

323. Clause 44 provides that regulations may, in relation to a day care setting, a nursing home, a residential care home or a mental health unit, make provision about the installation and use of a CCTV system on those premises for the purpose of safeguarding adults at risk who reside in, or use the services provided in those premises.

324. The Department of Health sets out in its Delegated Powers Memorandum (17 June 2025) that the inclusion of a power to make regulations regarding CCTV was not included in the policy consultation which informed the draft Bill. The issue was raised by some stakeholders and added after consideration by the Transformation Board overseeing the development of the Bill, taking into account appropriate legal advice.
325. In recognition that the views of the public were not canvassed on this issue, the Department agreed to the inclusion of the CCTV clauses on the condition that the content of the draft Regulations would be subject to full public consultation, and that they would be subject to draft affirmative resolution by the Assembly (the highest possible level of Assembly scrutiny for regulations).
326. The Department advised the Committee that it was unlikely that a public consultation on CCTV provisions would be undertaken in this mandate.
327. Most stakeholders supported the use of CCTV but caveated that its use must be tied to particular conditions. The NIHRC supported CCTV where justified but call for case by case assessments (especially of ECHR Article 8 compliance) and monitoring requirements. COPNI supported CCTV use on a targeted basis and echoed NIHRC's call for case by case assessments. COPNI called for mandatory privacy/human-rights impact assessments lodged with RQIA before installation and regularly reviewed, using powers under Clause 44(2)(a).
328. RASNN encouraged CCTV use but with transparency, clear signage and alignment with existing RCN policy on staff being recorded. PSNI supported CCTV as a deterrent and for accountability and suggested that CCTV requirements could be integrated within the process for registering a business or premises.
329. Action for Muckamore advised the Committee that CCTV footage became key evidence in the Muckamore investigation but pointed out that management was not aware that it was operational. Action for Muckamore asked for a clear policy to provide families with a choice regarding CCTV where the service user does not have capacity to consent themselves.

330. NMC had no formal position on the use of CCTV but did urge careful consideration and robust governance for retention, review and disclosure in settings where CCTV is used. GMC advised it was not opposed to the use of CCTV and considered it could be used as evidence in fitness to practice procedures. GMC felt that the RQIA was the relevant body for any CCTV decisions and regulation.
331. ARC NI strongly opposed any mandate for CCTV or use as a default safeguarding measure, arguing that it undermines trust and can be harmful especially for those with learning disabilities.
332. The Committee discussed the level of scrutiny available to the Assembly in relation to CCTV provisions being brought forward by delegated legislation (as the Bill currently provides) or whether these provisions should be made in primary legislation. Scrutiny processes and related timescales were discussed.
333. The Committee discussed the option of strengthening the level of Assembly control by attaching conditions that must be met before the Department can lay any regulations such as consulting specified persons, including the Committee in advance.
334. The Committee considered an amendment to enhance the level of Assembly control in respect of any draft regulations laid under clause 44 at its meeting on 23 March and agreed it was content with this amendment. The amendment sets out specified organisations with whom the Department must consult including the Committee. The amendment will also enable the Committee to undertake detailed scrutiny of any future regulations over an extended time period. The Committee noted that the amendment will create a new clause to be added after clause 48.

#### **Clause 45 – Contravention of regulations under section 44**

335. This clause provides that contravention of regulations under clause 44 is an offence.

336. No specific issues were raised in oral or written evidence in relation to this clause.

### **Clause 46 – Enforcement powers of RQIA**

337. Clause 46 sets out that it is a function of RQIA to monitor and enforce compliance with regulations under clause 44.

338. In its evidence to the Committee, COPNI called for an obligation on RQIA to publish anonymised statistics on CCTV inspections and enforcement; consideration of higher fines or civil penalties; and to link repeated non-compliance with main care-standards enforcement regime.

339. The Committee asked for the Department's view on COPNI's suggestion on the publication of anonymised statistics on CCTV inspections and enforcement.

340. In its response of 19 March, the Department advised that CCTV regulations under clause 44(1) cannot require RQIA to publish inspection or enforcement information because such duties fall outside the scope of regulating the installation and use of CCTV. However, RQIA's wider powers under The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 ('the 2003 Order') already allow the Department to require publication of reports or direct RQIA in how it carries out its functions. The 2003 Order also requires RQIA to publish an annual report, which can include anonymised statistics on CCTV inspections and enforcement. Legal advice confirmed that these existing powers mean no amendment to the Adult Protection Bill is needed to enable publication of this information.

341. The Committee also asked for a response to COPNI's call for consideration of higher fines or civil penalties and to link repeated non-compliance with main care-standards enforcement regime.

342. The Department advised the clause was drafted so that the sanctions were consistent with other sanctions within the bill and with sanctions associated with RQIA's other work in the 2003 Order.

343. The Committee also discussed the involvement of families in inspections and asked the Department whether Clause 46(6)(e) should be amended to allow RQIA to interview a “*family member or next of kin*” during a CCTV-related inspection.
344. In a written response on 19 March, the Department advised that such an amendment was unnecessary because the clause only allows interviews with people who are physically on the premises during the inspection, as the powers apply only to those the authorised inspector can meet “*in private*” within the establishment.
345. The Department confirmed that RQIA can already speak to relatives privately outside the premises if needed. The Department also noted that the clause directly mirrors existing RQIA enforcement powers under the 2003 Order, and changing it could disrupt the functioning of those parallel provisions.
346. The Committee noted that the Convention Rights Memorandum on the Bill detailed that the compliance and enforcement powers of the RQIA set out in clause 46 may involve an interference with the right to peaceful enjoyment of property protected by Article One of Protocol 1 of the ECHR, but that the provision for the RQIA’s examination and inspection may be a proportionate means of safeguarding the rights of persons living or using the premises where CCTV is operated in accordance with any regulations made under clause 44. The Committee asked the Department to confirm the purposes of giving these powers to RQIA.
347. The Department explained in correspondence of 17 February that RQIA was considered the most appropriate body to hold the enforcement powers because it already has an established inspection role in care settings. It therefore made sense for RQIA to oversee compliance with CCTV regulations. RQIA also already issues guidance on CCTV use in care environments, giving it relevant existing expertise and connections in this area.
348. The Committee further noted that as a public authority the RQIA is under a discrete duty to exercise the powers conferred by the clause in a manner compatible with the Convention.

349. The Committee also considered the capacity of RQIA to carry out the additional responsibility outlined in clause 46 and asked the Department for its view.
350. The Department advised that RQIA contributed to the Business Case to identify the additional resource requirement and confirmed that the RQIA considered that the enforcement powers were appropriate.

#### **Clause 47 – Restrictions on disclosure of information under section 46**

351. This clause provides restrictions on disclosure of confidential information obtained as part of inspections carried out under clause 46. A person is not required to provide confidential information unless consent is obtained, it is anonymised information, or, if the information cannot be anonymised, the RQIA believe there is a serious risk to the health or safety of any person and due to the urgency of the matter consent cannot be obtained.
352. No specific issues were raised in oral or written evidence from stakeholders in relation to this clause.
353. The Committee noted that the Convention Rights Memorandum on the Bill detailed that the disclosure of confidential information may engage a person's Article 8 right to a private life. The clause provides that use of such information will in most cases require consent and sets out clear grounds allowing the use of such information without consent. Where another statutory provision prohibits disclosure of such information, it will not usually be necessary for it to be disclosed.
354. The Committee asked the Department for its view on whether the provision for the use of confidential information represent a proportionate means of achieving a legitimate aim.
355. The Department advised the Committee that the Bill builds in the requirement for the consent of the adult at risk to be sought. As with other clauses, the Department believes that this is a proportionate interaction with the ECHR.

356. The Committee noted the safeguards and limitations regarding the use of confidential information set out in clause 47(1) and (2) as well as the provision for anonymisation of such information in clause 47(3).

**New Clause 47A – Restrictions on disclosure of information under section 46**

357. In correspondence of 19 February, the Department advised the Committee of its intention to add a new clause (47A) to address an omission in the Safeguarding Vulnerable Groups (NI) Order 2007. The Department advised that the Education and Training Inspectorate (ETI) is currently listed for enhanced AccessNI checks with a children's barred list check but is not listed for enhanced checks in relation to the adults' barred list. As ETI routinely inspect settings where adults up to age 25 may be present this omission needs to be addressed and the Department considered that the Adult Protection Bill provides an appropriate opportunity to do this.

358. The Department provided the Committee with the text of its proposed amendment on 25 February.

359. At the meeting on 24 March, the Committee agreed it was content with the Department's proposed amendment.

## **Part 5 – General**

### **Clause 48 – Regulations and Orders**

360. This clause contains provision about the required procedures for making subordinate legislation under the Act.

361. In its submission to the Committee, Action for Muckamore recommend that the part of the Bill include a duty for the Department to review the Act's operations and effectiveness within three years, and at fixed intervals going forward.

362. At its meeting on 26 June 2025, the Committee agreed to refer the Department of Health's Delegated Powers Memorandum in respect of the Adult Protection Bill to the Examiner of Statutory Rules and to request legal advice on: whether the provisions of the Bill inappropriately delegate legislative power, and whether the exercise of that legislative power provided for is subject to an appropriate degree of scrutiny by the Assembly.

363. The Examiner advised the Committee that she was satisfied that the delegation of legislative powers provided for in the Bill was not inappropriate and the exercise of legislative power provided for is subject to an appropriate Assembly scrutiny procedure.

### **New Clause 48A – Procedure for regulations under section 44**

364. A Committee amendment to include new clause 48A to enhance the level of Assembly control in respect of any draft regulations laid under clause 44 was discussed by the Committee at its meeting on 23 March. This is discussed in further detail at clause 44.

365. At its meeting on 23 March, the Committee agreed it was content with the amendment subject to its consideration of the outcome of the Muckamore Abbey Hospital Inquiry.

## **Clauses 49 - Interpretation**

366. Clause 49 provides explanations of a number of definitions used throughout the Bill.
367. When considering this clause at its meeting on 12 March, the Committee requested further information from the Department on the '*adult at risk*' definition and asked for clarity on the rationale for the inclusion of people who have capacity as well as those who lack capacity. The Committee asked the Department to provide examples of cases where a person may be deemed an adult at risk but with capacity to make their own decisions.
368. In correspondence of 19 March, the Department provided the Committee with examples of situations where a person might be considered an adult at risk despite having capacity to make their own decisions. The Department advised that the situations outlined would not be covered by the Bill if the definition excluded adults with capacity to decide.
369. Members also asked for an update on the Department's engagement with BMA and RCGP on their concerns of people at risk who have capacity.
370. The Department advised that discussions with BMA and RCGP were ongoing. The Department reiterated its view that clause 4 gives latitude for medical professionals to make a judgment on whether it's necessary to report and that there are no sanctions relating to clause 4. The Department advised it was trying to find the right balance between recognising that people have the right to make an unwise decision and a duty to safeguard the public.
371. The Committee noted at its meeting on 24 March that the GMC did not share the concerns highlighted by BMA and RCGP.

## **Clause 50 - Commencement**

372. This clause provides that Part 5 will come into operation on the day after the Act receives Royal Assent. This clause also details other provisions of the Act come into operation on a later day as appointed by the Department.

373. The Committee agreed that it would like to strengthen the provision of independent advocates in the Bill and link the commencement of clause 26 (which outlines the arrangements for independent advocates) to the commencement of clauses 5-8 (inclusive). By way of reminder, clauses 5 to 6 relate to the powers of investigation and cover: visits by social workers, interviews, medical examinations, examination of records and applications for procedure orders.

374. At its meeting on 23 March, the Committee considered the amendment it had requested to require clause 26 to be commenced at the same time or before clauses 5 to 8 come into operation. The Committee agreed it was content with this amendment.

#### **Clause 51 - Short Title**

375. Clause 51 states that the Act may be cited as the Adult Protection Act (Northern Ireland) 2025.

376. No specific issues were raised in oral or written evidence in relation to this clause.

## Clause by Clause Scrutiny of the Bill

377. Having considered the written and oral evidence received on the Bill, the Committee undertook its formal Clause-by-Clause consideration at its meeting on 24 March 2026.
378. The related Minutes of Proceedings of the Committee's Clause by Clause consideration are in Appendix 1 and the Minutes of Evidence of the proceedings are in Appendix 2.
379. Information on the Committee's deliberations on the Bill can be found in the previous section of this report.
380. DUP Members of the Committee outlined that they supported the Bill and the amendments proposed by the Department and the Committee, but they would be reserving their position on the clauses of the Bill until further legal advice is received and the Muckamore Abbey Hospital Inquiry Report is published.
381. The Chair summarised that all Members were entitled to bring forward amendments at a later stage and that the Committee may also bring forward further amendments once further information is received.

### **Formal Clause by Clause Consideration of the Adult Protection Bill.**

382. The Committee commenced its formal clause by clause consideration of the Bill.

#### **Clause 1- Principles for performing functions under this Part**

383. **Agreed:** The Committee agreed that it was content with Clause 1 as drafted.

#### **Clause 2- Adult at risk**

384. **Agreed:** The Committee agreed that it was content with Clause 2 as drafted.

#### **Clause 3- Duty to make inquiries**

385. The Committee considered a Department of Health proposed amendment to Clause 3 regarding independent advocates.

*Clause 3, Page 2, Line 26*

*Leave out subsection (2)*

386. **Agreed:** The Committee agreed that it was content with the amendment as drafted.

387. **Agreed:** The Committee agreed that it was content with Clause 3 as amended.

#### **Clause 4- The duty to report and co-operate in inquiries**

388. The Committee considered two Department of Health proposed amendments to Clause 4 to: remove named professions and replace with reference to governing legislation; and to include the NIPS in the duty.

#### Amendment 1

*Clause 4, Page 3, Line 1*

*Leave out paragraphs (g) and (h) and insert—*

*“(g) an individual who is—*

*(i) a fully registered medical practitioner within the meaning of the Medical Act 1983;*

*(ii) a registered dentist or registered dental care professional within the meaning of the Dentists Act 1984;*

*(iii) a fully registered osteopath within the meaning of the Osteopaths Act 1993;*

*(iv) a fully registered chiropractor within the meaning of the Chiropractors Act 1994;*

*(v) a registered dispensing optician or registered optometrist within the meaning of the Opticians Act 1989;*

*(vi) registered as a pharmaceutical chemist under the Pharmacy (Northern Ireland) Order 1976;*

*(vii) registered as in the register maintained under article 5 of the Nursing and Midwifery Order 2001 by virtue of qualifications in nursing or midwifery;*

*(viii) registered as a member of a relevant profession within the meaning of the Health Professions Order 2001;*

*(ix) registered in the register maintained under section 3 of the Health and Personal Social Services Act (Northern Ireland) 2001;*

*(x) registered in the register maintained under the Anaesthesia Associates and Physician Associates Order 2024.”*

#### Amendment 2

*Clause 4, Page 2, Line 37*

*At end insert—*

*“( ) the governor of a prison or young offenders centre,”*

389. **Agreed:** The Committee agreed that it was content with the amendments as drafted.

390. **Agreed:** The Committee agreed that it was content with Clause 4 as amended.

### **Clauses 5 to 9**

391. **Agreed:** The Committee agreed to group Clauses 5 to 9 for the purpose of putting the question.

#### **Clause 5- Visits by social worker**

#### **Clause 6- Interviews**

#### **Clause 7- Medical examinations**

#### **Clause 8- Examination of records**

#### **Clause 9- Applications for production orders: procedure**

392. **Agreed:** The Committee agreed that it was content with Clauses 5 to 9 as drafted.

#### **Clause 10- Assessment orders**

393. The Committee considered a Department of Health proposed amendment to Clause 10 to confirm that this the clause does not apply to those under an assessment order in prison or young offenders centre.

*Clause 10, Page 7, Line 2*

*At end insert- ‘(6) This section does not apply in the case of an adult who is detained in a prison or young offenders centre.*

394. **Agreed:** The Committee agreed that it was content with the amendment as drafted.

395. **Agreed:** The Committee agreed that it was content with Clause 10 as amended.

#### **Clause 11- Removal orders**

396. The Committee considered a Department of Health proposed amendment to Clause 11 to clarify that this Clause does not apply to an adult detained in a prison or young offenders centre.

*Clause 11, Line 7, Page 34*

*At end insert- '(7) This section does not apply in the case of an adult who is detained in a prison or young offenders centre'.*

397. **Agreed:** The Committee agreed that it was content with the amendment as drafted.

398. **Agreed:** The Committee agreed that it was content with Clause 11 as amended.

#### **Clauses 12 to 17**

399. **Agreed:** The Committee agreed to group Clauses 12 to 17 for the purpose of putting the question.

#### **Clause 12- Banning orders**

#### **Clause 13- Temporary banning orders**

#### **Clause 14- Right to apply for banning order**

#### **Clause 15- Variation or revocation of banning order**

#### **Clause 16- Offence: failure to comply with banning order or temporary banning orders**

#### **Clause 17- Consent of affected adult**

400. **Agreed:** The Committee agreed that it was content with Clauses 12 to 17 as drafted.

#### **Clause 18- Visits: supplementary**

401. The Committee considered a Department of Health proposed amendment to Clause 18 to provide for the offer of an independent advocate.

*Clause 18, Page 11, Line 24*

*At end insert – '(1A) While visiting any premises to exercise a function under this Part in relation to an adult, a social worker must make the offer referred to in section 26(1) (assignment of independent advocate) unless an independent advocate has already been assigned to the adult.'*

402. **Agreed:** The Committee agreed that it was content with the amendment as drafted.

403. **Agreed:** The Committee agreed that it was content with Clause 18 as amended.

#### **Clauses 19 to 21**

404. **Agreed:** The Committee agreed to group Clauses 19 to 21 for the purpose of putting the question.

#### **Clause 19- Warrants for entry: visits under section 5 or 11(5)**

#### **Clause 20- Applications: procedure**

#### **Clause 21- Legal aid: production orders and protection orders**

405. **Agreed:** The Committee agreed that it was content with Clauses 19 to 21 as drafted.

#### **Clause 22- Guidance**

406. The Committee considered two Department of Health amendments and two Committee amendments to Clause 22 to: strengthen consultation on the guidance; clarify the timeframe for review; and prevent any delay in publication.

#### Department Amendment 1

*Clause 22, Page 13, Line 29*

*Leave out 'from time to time' and insert 'at intervals not exceeding 4 years'*

#### Department Amendment 2

*Clause 22, Page 13, Line 35*

*At end insert– ‘( ) the bodies responsible for the regulation of social workers and of health professionals; and’*

Committee Amendment 1

*Clause 22, Page 13, Line 35*

*At end insert- ‘(ba) the Adult Protection Board for Northern Ireland,’*

Committee Amendment 2

*Clause 22, Page 13, Line 37*

*At end insert- ‘(3A) The requirement under subsection (3)(ba) shall not prevent the Department from preparing or reviewing guidance at any time before the Adult Protection Board for Northern Ireland is established under section 30.’*

407. **Agreed:** The Committee agreed that it was content with the amendments as drafted.

408. **Agreed:** The Committee agreed that it was content with Clause 22 as amended.

**Clauses 23 to 25**

409. **Agreed:** The Committee agreed to group Clauses 23 to 25 for the purpose of putting the question.

**Clause 23- Obstruction**

**Clause 24- Offences by bodies corporate, etc**

**Clause 25- Appeals**

410. **Agreed:** The Committee agreed that it was content with Clauses 23 to 25 as drafted.

**Clause 26- Independent advocates**

411. The Committee considered three Department of Health proposed amendments to Clause 26 to address concerns raised by the Committee regarding Independent Advocates.

Amendment 1

Clause 26, Page 15, Line 36

Leave out subsections (1) to (5) and insert–

*‘(1) An HSC trust must offer to assign an independent advocate to represent and provide support to an adult in relation to the exercise, or proposed exercise, by a trust of any functions under this Part in relation to the adult.*

*(2) An HSC trust must make arrangements to secure that sufficient numbers of persons are available for assignment under subsection (1); and such arrangements may include provision for payments to be made to, or in relation to, persons carrying out functions by virtue of the arrangements.*

*(3) In this Part references to an independent advocate are to a person who has been assigned to act as such under subsection (1).*

*(4) Regulations may make provision about independent advocates and in particular may make provision –*

*(a) about the arrangements that may be made by an HSC trust under subsection (2) and the process for the assignment under subsection (1) of persons made available under those arrangements;*

*(b) about the functions of independent advocates;*

*(c) for the purpose of ensuring the independence of advocates;*

*(d) ensuring that a person may be assigned as an independent advocate under subsection (1) only if the person meets prescribed conditions;*

*(e) for the assignment of a person under subsection (1) to be subject to prescribed conditions.’*

Amendment 2

Clause 26, Page 16, Line 12

Leave out ‘(5)(a)’ and insert ‘(4)(e)’

Amendment 3

Clause 26, Page 16, Line 16

At end insert–

*‘(6) Nothing in this section or regulations under subsection (4) authorises or requires an HSC trust to delay the exercise, or proposed exercise, by the trust of any function*

*under this Part pending the assignment of an independent advocate for an adult where the trust is of the opinion that such a delay might place the adult at risk, or increased risk, of harm.'*

412. **Agreed:** The Committee agreed that it was content with the amendments as drafted.

413. **Agreed:** The Committee agreed that it was content with Clause 26 as amended.

### **Clauses 27 to 29**

414. **Agreed:** The Committee agreed to group Clauses 27 to 29 for the purpose of putting the question.

### **Clause 27- Exercise of functions of social worker, health professional and HSC trust**

### **Clause 28- Involvement by HSC trust of relevant persons**

### **Clause 29- Interpretation of this Part**

415. **Agreed:** The Committee agreed that it was content with Clauses 27 to 29 as drafted.

### **Clause 30- Establishment of the Board**

416. The Committee considered a Department of Health proposed amendment to Clause 30.

417. The Committee considered a Committee proposed amendment to disqualify representatives of the persons or bodies listed in Clause 30 (3)(a) to (e) being appointed as the Chair of the APBNI in order to strengthen independence.

#### Department Amendment 1

*Clause 30, Page 18, Line 33*

*Leave out paragraph (c)*

#### Committee Amendment 1

*Clause 30, Page 18, Line 37*

*At end insert-*

*'(3A) A person is disqualified from being the Chair of the Board if that person is representative of any of the persons or bodies specified in subsection (3)(a) to (e)*

418. **Agreed:** The Committee agreed that it was content with the amendments as drafted.

419. **Agreed:** The Committee agreed that it was content with Clause 30 as amended.

### **Clause 31- Objective of the Board**

420. **Agreed:** The Committee agreed that it was content with Clause 31 as drafted.

### **Clause 32- Functions of the Board**

421. The Committee considered a Department of Health proposed amendment to Clause 32 to specify the APBNI's responsibility for arranging adult protection learning reviews.

*Clause 32, Page 20, Line 6*

*Leave out from 'undertake' to end of line 7 and insert 'arrange, in accordance with section 32A and regulations under that section, for the carrying out of adult protection learning reviews'*

422. **Agreed:** The Committee agreed that it was content with the amendment as drafted.

423. **Agreed:** The Committee agreed that it was content with Clause 32 as amended.

### **New Clause 32A- Adult protection learning reviews**

424. The Committee considered a Department of Health proposed amendment to insert a new Clause to provide for the arrangements for Adult Protection Learning Reviews.

#### New Clause

*After clause 32 insert—*

***Adult protection learning reviews***

*(1 ) This section applies where it appears to the Board —*

*(a) that an adult known or suspected to be an adult at risk has suffered serious harm; and*

*(b) that a review of the case of that adult ought to be carried out under this section with a view to identifying—*

*(i) any opportunities for learning in relation to the practices or procedures of bodies or persons exercising functions or engaged in activities relating to the protection of adults at risk;*

*(ii) any improvements that should be made in relation to those practices or procedures.*

*(2) Where this section applies the Board may arrange for the conduct of an adult protection learning review.*

*(3) Regulations may make provision about an adult protection learning review; and in particular the regulations may include provision—*

*(a) for the review to be led by an independent person appointed in the prescribed manner;*

*(b) for the conduct and procedures of the review;*

*(c) for a report on the review to be made to the Board;*

*(d) for the adult concerned and other prescribed persons to have the opportunity to contribute to the review;*

*(e) for securing that an independent advocate is available to be assigned to represent and provide support to the adult concerned in relation to a review.*

*(4) Regulations under subsection (3)(b) must provide for the review to be conducted in an effective, timely and proportionate manner with a view to identifying the matters referred to in subsection (1 )(b) and for that purpose may confer supervisory functions on the Board.*

*(5) Regulations under subsection (3)(e) may—*

*(a) include provision for payments to be made to, or in relation to, an independent advocate,*

*(b) make provision of any kind which could be made by regulations under section 26(4)(b), (5) and (6) in relation to an independent advocate under section 26.*

*(6) The Board must publish the report of an adult protection learning review; but the Board —*

*(a) must exclude from the report any matter which would lead to the identification of*

*the adult concerned;*

*(b) may exclude from the report such other matter as the Board considers appropriate.*

*(7) In this section "the adult concerned", in relation to a review, means the adult whose case is being reviewed.*

425. **Agreed:** The Committee agreed that it was content with the proposed new Clause 32A as drafted.

426. **Agreed:** That the Committee recommends to the Assembly that the proposed new Clause 32A be added to the Bill.

### **Clause 33- Directions to the Board**

427. **Agreed:** The Committee agreed it would not take a position on Clause 33 until it receives further legal advice.

### **Clause 34- Annual report**

428. The Committee considered a Department of Health proposed amendment to Clause 34 to reference adult protection learning reviews.

*Clause 34, Page 20, Line 40*

*At end insert- '(2A) The report must include details of the adult protection learning reviews conducted in the year under clause 32A.'*

429. **Agreed:** The Committee agreed that it was content with the amendment as drafted.

430. **Agreed:** The Committee agreed that it was content with Clause 34 as amended.

### **Clauses 35 to 42**

431. **Agreed:** The Committee agreed to group Clauses 35 to 42 for the purpose of putting the question.

### **Clause 35- Committees and sub-committees of the Board**

**Clause 36- Supply of information requested by Board**

**Clause 37- Consequential amendments**

**Clause 38- Ill-treatment or neglect: care worker offence**

**Clause 39- Ill-treatment or neglect: care provider offence**

**Clause 40- Care provider offence: penalties**

**Clause 41- Care provider offence: application to unincorporated associations**

**Clause 42- Care provider offence: liability for ancillary and other offences**

432. **Agreed:** The Committee agreed that it was content with Clauses 35 to 42 as drafted.

**Clauses 43 to 47**

**Clause 43- Establishments to which this Part applies**

**Clause 44- Regulation of CCTV systems in establishments to which this Part**

**Clause 45- Contraventions of regulations under section 44**

**Clause 46- Enforcement powers of RQIA**

**Clause 47- Restrictions of disclosure of information under section 46**

433. **Agreed:** The Committee agreed it would not to take a position on Clauses 43-47 until after the publication of the Muckamore Abbey Hospital Inquiry Report.

**New Clause 47A- Vulnerable Adults; Regulated Activity**

434. The Committee considered a Department of Health proposed amendment to insert a new Clause 47A.

New Clause

*After clause 47 insert—*

**PART 4A**

*Vulnerable Adults; Regulated Activity*

47A. *In Part 2 of Schedule 2 to the Safeguarding Vulnerable Adults (Northern Ireland) Order 2007 (regulated activity relating to vulnerable adults) in paragraph 7(6) at the end add—*

*“(c) an inspector appointed under Article 102 of the Education and Libraries (Northern Ireland) Order 1986.”.*

435. **Agreed:** The Committee agreed that it was content with the proposed new Clause 47A.

436. **Agreed:** That the Committee recommends to the Assembly that the proposed new Clause 47A be added to the Bill.

#### **Clause 48- Regulations and orders**

437. **Agreed:** The Committee agreed that it was content with Clause 48 as drafted.

#### **New Clause 48A- Procedures for Regulations under section 44**

438. The Committee considered its proposed amendment to insert a new Clause 48A to enhance the level of Assembly control in respect of any draft regulations laid under Clause 44.

#### New Clause

*After Clause 48 insert-*

*‘Procedure for regulations under section 44*

*48A.-(1) Before laying the first draft regulations under section 44 the Department must consult-*

*(a) the Commissioner for Older People for Northern Ireland;*

*(b) the Police Service of Northern Ireland;*

*(c) the Northern Ireland Human Rights Commission;*

*(d) the Committee for Health of the Northern Ireland Assembly; and*

*(e) such organisations as appear to the Department to be representative of interests substantially affected by the proposals.*

*(2) The Department must, at the same time as it lays the draft regulations before the Assembly, lay an explanatory document giving details of-*

*(i) any consultation undertaken under subsection (1);*

*(ii) any representations received as a result of the consultation; and*

*(iii) any substantive changes made to the draft regulations following the consultation.”*

439. **Agreed:** The Committee agreed that it was content with the proposed new Clause 48A.

440. **Agreed:** That the Committee recommends to the Assembly that the proposed new Clause 48A be added to the Bill.

#### **Clause 49- Interpretation**

441. **Agreed:** The Committee agreed that it was content with Clause 49 as drafted.

#### **Clause 50- Commencement**

442. The Committee considered its proposed amendment to Clause 50 to provide that Clause 26 be commenced at the same time as, or before, sections 5 to 8 come into operation.

*Clause 50, Page 21, Line 17*

*At end insert- '(2A) the Department may not appoint a day for the coming into operation of any sections 5 to 8 that falls before the day on which section 26 comes into operation'*

443. **Agreed:** The Committee agreed that it was content with the amendment as drafted.

444. **Agreed:** The Committee agreed that it was content with Clause 50 as amended.

#### **Clause 51- Short title**

445. **Agreed:** The Committee agreed that it was content with Clause 51 as drafted.

#### **Department proposed amendments to Clause 29 and Clause 50**

446. At its meeting on 26 March, the Committee considered two Department proposed amendments to Clause 29 and one Department proposed amendment to Clause 50.

447. The proposed amendments to Clause 29 are consequential to the amendment of Clauses 10 and 11 that clarify that Assessment Orders and Removal Orders do not apply in the case of an adult who is detained in a prison or young offenders centre.

448. The amendment to Clause 50 makes provision for the commencement of new Clause 47A.

Amendment 1 to Clause 29

*Clause 29, Page 18, Line 2*

*At end insert— "prison" has the same meaning as in the Prison Act (Northern Ireland) 1953;'*

Amendment 2 to Clause 29

*Clause 29, Page 18, Line 11*

*At end insert— "young offenders centre" has the same meaning as in the Treatment of Offenders Act (Northern Ireland) 1968;'*

Amendment to Clause 50

*Clause 50, page 31, line 14 Leave out*

*'This Part comes' and insert 'Part 4A and this Part come'*

449. **Agreed:** The Committee agreed that it was content with the amendments to Clause 29 as drafted.

450. **Agreed:** The Committee agreed that it was content with the amendment to Clause 50 as drafted.

## **Links to Appendices**

### **Appendix 1: Minutes of Proceedings**

[View the Minutes of Proceedings of Committee meetings related to the report.](#)

### **Appendix 2: Minutes of Evidence**

[View the Minutes of Evidence from evidence sessions related to the report.](#)

### **Appendix 3: Written Submissions**

[View the written submissions received in relation to the Bill.](#)

### **Appendix 4: Memoranda and Papers from the Department of Health**

[View the memoranda and papers supplied to the Committee by the Department of Health.](#)

### **Appendix 5: Other Memoranda and Papers considered by the Committee**

[View other memoranda and papers considered by the Committee.](#)

### **Appendix 6: Research Papers**

[View Research Papers produced by the Assembly's Research and Information Service \(RaISe\) in relation to the report.](#)

### **Appendix 7: List of Witnesses**

[View a list of witnesses who provided oral evidence to the Committee.](#)

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