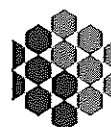


FROM THE MINISTER FOR HEALTH,
SOCIAL SERVICES AND PUBLIC SAFETY
Jim Wells MLA



Department of
**Health, Social Services
and Public Safety**

www.dhsspsni.gov.uk

Castle Buildings
Stormont Estate
BELFAST BT4 3SQ
Tel: 028 90 520642
Fax: 028 90 520557
Email: private.office@dhsspsni.gov.uk

Mr Paul Givan MLA
Chairman
Committee for Justice
Room 242
Ballymiscaw
Parliament Buildings
Stormont
BELFAST
BT4 3XX

Our Ref: AGY/547/2014

Date: 4 November 2014

JUSTICE BILL 2014

Thank you for the Committee's letter to Minister Poots of 10 July 2014, inviting views on the Justice Bill and in particular, three main issues:

- (i) Proposed amendments from the Department of Justice;
- (ii) An amendment to the Coroners Act (NI) 1959 proposed by the Attorney General; and
- (iii) The amendment regarding 'Ending the life of an unborn child'.

Proposed amendments from the Department of Justice

The only issue of note to my Department is contained within Part 5 – Criminal Records – Exchange of information between Access NI and Disclosure and Barring Service (DBS) for barring purposes. I welcome the proposed amendment which seeks to include statutory powers to allow Access NI to share information with DBS.

The Attorney General's proposed amendments to the Coroners Act (NI) 1959

The previous Minister wrote to you providing comments about the Attorney General's proposed amendment to the Coroners Act (NI) 1959, which he first attempted to introduce through the Legal Aid and Coroners' Courts Bill.

I am aware that further to this correspondence, the Attorney General has given evidence to the Committee regarding his proposals. Having reviewed the official report of the evidence session there are some matters that should be brought to the attention of the Committee as they consider these proposals in the context of the Justice Bill.

These relate primarily to the policy context of the proposed amendments, understanding of the Serious Adverse Incident process and the exact scope and nature of the proposed new powers.

The policy context for the proposals is not currently sufficiently clear. The Attorney General has suggested that his concerns relate to deaths in hospital and his proposed powers would allow him to access to documentation such as Serious Adverse Incident (SAI) reports. He also has concerns that deaths are not referred appropriately to the Coroner. During his evidence session, the Attorney General also suggested that he anticipated that his powers could be extended to consider deaths in nursing homes, or those where the deceased had received treatment from the private sector. As such, it is not currently clear what the full extent of his concerns are, and therefore how these proposals would address them.

You will be aware that the HSC Trusts were asked to carry out a look back exercise of all SAIs over a five year period from 1 January 2014 – 31 December 2013. As part of this review, Trusts have been asked to review those SAIs where death has occurred, detailing the date the coroner was notified and providing an explanation if there was a delay in referral to the Coroner. This will provide evidence to indicate whether deaths are being referred appropriately to the Coroner and the outcome of the exercise will be shared with the Coroners' office and the Committee for Justice. The conduct of the look back exercise by Trusts will be independently validated by the RQIA.

I should also point out that the SAI process is a non-statutory based system to identify learning. It is not an investigative system for the purposes of investigating deaths. The role of investigating deaths sits with the Coroner and the police service. As a learning process, the SAI system supplements the statutory accountability reporting processes in dealing with deaths that meet the criteria for some form of formal investigative process. Not all SAIs relate to deaths or to patients, with some concerning estate type issues, the health and safety of staff, or information data breaches, all of which occur in a range of settings in an outside of hospitals.

As the precise policy intent of the Attorney General's proposals are currently not entirely clear, it is difficult to foresee the practical implications of the proposals and what impact they would have for staff and patients.

The Committee should also be aware that Sir Liam Donaldson is currently undertaking an Expert Examination of the Application of HSC Governance Arrangements for Ensuring the Quality and Care Provision in Northern Ireland (The Donaldson Review). I understand that the Attorney General met with Sir Liam on 28 August to discuss his concerns and it may be appropriate to await any recommendations from that review when considering how to take this matter forward.

In principle, I have no objection to the Attorney General having the power to access the information necessary to allow him to discharge his functions under section 14 of Coroners Act (NI) 1959. I firmly believe however that it would be important to have more policy clarity as to the precise intent of the proposals and how they would be used in practice.

Proposed amendment regarding 'Ending the life of an unborn child'

In order to avoid any unnecessary confusion in the health system, if this amendment is being taken forward and the Justice Committee is supportive, it may be useful for a discussion to take place with professionals in my Department on terminology and finalising the drafting in order to prevent any unintended consequences.

I would ask that the Committee consider the issues I have highlighted in this letter. My officials would be happy to meet with the Committee to provide further information if they deem that would be helpful.

A handwritten signature in black ink, appearing to be the name 'Jim Wells', written in a cursive style.

Jim Wells MLA
Minister for Health Social Services and Public Safety