



Committee for Health, Social Services & Public Safety

Mr Jonathan Bill
Departmental Assembly Liaison Officer
Castle Buildings
Stormont Estate
Belfast
BT4 3XX

17 September 2015

Dear Jonathan

Health & Social Care (Control of Data Processing) Bill

At its meeting on 16 September 2015, the Committee for Health, Social Services and Public Safety considered the Health and Social Care (Control of Data Processing) Bill.

The Committee agreed to write to the Department to express its concerns in relation to the Bill. Concerns included:

- the poor drafting of the Bill;
- the Explanatory and Financial Memorandum does not read-across to the Bill in terms of providing a clear statutory framework, and robust and stringent safeguards – see Clause 1(1) and paragraph 3 of the EFM;
- the wording of the first sentence in paragraph 9 of the EFM should be promoted to the Bill;
- lack of clarity in relation to Clause 1(1)(a) and (b) – reads as separate purposes ;
- lack of clarity on who can use the data and for what purpose – including a list of data holders and creating a power to remove/add to that list would be a better option;
- lack of clarity on the interaction between this Bill and the DPA;
- the use of the terms ‘public interest’ and ‘social well-being’, and the implications of using such terms in the legislation – the Committee was particularly concerned that ‘public interest’ was too broad;
- ‘social well-being’ could include education, poverty, employment etc.;
- what qualifies ‘social care’ purposes;
- it should state on the face of the Bill that the misuse of information is a statutory offence - level 5 offence is low level – should be indictment or summary with possibility of prison;

- in relation to consent, cannot practicably ask because of the number of persons affected should be the case and should be on face of the Bill - it should not include where someone does not give consent;
- use of information for commercial exploitation should be excluded - should be on the face of the Bill;
- the open ended terms used in the Bill such as 'or any other similar circumstances';
- lack of accountability in relation to the committee;
- the committee should have oversight of every proposed use under the regulations and should monitor benefits/misuse;
- there should be a statutory guarantee that the committee will include people who represent patient interests; and
- the Code of Practice should be a compliance code – words to the effect of 'a court or tribunal may take into account a breach of the code in any proceedings where it considers relevant' should be inserted.

The Committee also expressed concern that the Department had not yet responded to the comments in the summary of evidence table that had been sent to it in early August.

Following its evidence session with the Northern Ireland Human Rights Commission, the Committee agreed to request that the Department provides it with a detailed human rights memorandum, giving a full explanation of the view that the Bill is compatible with Article 8 of the Human Rights Act.

I should be grateful for a response by **noon on 24 September 2015**, so that it can be made available to Members in advance of the oral briefing on the Bill by departmental officials scheduled for 30 September 2015. Officials should also be prepared to address the concerns listed during the oral briefing.

Yours sincerely

Marie Austin

Marie Austin
Senior Assistant Clerk, Committee for Health, Social Services and Public Safety