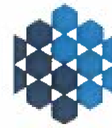
FROM THE MINISTER OF HEALTH



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Our Ref: COR-0352-2026

Date: 25 February 2026

Dear Philip

I have attached the text of proposed amendments to the Adult Protection Bill as drafted by OLC. This follows the recent written and oral briefing by officials on the Bill which included details on the proposed amendments. Please note there are two consequential amendments to Clause 29 regarding Prisons. Officials have briefed the Committee previously in relation to this matter and a summary of the issues is attached at Annex F.

I have also enclosed an updated implementation plan. The Committee is aware that the business case for the Adult Protection Bill was agreed on the condition that the draft Bill could be introduced, but implementation would be delayed until budget was available. As a result of the wider financial situation within the Department, it is not possible to place definitive timescales around implementation.

The attached implementation plan has been updated to include indicative timeframes which provide information on how much time it is expected the Department would need to commence each aspect of the Bill, assuming that funding was available.

I have additionally enclosed responses to five additional queries received from the Committee on 20 February.

I hope you find this information helpful.

Yours sincerely

Mike Nesbitt MLA
Minister of Health

Annex B

Text provided by OLC for proposed amendments

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.'

Clause 4, Page 2, Line 37

At end insert–

'( ) the governor of a 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.'

Clause 11, Page 7, Line 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.'

Clause 22, Page13, Line 29
Leave out 'from time to time' and insert 'at intervals not exceeding 4 years'

Clause 30, Page 18, Line 33
Leave out paragraph (c)

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;'

New clause
After clause 32 insert–
'Adult protection learning reviews
32A.– (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.'

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.'

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.".

Clause 50, page 31. line 14

Leave out 'This Part comes' and insert 'Part 4A and this Part come'

Clause 29, Page 18, Line 2

At end insert–

' "prison" has the same meaning as in the Prison Act (Northern Ireland) 1953;'

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;'

The Adult Protection Bill – High-Level Estimated Implementation Timeline

This implementation timeline is an estimate only and is fully dependent on the availability of budget. No element of the Adult Protection Bill can be implemented without confirmed funding.

EARLY STAGE		
Activities	**Timeframe**	**Rationale**
• Offence Framework (Clauses 38–39) • Independent Advocates (Clause 26) • Failure to Comply Orders (Clause 40) • IT System Updates (PSNI/NICTS)	Approx. 3 months+	Low dependency items that can be implemented relatively quickly as they do not rely on larger governance structures or APSW recruitment.
MID STAGE		
Activities	**Timeframe**	**Rationale**
• CCTV Regulatory Framework (Clauses 43–47) • Adult Protection Board setup (Clause 30) • Adult Protection Learning Reviews Framework • Trust Accommodation & Equipment	Approx. 12-18 months+	Requires new regulations, governance structures, public consultation, and operational setup before becoming functional.
LATE STAGE		
Activities	**Timeframe**	**Rationale**
• Workforce Training (Trust/PSNI/NICTS) • Access to Records (Clause 8) • Power of Entry & Protection Orders (Clause 5) • Enforcement & Offences (Clauses 16, 23, 45) • Medical Assessment (Clause 7) • Legal Aid (Clause 21)	Approx. *12 months+ *This timeframe relates specifically to the recruitment of Adult Protection Social workers (APSWs) and related training.	It is not possible to put an estimate on all the other activities required to commence the powers at this stage. This will require further detailed discussion and agreement with all key stakeholders and will depend on the recruitment and training of APSWs.
ONGOING		
Activities	**Timeframe**	**Rationale**
• Duty to Make Enquiries (Clause 3) • Annual Licensing/Fees	Continuous / Year-on-Year	Represents ongoing statutory duties once the new safeguarding system is fully embedded.

Annex E

Adult Protection Bill – Addition Information requested by Committee of Health on 20 February 2026.

1. Any further details on how the Department arrived at the wording *"have regard to"* in relation to the principles at Clause 1.

Responses to the policy consultation which informed the draft Bill strongly supported the inclusion of principles in the Adult Protection Bill. Following discussion with the Office of Legislative Counsel (OLC), it was decided that the drafting of the principles should broadly follow the example of the Adult Support and Protection (Scotland) Act 2007. Similar wording is used; the Adult Protection Bill uses, "An HSC Trust or social worker performing functions under this Part in relation to an adult must, if relevant, have regard to-", while the Scottish Act uses, "A public body or office-holder performing a function under this Part in relation to an adult must, if relevant, have regard to-". This means that in performing their functions under Part 1 of the Bill, social workers must be guided by the principles in terms of their actions, decisions, and interactions with adults at risk and their families.

2. Some examples to illustrate what may constitute *"socio-economic factors"* in the context of Clause 2.

Socio-economic factors in the context of Clause 2, would include social deprivation, income and employment, educational backgrounds, poverty, housing, family supports, cultural factors/supports. This is not an exhaustive list, and Trusts have reported different factors are more prevalent in different geographical areas as stated below:

1. South Eastern Trust has a large number each year of financial cases whereby the person has dementia and is still living at home with family and care provider support. This is mainly people living in rural farm areas and protecting their inheritance and sibling rivalry and accusations of financial abuse against each other pertaining to their remaining living parent.

2. Northern Trust report a noticeable issue is carer stress and the lack of short break provision and day services for older or disabled service users.

3. Southern Trust have responded to adult protection concerns where an older gentleman raised concerns about his property being mistakenly identified as a point for purchasing drugs. This resulted in anti-social behaviour and exploitation by local youths. Due to a lack of family support and previous tenancy issues he was unable to relocate to a safer area. The ST Adult Protection Gateway team worked in partnership with NIHE and key local voluntary agencies to make his property safer pending a new tenancy being secured.

4. Southern Trust noted presence of closed cultural norms within some communities may also mean that an adult's circumstances may expose them to harm and/or continued harm and the coercive control may result in the adult being unable to protect themselves in some cases. Eg the Southern Local Adult Safeguarding Partnership has completed an introductory awareness raising session with the Chinese Community in Craigavon where it was noted that there is a reluctance to seek support outside of the community especially from statutory services.

5. Belfast Trust noted socio-economic factors such as complex family relationships, housing, family role as carer- carers stress, finances and the controllership of service user monies, family rights vs service user rights when an adult is making decisions and the impact of coercion.

3. Details of any discussions with PSNI at the Transformation Board regarding the definition of *"harm"* and *"serious harm"* in the Bill at Clause 2, given PSNI evidence to the Committee called for further clarity in these definitions.

Early during the drafting of the Adult Protection Bill, the PSNI indicated that further clarity would be needed in terms of "harm" and "serious harm". It is intended that additional detail on terminology in the Bill, including these terms, will follow in the

Statutory Guidance that is being developed. The Transformation Board, including PSNI representatives, agreed that the Bill as drafted should be introduced to the Assembly.

The Bill Team is continuing its engagement with PSNI regarding their evidence to the Committee on the definitions of "harm" and "serious harm" in Clause 2 of the Bill. We are working with PSNI to ensure that any issues raised are fully understood and appropriately considered. We will update the Committee once this engagement has concluded and further clarity can be offered.

4. Your previous response regarding why self-directed harm and neglect were omitted from the Bill included that these would be managed under other existing Trust pathways. Can you provide further details on what these pathways are and any reassurances that those adults at risk who are suffering from self-directed harm and neglect will not be adversely affected by the Bill not including them in its scope?

The Bill team acknowledges the Committee's concerns regarding adults who experience self-directed harm or self-neglect and welcomes the opportunity to provide further detail on how these cases are supported under existing Health and Social Care Trust pathways. While self-directed harm and neglect are not included within the scope of the Adult Protection Bill—because the Bill is focused on *protection from harm caused by another person*—all Trusts have well-established systems that provide assessment, intervention and ongoing support to adults presenting with self-neglect or self-harm. The omission of these issues from the Bill will not reduce or remove any existing supports or pathways.

Across all Trusts, self-neglect and self-directed harm are already managed through a coordinated combination of primary care, social work, multidisciplinary teams (MDTs), mental health services, community and voluntary sector support, reablement services, and housing-related interventions, depending on the individual's needs.

<u>Trust Pathways for adults experiencing self-directed harm or neglect:</u>

Northern Health and Social Care Trust

The Northern Health and Social Care Trust manages cases of self-directed harm or self-neglect by directing referrals to the appropriate internal team where the adult is already known, or by advising referrers to contact the individual's General Practitioner with a recommendation for referral to the Multi-Agency Support Hub when the adult is not already engaged with Trust services.

Western Health and Social Care Trust

The Western Health and Social Care Trust provide a person-centred, rights-based early intervention response involving General Practitioners, housing, community services, families and multidisciplinary social work teams, assessing whether there is any protection element and offering safeguarding interventions only where this is required.

South Eastern Health and Social Care Trust

The South Eastern Health and Social Care Trust forwards self-neglect cases to the relevant community team for follow-up and may also involve Environmental Health for hoarding concerns and General Practitioners where additional support or assessment is needed.

Southern Health and Social Care Trust

The Southern Health and Social Care Trust provide a wide range of statutory, community and voluntary supports including hoarding services, befriending, financial and benefits advice, housing-related interventions, multidisciplinary General Practitioner team support, reablement, occupational therapy assessment, mental health and disability services and the Self-Harm Intervention Programme, depending on the individual's needs.

Belfast Health and Social Care Trust

The Belfast Health and Social Care Trust manage cases of self-neglect by signposting adults to keyworkers, community teams, psychology or psychiatry services, or to General Practitioners or General Practitioner federation teams, and by working with housing, council and community organisations where issues such as hoarding or environmental risks are present.

Adults experiencing self-neglect or self-directed harm will not be adversely affected by the Adult Protection Bill not explicitly including these issues. This is because:

1. Existing Trust pathways already comprehensively address self-directed harm and self-neglect, through clinical, social care, MDT, housing and community-based interventions.

2. These issues generally arise from health, social or environmental need, rather than harm caused by another person—the focus of the Adult Protection Bill.

3. Where any concern of coercive control, undue influence or harm caused by another adult is identified (e.g. self-harm being influenced by another person), Trusts will pursue a full adult protection response, including referral to Adult Protection Gateway Teams.

4. The Bill does not replace or reduce existing Trust responsibilities in early intervention, assessment, care planning or community support. These will continue unchanged.

5. The Bill ensures that Trusts can focus protection resources on adults who require intervention due to harm from others, while prevention and early-intervention responses to self-neglect remain embedded in mainstream services.

As such, adults experiencing self-directed harm or neglect will continue to receive the appropriate support through established Trust policies, safeguarding procedures, health pathways and community partnerships.

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5. Any further information you can share to detail how consideration has been given to the interaction of the Bill with the Mental Capacity Act 2016.

The Department recognises the importance of ensuring that the Adult Protection Bill operates coherently alongside the Mental Capacity Act (Northern Ireland) 2016, particularly in relation to the assessment and recording of capacity and consent.

The Adult Protection Bill is intended to provide a protective framework for adults at risk of harm, and it is not designed to displace or duplicate the Mental Capacity Act.

Where questions of capacity arise, the Department's clear policy intent is that decision-making within health and social care settings should continue to be informed by the principles and approach set out in the Mental Capacity Act, including the presumption of capacity, the provision of appropriate support to enable decision-making, and proportionate, least-restrictive interventions.

To reinforce this alignment, the Bill includes explicit cross-references to substitute consent in Clause 8(9)(b) and Clause 17(6), which state that consent given by an individual includes consent provided on their behalf by a court or another person acting under lawful authority. This wording is a deliberate link to the MCA's approach to authorised decision-making and ensures consistency across both legislative frameworks, avoiding the risk of parallel or conflicting consent systems.

The Department has also previously sought legal advice from the Departmental Solicitor's Office regarding the Bill's Assessment and Removal Orders, which confirmed that these powers would not constitute a deprivation of liberty as defined under the MCA's Deprivation of Liberty Safeguards (DoLS). This is an important safeguard, ensuring that the protective powers proposed in the Bill remain clearly distinct from deprivation of liberty interventions governed by the MCA and that the Bill does not unintentionally create a second DoLS regime.

The Adult Protection Bill does not alter or redefine capacity, nor does it introduce new capacity-assessment duties. Instead, the Bill relies on the established MCA framework, with statutory guidance to set out how MCA principles should be applied when exercising the Bill's new protective powers. This ensures a single, coherent decision-making approach across the system while strengthening protections for adults at risk of harm.

Annex F

Proposed amendment regarding the naming of prisons at Clause 4

Background

1. Committee members will be aware that the development of the Bill has been overseen by an Adult Safeguarding Transformation Board (the Board), a multi-agency arrangement with representation from the health and social care sector (DoH policy and professional colleagues, HSC Trusts, RQIA and NIAS) and the justice sector (DoJ, PSNI, PBNI and recently NIPS).

2. The collective view of the Board (with the exception of NIPS/DoJ) is that NIPS should be included at Clause 4 of the Bill.

3. The principle behind Clause 4 is that organisations and professionals which interact regularly with potential adults at risk, and are therefore well-placed to become aware of safeguarding concerns, should be included in the duty to report such concerns to the HSC Trusts.

4. The purpose of including the duty to report within the Bill is to place on a statutory footing the requirement to make such reports in order to better identify situations where the Trusts should investigate concerns and help to protect adults at risk.

5. Such a duty also helps to protect staff in named organisations, as it helps to foster a culture of safety, and helps to maintain accountability, ensuring staff are aware of their responsibilities. The duty also encourages staff to identify potential risks, provide support to adults at risk, and helps to prevent further harm.

6. DoH has been engaging with the NIPS regarding its inclusion within Clause 4 for some considerable time.

The position of NIPS/DoJ on why prisons should not be included in Clause 4

7. NIPS has raised concerns about being named under Clause 4. They have highlighted that NIPS is already mandated to participate in a range of existing safeguarding arrangements which are led by Healthcare in Prisons, and supported by multi-agency partners such as PBNI, PSNI, LACC and LAPP. NIPS considers that these arrangements already provide effective pathways for identifying and managing adults at risk, and there is no deficit that would require a new statutory duty to be placed on NIPS.

8. NIPS also believes that several of the duties envisaged under Clause 4 extend beyond NIPS' current legal remit, particularly where risks relate to individuals after release or to persons outside the prison estate. NIPS states that it does not have the authority, access to information, or operational mandate to undertake inquiries or safeguarding actions in the community.

9. NIPS also suggests imposing statutory obligations on prison governors could constrain the operational flexibility required to manage risk within prisons, potentially conflicting with prison rules.

10. In summary, NIPS considers the proposal to name prisons in Clause 4 is unnecessary, disproportionate and unworkable, given both existing safeguarding systems and the limits of NIPS statutory responsibilities.

<u>Response to NIPS concerns</u>

11. Clause 4 requires named professionals/organisations to make reports to the relevant HSC Trust in the following circumstances:
    - Where an included organisation has reasonable cause to suspect
      (a) that a person is an adult at risk AND
      (b) that action needs to be taken in order to protect that person from harm, then:
    - Named organisations must co-operate with the HSC Trust's inquiries "<u>so far as is consistent with the proper exercise of their functions</u>".

12. Clause 4 therefore does not require any named professional/organisation to act outside of their statutory remit.

13. Importantly, there is no expectation under Clause 4 that NIPS would be required to report information that it (a) does not know or (b) where it has no authority to act. Clause 4 requires named professionals/organisations to make reports only where they have reasonable cause to suspect that someone is an adult at risk and that intervention is required to protect them. As it would not be reasonable for NIPS to act outside of its statutory responsibility or legislative mandate, Clause 4 does not require it to do so.

14. In that context, and on the basis that an amendment is also being sought to exclude prisoners from Assessment Orders (Clause 10) and Removal Orders (Clause 11), Clause 4 is not considered to be unworkable.

15. NIPS has advised that they are already mandated to make reports to the HSC Trusts where there are safeguarding concerns within their area of responsibility and it considers there are no deficits in these arrangements. In that context:

    a. As NIPS is currently reporting safeguarding concerns to HSC Trusts and engaging with external partners through multi-agency arrangements, Clause 4 does not impose additional requirements in this regard; and

    b. The adequacy or otherwise of current reporting arrangements is not the determining factor in whether an organisation or professional is named in Clause 4. The policy intent of Clause 4 is to place a duty to report to and co-operate with HSC Trusts on a statutory footing, which includes actions that are currently required under existing operational procedures. It is important to note that other HSC and criminal justice organisations (including PSNI and PBNI) that are named in Clause 4 are similarly required to participate in the same multi-agency structures as NIPS under existing safeguarding policies.

16. In overall terms therefore, it is the view of the Board that Clause 4 does not impose additional requirements on NIPS, nor does it require NIPS to do anything outside its statutory remit.

Conclusion

17. The view of the Board remains that NIPS should be included within Clause 4.