FROM THE MINISTER OF HEALTH

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Dear Philip

Thank you for your correspondence on the 4 March which included a number of questions following committee deliberations on 3 March 2026. I have detailed responses to the questions below:

Questions Raised by the Committee

Q1 - Clauses 5-8: Clause 26 states that a Trust "*must make arrangements to secure that an independent advocate is available to be assigned*" but does not state that an advocate must be offered. The Committee agreed to seek further clarity on this wording and whether it can be strengthened, especially in relation to Clauses 5-8 (inclusive). The Committee's desire is to close any room for interpretation around the provision of an advocate.

The offer of an Independent Advocate at clauses 5-8 could place the safeguarding process on hold until an advocate was available – this would be unsafe as any delay to assessment could increase the risk of harm, delay interventions or appropriate actions due to the assessment not proceeding and information not being known. It would also prevent immediate interim protection planning. It would not be appropriate for example

at Clause 7 as it could prevent or delay a medical examination which could identify harm or abuse to an adult at risk. Not every person will want access to an advocate, but they have the option to change their view during the protection process.

The Department is seeking advice from OLC on potential amendments to strengthen the wording in relation to Independent Advocates which would not result in unintended delays in protecting adults at risk from harm. This advice and the text of potential amendments will be shared with the Committee as soon as possible.

Q2: Clause 5: The Committee agreed to seek the Department's views on the impact of a potential amendment to Clause 5 to specify the specific professional that can accompany a social worker on a visit, such as "...*a suitably qualified healthcare professional".*

Clause 18 in the Bill currently allows the social worker to bring 'any other person' with them which would include a healthcare professional. While specifying that a healthcare professional could accompany a social worker would make this clear on the face of the Bill, the unintended consequence could be that flexibility is removed. As worded, the Bill allows for healthcare professionals to attend alongside the Adult Protection Social Worker, but it also allows for any other person (e.g. PSNI, additional social workers, etc). It is useful to retain this flexibility – examples of "any other person" also provided by Trusts include:

- A visit with a Domiciliary Care Supervisor who may not be a qualified professional.
- A visit with someone from a Finance Department in relation to financial concerns.
- A band 4 /5 support worker where they have been involved and have very positive relationships with the adult.
- A support person from a Community & Voluntary sector group where there is a trusting relationship and support for the visit.

Q3: Clause 8: refers to social workers seeking access to *"health, financial or other records"*. Can the Department provide the Committee with some examples of what may constitute *"other records"* under this definition, and detail the rationale for this broad wording?

Other records could include social care records such as those held by independent sector care homes, supported living settings etc that are not health related i.e. to do with personal care, activities and social integration etc. Another example that is becoming more common are social media messaging and text records or phone records where communication between parties provides relevant evidence for an investigation or protection plan. Other records could also be utility bills although this could be classed as financial.

The use of "other records" provides the flexibility to cover different types of records which may be relevant and will allow for future proofing e.g. for a changing technological space where communications may be relevant.

Q4: Clauses 7-8: Can the Department provide any further clarity on how Clauses 7 and 8 will function in practice when it comes to the provision of records for a suspected adult at risk who does not have capacity? The Committee understands that this issue has been brought up by Muckamore Abbey families in the past in terms of requiring frequent visits to court to obtain records, therefore the Committee wishes to understand if Clauses 7 and 8 of the Bill will assist with resolving this situation.

The definition of consent is set out at Clause 17, for example, Clause 17(6) states *"A reference in this section to consent given by an adult includes a reference to consent given on behalf of the adult by a court or by another person acting within the scope of an authority conferred by law on that person."* This means that where someone does not have capacity, consent can be given either by the court, or by another person who has authority to speak for the adult at risk; this is in line with provision in the Mental Capacity Act (NI) 2016. This position is based on advice from OLC that in dealing with consent and incapacity, reference could be made to the cases where under existing law and under the Mental Capacity Act a court or person has legal authority to act on behalf of the person lacking capacity. Therefore, references in the Bill to consent given by an

adult should be read as references to consent given by or on behalf of the adult. Clause 17 (6) reflects that position.

Q5: Clause 9: sets out *Applications for production orders: procedure.* Evidence to the Committee from the Commissioner for Older People recommended that adults suspected to be at risk should have a means to challenge an application for an order to produce their records under this Clause. Can the Department provide a view on this?

As with the other protection powers, the reason why there is no right of appeal is because the application to magistrate to use this order must be with the consent of the adult at risk. Additionally, approval is needed from the magistrate themselves. The reason for not allowing an appeal against a production order is broadly the same as that in relation to removal and assessment orders, i.e. there is a time element which militates against an appeal. In the case of assessment and removal orders the time constraint is the short period for which the orders remain in force. In relation to production orders, the time constraint is that the production order (if it is to be enforceable) will have to specify a date or time by which the order has to be complied with. The Bill Team also met with COPNI representatives in January 2026 and provided this advice on appeals in relation to production orders.

Q6: On a more general level, the Committee requested that the Department set out more clearly how the Bill and the powers it brings will protect those vulnerable adults who are at risk while in the care of a Trust. For example, the issues at Muckamore were at a Hospital run by a Trust, further clarity would be useful on the pathways that would be available for families who have concerns about the welfare of an adult in this scenario, given that they may be reluctant to raise them with a social worker who works for that very Trust.

The Adult Protection Bill will give a statutory footing to our existing policy around adult safeguarding. The new duties (including the introduction of the statutory duty to report), powers and offences in the Bill will strengthen and underpin the adult protection process and bring Northern Ireland in line with other parts of the UK. The Bill will also establish the Adult Protection Board (APB) whose role includes improving training and effectiveness across all stakeholders, including an approach that supports early

intervention and prevention in the culture and practice around safeguarding. The APB will promote good governance, training and good quality care to encourage an environment where safeguarding is quickly recognised and reported.
The introduction of regulations governing the use of CCTV in social care settings will also act as an additional protective measure. Adult Protection Learning Reviews will also investigate the circumstances surrounding the death of, or serious harm to, an adult at risk and in need of protection and establish whether there are lessons to be learned from a case about the way in which agencies and professionals work together and to action change as a result. Learning will be shared across organisations to improve practice.

Existing safeguarding policies and procedures also apply regardless of who is suspected of causing harm and includes social work, social care workers, and any HSCT workers. Safeguarding allegations do not need to be made to the person's social worker and can be reported to any staff, including managers, community team duty desks, the trust Gateway Teams or out of hours through the Regional Emergency Social Work Service (RESWS).

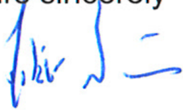
The outcome of an initial screening process will inform what happens next, which depends on the type and seriousness of the allegation. This will range from a referral to the PSNI, if the allegation meets a legal threshold, to single agency investigation, internal HR processes, including disciplinary, local managerial action and can change as information is received and assessed. The allegation may also be screened as not meeting the threshold for adult protection and dependent upon the nature of the referral, may be progressed through another process, which includes an alternative safeguarding response. Referrals come in where people suspect something, and the screening demonstrates no actual harm has taken place or it may require a different process, for example a complaint.

Where a worker involved with the persons care is named in an investigation, routine practice is that the staff member is no longer involved. During these processes, there may be several steps, depending on the allegation and urgency to intervene, including precautionary suspension or restricted duties. It also involves an interim protection plan to put immediate actions in place to manage any potential risk of harm ahead of strategy meetings and subsequent protective action taken by the trust.

Allegations relating to social work/social care practitioners, following the initial protection screening process are also referred to the Northern Ireland Social Care Council (NISCC) as part of the Fitness to Practice process. There are robust systems in place between Trusts and NISCC for Fitness to Practice investigations and include checks on the staff member working in any other care employment.

I hope you find this information helpful.

Yours sincerely



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