



Northern Ireland  
Assembly

Committee for Health, Social Services and  
Public Safety

# OFFICIAL REPORT (Hansard)

Health and Social Care (Amendment) Bill:  
DHSSPS Briefing

16 October 2013

# NORTHERN IRELAND ASSEMBLY

## Committee for Health, Social Services and Public Safety

Health and Social Care (Amendment) Bill: DHSSPS Briefing

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**Members present for all or part of the proceedings:**

Ms Maeve McLaughlin (Chairperson)

Mr Roy Beggs

Mr Mickey Brady

Ms Pam Brown

Mr Gordon Dunne

Mr Samuel Gardiner

Mr Kieran McCarthy

Mr David McIlveen

Mr Fearghal McKinney

**Witnesses:**

Mr Craig Allen

Department of Health, Social Services and Public Safety

Ms Maura O'Brien

Department of Health, Social Services and Public Safety

Mr Peter Toogood

Department of Health, Social Services and Public Safety

**The Chairperson:** Peter, Craig and Maura, you are very welcome. I will hand over to you to make a 10-minute presentation. We will then open the meeting to questions from members.

**Mr Peter Toogood (Department of Health, Social Services and Public Safety):** Thank you for the opportunity to brief the Committee on the Health and Social Care (Amendment) Bill. I will provide a summary of the main clauses and what they propose to do, as outlined in the paper provided.

First, the Health and Social Care (Reform) Act (Northern Ireland) 2009 established the Regional Business Services Organisation (BSO) and defined its role as being:

*"to provide or secure the provision of a range of support services to the health and social care bodies defined at section 1(5) of the Reform Act."*

However, as currently framed, the Act does not enable the Department to secure support services from the BSO, nor does it provide the Department with the power to direct the BSO to provide support services to three of its arm's-length bodies: the Northern Ireland Health and Social Care Council; the Northern Ireland Practice and Education Council for Nursing and Midwifery (NIPEC); and the Northern Ireland Fire and Rescue Service.

Clause 1 therefore seeks to give the BSO the legal cover it requires to provide support services to the Department and all of its arm's-length bodies. It also seeks to provide greater clarity on the nature of the fraud prevention support service provided by the BSO. The counter-fraud and probity services unit in BSO carries out a range of activities, which include fraud investigation, fraud prevention and probity

services. However, the Act refers only to fraud prevention. Although it was felt that this definition covers the complete range of activities currently undertaken by BSO, the Department is taking the opportunity to provide further clarity by adding the words, "fraud investigation and probity services" after fraud prevention. The amendment does not alter the activity or scope of services currently undertaken by the counter-fraud and probity services unit. Those remain unchanged.

Section 26 of the Act contains a provision that enables the BSO to exercise the functions that the Central Services Agency had exercised immediately before its dissolution in 2009. However, the Act does not permit the BSO to exercise any new functions relating to the administration of health and social care. Clause 2, therefore, enables the Department to direct the BSO to exercise any new functions of the Department with respect to the administration of health and social care.

Clause 3 seeks to deal with the membership of the Health and Social Care Board, the Public Health Agency (PHA) and the Business Services Organisation. The Act currently provides the Department with the power to prescribe conditions for persons appointed as members of those organisations. However, the Department does not have the power to prescribe conditions for their chairs. Therefore, clause 3 seeks to provide the Department with a power to make subordinate legislation to prescribe conditions for the appointment of the chair of the Health and Social Care Board, the Public Health Agency and the Business Services Organisation. We propose to prescribe in similar terms to those for the members of those organisations. Members will recall that we previously provided evidence on that matter in June.

The schedule includes amendments that should have been made under schedule 6 to the Act, which deals with minor and consequential amendments. These include blanket amendments to particular references to bodies in other existing legislation: for example, the name of the health and social services trusts was changed to health and social care trusts.

Section 1 of the Act renames the Health and Personal Social Services Regulation and Improvement Authority to reflect the correct legal title of the organisation, which is the Health and Social Care Regulation and Quality Improvement Authority (RQIA). However, schedule 6 to the Act did not carry across that organisation's change of title to other legislation, so the amendments proposed at paragraphs 1 and 2 of the schedule seek to do so.

Finally, paragraph 3 of the schedule seeks to amend the reference to personal social service in the Carers and Direct Payments Act (Northern Ireland) 2002 to "social care service".

Thank you for your time. Those are the key points, and we are happy to take any questions.

**The Chairperson:** Thank you for that, Peter. Clause 1 allows the BSO to provide services to the board of the Fire and Rescue Service, the Social Care Council and NIPEC. Does that mean that the BSO currently provides services to those bodies without legislative cover?

**Mr Toogood:** It currently provides services to the Northern Ireland Social Care Council and NIPEC but not to the Fire and Rescue Service. We are aware of the anomaly, and we seek to minimise the risk associated with the lack of legal cover through other mechanisms. For example, we have service level agreements between the BSO and those organisations.

The view of the Department is very much a pragmatic one, in that the role of the BSO is to provide a range of services to all health and social care bodies. It would be more expensive to get those services provided elsewhere. The BSO is geared up to provide those services and currently does so. However, the income that the BSO generates from those bodies is small in relation to its overall income. We believe that there is a range of mitigating factors, while retaining a degree of pragmatism, in delivering those services.

**The Chairperson:** There is still an anomaly there.

**Mr Toogood:** Yes, there is still an anomaly, and that will be resolved.

**The Chairperson:** I just want to clarify this: did the arm's-length bodies included in the amendment not exist in 2009? What is the rationale that necessitates their inclusion?

**Mr Toogood:** They did exist. My understanding is that it was a simple oversight. We carried out a review to try to determine why they were missed out, but we could not. We believe that it was a

simple oversight. The process involved in putting through the Reform Act was very extensive and covered a lot of aspects. So we believe that it was an oversight, which we now seek to rectify.

**The Chairperson:** What have been the implications of that oversight?

**Mr Toogood:** The BSO does not have the legal cover to provide services, so we have taken the pragmatic view that the organisations need those services and the BSO is equipped to provide them. We have put in place additional arrangements to help to mitigate that lack of legal cover.

**The Chairperson:** I am directing this question to you, Peter, because you are the Department's director of finance: does cost have anything to do with this? Is this ultimately viewed as potentially making efficiencies or savings?

**Mr Toogood:** No, it is not. Genuinely, the amendment Bill simply rectifies the legislative anomaly whereby the BSO does not have that legal cover. The day-to-day business is ongoing: services are being provided by the BSO, and those organisations are paying the BSO for them. In this process, there is nothing to do with savings or whatever that we would not be dealing with in the normal course of business.

**The Chairperson:** So it is to correct an anomaly; it is not being driven by any cost efficiencies. Thank you for that.

**Mr Brady:** Thanks for the presentation. During Second Stage, a Member asked the Minister whether the Bill could be used as a vehicle for privatisation. The Minister replied that the NHS would be free at the point of delivery, but he did not elaborate and did not really answer the question. So there is a suspicion that privatisation is on its way by whatever means. If you watch the news, you will see that there is a general erosion of the Health Service in England. Hospitals are dealing with acute and elective services, and everything else seems to go back into the community. Is this Bill part of that process? The Act came out in 2009, which is only four years ago, and a lot seems to have been missed out. With respect, if I were cynical, which, of course, I am not, I might think that it was being used as another means of progressing that trend. I would be grateful if you could reassure me.

**Mr Toogood:** Absolutely. I will say again that the purpose of the Bill is not to change the policy intent, which was established in the 2009 Reform Act. Nothing has changed in that regard. The only change is the opportunity to correct and clarify a number of small matters. There is no change in policy; that was established in 2009, and that remains the case.

**Mr Brady:** There was mention of a minor amendment in one clause. You specifically defined that as "minor", so is correct to assume that there are major amendments in other clauses, or is that my suspicious mind again?

**Mr Toogood:** I do not think that there is a major amendment. It is a technicality in respect of how it is described. There are amendments, and these are particular amendments.

**Mr Beggs:** You said that there was an anomaly in that three health bodies — the Social Care Council, the Northern Ireland Practice and Education Council and the Northern Ireland Fire and Rescue Service — had been excluded from a list of organisations that could be looked after by the BSO. Does clause 3 simply enable change? Will there still have to be a business case to justify any change, or does this incorporate the finance functions in a central body?

**Mr Toogood:** The clause simply provides a legislative base for the business that the BSO provides to these organisations.

**Mr Beggs:** So the BSO already provides the service.

**Mr Toogood:** It is already being provided. The BSO provides a range of services for NIPEC, which is similar to those that they provide to other organisations. It provides a range of finance, HR, internal audit, legal services and procurement functions.

**The Chairperson:** No other members have indicated that they wish to ask a question. I have one final question. The RQIA raised an issue. It suggested using its shorter title, the Regulation and Quality Improvement Authority. Is there any major rationale for using the longer title?

**Mr Toogood:** There are a couple of points on that. The Bill does not propose to change the name of the RQIA. That was established in the 2009 Reform Act. The Act changed the name to the Health and Social Care Regulation and Quality Improvement Authority — that is the definition. However, in 2009, there was no read-across to other legislation, which still has the old name. The purpose of the Bill is to make sure that the carry-across to other legislation now reflects the true name of the organisation. The proper and legal title of the RQIA is the Health and Social Care Regulation and Quality Improvement Authority, as defined in the Reform Act. If the RQIA, in its literature and headings, uses Regulation and Quality improvement Authority, as it does, that is fine. However, from a legal perspective, its name is the Health and Social Care Regulation and Quality Improvement Authority, and we do not propose to change that in this legislation.

**The Chairperson:** OK, thank you.

**Mr Craig Allen (Department of Health, Social Services and Public Safety):** It is in the same way as the legal title of the Public Health Agency is the Regional Agency for Public Health and Social Well-being. That is its legal title, but, to all intents and purposes, the organisation uses PHA in its literature.

**The Chairperson:** Thank you for clarifying that and for your presentation and attendance today. We will continue to work through the Bill.