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## **HEALTH SERVICE MEDICAL SUPPLIES (COSTS) BILL – REVISED LEGISLATIVE CONSENT MOTION**

I advised you on 26<sup>th</sup> September that I was seeking Executive agreement to a Legislative Consent Motion (LCM) in relation to the Health Service Medical Supplies (Costs) Bill which was introduced in Parliament on 15 September 2016. Officials briefed the Health Committee on the Bill, as introduced, on 6 October 2016 and a response is being provided separately to specific queries raised by the Committee.

I am now writing to advise you that I am seeking Executive agreement to a revised LCM that takes account of amendments to the Bill.

### **Health Service Medical Supplies (Costs) Bill (as introduced)**

The Executive previously agreed to a LCM in relation to the Health Service Medical Supplies (Costs) Bill to allow the Department of Health (London) (DH) to legislate for the north of Ireland and amend provisions in the National Health Service (NHS) Act 2006. The second reading for the Health Service Medical Supplies (Costs) Bill took place on 24 October 2016 with Committee stage due to commence on 8 November 2016.

The LCM provided for the application of provisions here relating to:

- a. the amendment of existing powers within the NHS Act 2006 to control the cost of health services medicines and other medical supplies; and,
- b. the clarification of existing powers and introduction of new powers within the NHS Act 2006 to make regulations for the collection of information on sales and purchases of health service medicines and medical supplies.

### **Proposed amendments to the Bill**

The DH has put forward amendments to the Bill with the aim of providing additional powers to use information collected by it for devolved purposes. The amendments apply across the Devolved Administrations (DAs) but, in particular, would:

- a. allow confidential or commercially sensitive information collected by the DH for their purposes to be shared with us for devolved purposes; and
- b. allow the DH to collect information on behalf of this Department across certain parts of the medicines and medical supplies chain which would be used for devolved purposes.

The pricing of medicines is a devolved matter here (although reserved as far as Scotland and Wales is concerned) and so a LCM is required to for the amendments to be progressed. The Executive's agreement is therefore required for a revised LCM in relation to additionally include these proposed amendments to the Bill.

The Bill, as introduced, includes regulation making powers to allow for information collected by the DH across the medicines and medical supply chains to be shared with this Department (and other DAs). However, if any information collected by the DH is deemed confidential or commercially sensitive, it could only be used in the north of Ireland for matters relating to the control of the cost of health service medicines and not to inform remuneration arrangements for community pharmacies or dispensing GPs.

That may create a potential gap in providing access to information that could inform decisions on the level of remuneration to community pharmacies and dispensing GPs, as well as consideration of whether adequate supplies of health service products are available locally or whether the terms on which those products are available represent value for money. It would be advantageous, therefore, to have access to the information that the DH will collect and to be able to use that information for devolved purposes. The amendment proposed by the DH would address this.

It would also be important that any information collected by the DH would be sufficient for devolved purposes. There may be a future need, for example, for information that would inform our policy objectives, but which could be gathered by the DH alongside data collection initiatives they would coordinate. That would ensure the data collection exercises are complementary and minimise duplication of effort.

A further amendment to the Bill would allow the Secretary of State (SoS) to make regulations that would provide for the DH to request information on our behalf from producers who manufacture, distribute or supply medicines or medical supplies (with the exception of community pharmacies and dispensing GPs) that are used or required for the health service here.

We already have a power within the Pharmaceutical Services (NI) Regulations 1997 to collect information from community pharmacies. There are only eight dispensing GPs in the north of Ireland and we do not consider that it would be proportionate to seek an amendment to the Bill for that purpose.

Similar arrangements are being progressed for the other DAs and the DH has indicated that the practicalities of the data collection arrangements would be agreed in a Memorandum of Understanding (MoU).

#### Legislative Consent Motion

It would be appropriate for the Bill to be amended to ensure that we (like other DAs) would be able to maximise the value of information being collected by the DH and also to be able to inform what information is to be collected. These further provisions deal with a devolved

matter and are outside the scope of the original LCM and so a revised LCM has to be laid before the Assembly.

### Consultation

There has not been public consultation on the Bill's provisions relating to the collection of information on costs of medicines. However, these are enabling powers and the Bill contains mandatory provisions requiring consultation with representative bodies at regulation making stage. The Public Bill Committee established to consider the Bill at Committee Stage has also invited written evidence.

### Human rights and equality

It is not considered that there would be any detrimental impact on particular protected groups or on health inequalities as a result of the proposed amendments. By providing greater access to information on the medicines supply chain, that should have a positive impact on decisions relating to the provision of cost effective treatments and services to patients.

### Financial implications

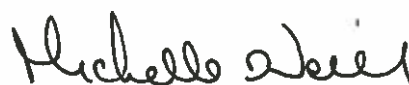
There are no anticipated additional financial requirements locally associated with the proposed new provisions.

### Regulatory Impact Assessment (RIA)

The DH has published an impact assessment to accompany the Bill.

Subject to Executive agreement, it is proposed to table a revised LCM in the Assembly as set out above. Officials are available to provide a further briefing to the Committee if that would be helpful.

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**MICHELLE O'NEILL MLA**  
**Minister of Health**

