

**DEPARTMENT OF HEALTH**

**TEMPORARY AMENDMENT OF THE HEALTH AND  
SOCIAL CARE FRAMEWORK DOCUMENT  
FOR THE PERIOD JUNE 2020 TO May 2022**

**CONSULTATION DOCUMENT**

## 1. INTRODUCTION

1. On 9 June 2020 Robin Swann MLA, Minister of Health, in a statement<sup>1</sup> to the Northern Ireland Assembly updated the Assembly on his approach to the rebuilding of Health and Social Care (HSC) services to respond to the adverse impact of the initial wave of the Covid-19 pandemic on the delivery of services.

The Minister set out the context for his approach to rebuilding HSC services by informing the Assembly that:

*“COVID-19 has wreaked havoc on our community, our way of life and on how our health and social care services are delivered. Things will not be the same again, and we need to carefully navigate the next phase of dealing with this terrible virus.*

*COVID-19 has presented our health and social care system with its biggest challenge since its inception, and that is in the context of the huge strategic challenges that were facing us prior to COVID-19, all of which are well known, and which were highlighted in the Bengoa review and the Delivering Together agenda. Those strategic challenges have not gone away. We need to continue to tackle issues such as the impact of an ageing population, increasing demand, long and growing waiting lists, workforce pressures, the emergence of new and expensive treatments and ongoing budget constraints.*

*The terrible events that have occurred in recent months, such as the loss of loved ones that has been suffered by many families, and the restrictions on our daily lives and access to employment and public services have only heightened my commitment to use the resources of my Department to better deliver health and life outcomes for all our people. My Department’s budgetary position continues to be hugely challenging. There have been significant additional funding requirements for our response to the unprecedented challenges of COVID-19. Rebuilding health and social care services, whilst simultaneously dealing with the ongoing COVID-19 pandemic, will require additional resource funding. However, let me be clear, as serious as the immediate impact of COVID-19 was, and still is, I remain equally as concerned about the detrimental impact that it has had on the delivery of a wide range of crucially important health and care activity.*

*Throughout the pandemic, HSC has continued to provide high priority and urgent services such as emergency care and many cancer treatments. However, despite that, a terrible consequence of this pandemic is that, for some people, conditions will have gone undetected or untreated for longer than they otherwise would have been. Many of us in the House have bitter*

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<sup>1</sup> The Minister’s full statement is available at the following link:

<http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2020/06/09&docID=301801>

*experience from friends, families and colleagues of what a cruel disease cancer is and how it thrives in a vacuum. No one is more concerned about the impact of delays than our exceptional cancer clinicians themselves, and that is why we all want to see as many of the full services resumed as quickly as possible”.*

2. In his statement the Minister announced that his approach to rebuilding HSC services has two key elements.
3. Firstly, the development of a 'Rebuilding Health and Social Care Services Strategic Framework' which sets out the HSC mission for the immediate future:

*To incrementally increase HSC service capacity as quickly as possible across all programmes of care, within the prevailing COVID-19 conditions. The aim will be to maximise service activity within the context of managing the ongoing COVID-19 situation; embedding innovation and transformation; incorporating the Encompass programme; prioritising services; developing contingencies; and planning for the future all at the same time. Specific service activity targets will be developed for each programme of care.*

4. The Strategic Framework mandated all HSC service providers to adopt a systematic and consistent approach to developing service specific incremental plans to increase capacity, under the auspices of the Framework. The initial set of activity levels covered June 2020 followed by the first 3 months incremental plans from July to September 2020. It is not considered feasible, at this stage, to produce plans beyond a three month planning period given the high degree of uncertainty that we face about potential further surges of the virus. Service providers, including Health and Social Care Trusts, are therefore required to develop successive three-month service plans. The plans will detail how they will increase capacity to resume normal service provision as quickly as possible. It is critical that the plans be developed in a systematic and consistent way.
5. Secondly, establishing a new Management Board for Rebuilding HSC Services. The Management Board is to give clear direction to the Health and Social Care Board (HSCB), the Public Health Agency (PHA), the Health and Social Care Trusts and the Business Services Organisation (BSO). The Management Board consists of senior Departmental officials, Trust chief executives and senior officials from other key arm's-length bodies. The new governance arrangements will be facilitated through changes to the existing Health and Social Care Framework Document, which sets out the roles and responsibilities of all Health and Social Care bodies. The revised governance arrangements will be reviewed on a six-monthly basis, but the intention is to have them in place for at least two years. The rebuilding of services will not happen overnight and will require a response that is both agile and adaptable to ensure that the system can respond to further potential COVID-19 surges. The new Management Board will enable

the required agility.

6. The Minister ended his statement to the Assembly by summarising the action which he expects the HSC to undertake by stating:

*“the scale of the challenge confronting the health and social care system is daunting. We need to maximise service activity in the context of managing the ongoing COVID-19 situation. At the same time, we need to embed innovation and transformation; incorporate the Encompass digital programme; prioritise services; develop contingencies; and plan for the future. Given the complexity and scale of those challenges, it is more important than ever that our health and social care system be given clear direction and that decisions be taken quickly in a fluid and changing environment.”*

7. Immediately following the Minister’s statement the Department of Health (“the Department”) published a document titled ‘Memorandum Temporary Amendment of the Health and Social Care Framework Document for the Period June 2020 to May 2022’. A copy of the Memorandum is attached as **Annex A** to this document.
8. The Memorandum describes the temporary amendments made by the Department to the ‘Health and Social Care Framework Document’<sup>2</sup> (the Framework Document) which the Department has introduced for a period of up to 2 years with effect from June 2020. The amendments will be initially reviewed in January 2021 and thereafter kept under regular review by the Department. The two years period will be followed by a consultation on substantive and longer term changes to the Framework Document, reflecting both learning from this period, and the dissolution of the Health and Social Care Board (HSCB) which we anticipate to coincide with this timescale.
9. The temporary amendments are made under the following Sections in the Health and Social Care (Reform) Act (Northern Ireland) 2009.

**Department’s general power**

3.-(1) *The Department may-*

*(a) provide, or secure the provision of, such health and social care as it considers appropriate for the purposes of discharging its duties under section 2; and,*

*(b) do anything else which is calculated to facilitate, or is conducive or incidental, to the discharge of that duty.*

**Department’s priorities and objectives**

4.-(1) *The Department shall determine, and may from time to time revise, its priorities and objectives for the provision of health and social care in Northern Ireland.*

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<sup>2</sup> <https://www.health-ni.gov.uk/publications/dhssps-framework-document-september-2011>

*(2) Before determining or revising any priorities or objectives under this section, the Department must consult such bodies or persons as it thinks appropriate.*

*(3) Where the Department is of the opinion that because of the urgency of the matter it is necessary to act under subsection (1) without consultation—*

*(a) subsection (2) does not apply; but*

*(b) the Department must as soon as reasonably practicable give notice to such bodies as it thinks appropriate of the grounds on which the Department formed that opinion.*

***The framework document***

*5. (3) The Department—*

*(a) shall keep the framework document under review; and*

*(b) may from time to time revise it.*

*Section 5. (5) In preparing the framework document, or any revision of it which appears to the Department to be significant, the Department must consult—*

*(a) each health and social care body as respects its functions (or persons considered by the Department to represent that body); and*

*(b) any other bodies or persons the Department considers appropriate.*

*(6) Each health and social care body shall have regard to the framework document in carrying out its functions.*

10. In relation to Section 4(2) and Section 5(5) given the grave situation that Health and Social Care (HSC) is facing and the need therefore to move swiftly to begin the rebuilding of services, commencing from June 2020, the Department is engaging in an initial time limited sounding of the relevant bodies on the proposed temporary amendments and the establishment of the Management Board, to be followed by a 12 week consultation as soon as possible. While our normal practice would be to allow for a 12 weeks consultation period on such matters we are of the view that this two stage approach to engagement is reasonable and proportionate given the enormous rebuilding task that lies ahead and the need to implement this urgently.
11. The Department has therefore taken soundings from the relevant bodies and the outcome of this is reported on in Section 3 in this document. Having given full consideration to the representations received from the relevant bodies the Department has decided to launch a 12 weeks public consultation on the temporary changes to the Framework Document. The outcome of this consultation will inform the Department's initial review in January 2021 of the temporary amendments to the Framework Document.
12. The consultation period will run from Monday 14 September to Friday 04 December.

## **2. THE TEMPORARY AMENDMENTS TO THE HSC FRAMEWORK DOCUMENT**

1. The Department has produced the Framework Document to meet the statutory requirement placed upon it by the Health and Social Care (Reform) Act (NI) 2009. The Framework Document describes the roles and functions of the various health and social care bodies and the systems that govern their relationships with each other and the Department. The Department has made the following temporary changes to the Framework Document.
2. Insertion of new paragraph 2.4 (all subsequent paragraphs are renumbered)

2.4 The Department has created a new temporary management board, the 'Management Board for Rebuilding HSC Services' which will come into being in June 2020 for a period of two years to be reviewed thereafter. The Management Board will report directly to the Minister and will be responsible for providing oversight and direction to the Health and Social Care Board (HSCB), the Public Health Agency (PHA), the Health and Social Care Trusts and the Business Services Organisation (BSO) on the implementation of the Department's 'Strategic Framework for Rebuilding HSC Services'. The Management Board will not exercise any other authority in relation to the statutory duties, roles and responsibilities, as specified in the Framework, Document which the Department has delegated to the HSCB, PHA and a number of other HSC bodies. The Management Board will be chaired by the Department's Permanent Secretary and its membership will be drawn from the Department's senior officials and other senior staff from across the HSC. The Minister's Special Adviser will attend meetings of the Management Board. The Minister and the Management Board will obtain advice from experts working in health and social care fields to inform its work in the rebuilding of HSC services as required.

3. Insertion of new paragraph 2.38 (all subsequent paragraphs are renumbered)

2.38 The Minister directs the HSCB, PHA, HSC Trusts and BSO that for the two year period commencing in June 2020 they are to prioritise their service planning, delivery and deployment of resources to stabilise and restore service delivery as quickly as possible by achieving the right balance between delivering Covid-19 and non-Covid-19 activity. In pursuance of this priority the Commissioning Plan Direction (CPD), Commissioning Plan and associated Service and Budget Agreements (SBAs) for the 2019/20 financial year will be rolled forward into the years 2020/21 and 2021/22 and updated to reflect Departmental budget allocations in each of these years. Individual Trust Delivery Plans (TDP) for 2020/21 and 2021/22 should also prioritise activity designed to stabilise and restore service delivery as quickly as possible at the level of local commissioning and through regional collaboration with other Trusts guided by the Department's 'Strategic Framework for Rebuilding HSC Services'. The

performance targets set out in the CPD, SBAs and TDPs for the financial year 2019/20 will be reviewed by the Department to determine the optimum method for assessing the performance of Trusts in the delivery of services during the period of the Covid-19 emergency during the years 2020/21 and 2021/22.

4. Insertion of new paragraph 3.7 (all subsequent paragraphs are renumbered)

3.7 Paragraph 2.38 provides the overarching context for the implementation of the requirements in paragraphs 3.1 to 3.6 during the two year period commencing in June 2020.

### 3. THE OUTCOME OF SOUNDINGS FROM THE RELEVANT BODIES ON THE TEMPORARY AMENDMENTS TO THE HSC FRAMEWORK DOCUMENT

1. In the Health and Social Care (Reform) Act (Northern Ireland) 2009 the Department is required to under *Section 5. (5) In preparing the framework document, or any revision of it which appears to the Department to be significant, the Department must consult–*
  - (a) *each health and social care body as respects its functions (or persons considered by the Department to represent that body); and*
  - (b) *any other bodies or persons the Department considers appropriate.*
  - (6) *Each health and social care body shall have regard to the framework document in carrying out its functions.*
  
2. The Department has therefore taken soundings from the relevant bodies and the outcome of this is as follows.
  
3. The Department wrote to a range of relevant bodies on 09 June 2020 inviting views on the temporary amendments as part of this soundings exercise. In total 36 responses were received as part of this exercise. Table 1 below provides a breakdown of responses by category and Table 2 provides a summary of responses.

**Table 1: Breakdown of Responses**

<b>Category</b>	<b>Number of Responses</b>
Professional Bodies	14
HSC	13
Trade Unions	2
Local Government	2
Commissions	2
Universities	1
Commissioner for Older People	1
Other	1
<b>Total</b>	<b>36</b>



**Table 2: Summary of Responses by Category**

Category	Comments
<b>Professional Bodies</b>	<ul style="list-style-type: none"> <li>• Largely supportive of approach but some concerns about perceived gaps in membership of Management Board (Chief Dental and AHP Officers);</li> <li>• Department needs to provide clarity on impact of the amendments on governance and accountability;</li> <li>• Consideration should be given to role Independent Sector can play in rebuilding;</li> <li>• Importance of ensuring transparency and full engagement with services users, families, carers and 3<sup>rd</sup> sector;</li> <li>• Link with Delivering Together and Transformation including the Transformation Implementation Group (TIG) and Transformation Advisory Board (TAB) unclear;</li> <li>• Absence of partnership working/co-production;</li> <li>• Clarity needed on how advice from experts will be captured and reflected in process.</li> </ul>
<b>Belfast Health and Social Care Trust's Board</b>	<ul style="list-style-type: none"> <li>• In the interest of providing clarity around what the Management Board and the Trust Board responsibilities are, it might be useful to commission a small piece of work that clearly sets out how the Management Board will exercise its responsibilities and how any decision of the Minister in relation to its recommendations will be communicated to Boards.</li> </ul>
<b>HSC</b>	<ul style="list-style-type: none"> <li>• Supportive of approach;</li> <li>• Welcome commitment to equity of access;</li> <li>• Recognise need for highly coordinated approach;</li> <li>• Importance of internal communication;</li> <li>• HSCB would welcome more detail on how the Board's statutory role and decision-making functions would be accommodated within these proposed new arrangements. HSCB is also concerned about a potential legal issue re. its statutory duty on commissioning;</li> <li>• Need clarification of responsibilities for oversight and governance for Trust decisions taken by the Management Board;</li> <li>• Some concern about membership of the Rebuilding Management Board.</li> </ul>
<b>Trade Unions</b>	<ul style="list-style-type: none"> <li>• NIPSA is fundamentally concerned that the introduction of what in essence appears to be a command and control governance framework, onto already stressed HSC structures, will contaminate and confuse much-needed emergency responses, that have been worked on locally and regionally over the last period;</li> <li>• NIPSA believes that the Memorandum should be substantively amended to reflect the function of Trade Unions as the key representatives of the 'experts in service' so that this can be integrated into your approach. Co-production and co-design are key roles in a re-invigorated structure to rebuild from</li> </ul>

	<p>COVID for a sustainable HSC;</p> <ul style="list-style-type: none"> <li>• NIPSA's view is that to adopt a Departmental approach that has the inherent risk of co-mingling long set Departmental planning and delivery agendas with the responses to a public health crisis of an unprecedented scale, would be ill advised;</li> <li>• UNISON is are very concerned and disappointed at the complete lack of engagement that has taken place in relation to the changes to the Framework Document. UNISON further notes there is no commitment here to engage trade unions in the review processes of the new Management Board described in your letter.</li> <li>• A meeting of the Partnership Forum should be urgently convened to discuss the changes to the Framework document and the new Strategic Framework for Rebuilding HSC services.</li> <li>• There must be full openness and transparency as to the operation of the Management Board.</li> <li>• There is a lack of genuinely independent expertise within this structure in relation to key issues such as public health, health inequality, poverty and economic inequality, and human rights.</li> <li>• The policy decision to amend the Framework Document has not followed the procedures in the Department's equality scheme.</li> </ul>
<b>Local Government</b>	<ul style="list-style-type: none"> <li>• Mid and East Antrim Borough Council keen to engage;</li> <li>• Sinn Féin Councillors FDOC state that decisions should not be delegated to Perm Sec level, highlight pressures on services in the local area, and that 12 week consultation period should be thorough and progressed urgently.</li> </ul>
<b>NIHRC, ECNI</b>	<ul style="list-style-type: none"> <li>• Clarity needed on how coproduction will be embedded;</li> <li>• Clarity on relationship between TIG and Management Board;</li> <li>• There is no reference to the need to pay due regard to the promotion of equality of opportunity or to the desirability of promoting good relations;</li> <li>• Effective application of the Section 75 duties is a key governance issue. We recommend that there is express reference to the Section 75 equality and good relations duties;</li> <li>• Explicit reference to effective application of the Section 75 duties will also assist the Minister to comply with his responsibility, as set out in Guidance for Ministers, to ensure that the role of the Departmental Accounting Officer to comply with Section 75 and to provide advice on equality of opportunity considerations as they take forward their responsibilities is met;</li> <li>• Steps must also be taken to ensure that stakeholders are informed and involved.</li> </ul>
<b>Commissioner</b>	<ul style="list-style-type: none"> <li>• Welcome the intent to reform, stabilise and restore service</li> </ul>

<b>for Older People</b>	<p>delivery across the Health care system.</p> <ul style="list-style-type: none"> <li>• Very important that the Management Board continues to seek the views of experts and enables the voices of everyone involved in social care to be heard;</li> <li>• Would welcome regular contact or briefing throughout the process.</li> </ul>
<b>Universities</b>	<ul style="list-style-type: none"> <li>• A strong commitment from both universities to work across healthcare in a collaborative way;</li> <li>• It is vital that undergraduate and postgraduate education across all healthcare specialties is restarted as quickly as possible and that the universities and NIMDTA work with HSC leaders to reimagine and redesign how healthcare education can be delivered going forward.</li> </ul>
<b>Other (Letterbreen and Mullaghdun Partnership)</b>	<ul style="list-style-type: none"> <li>• Equity in Health Care must be Government policy and fundamental in decision making – need to make sure this happens as part of an open and transparent Co Production process;</li> <li>• Any review of required clinical pathways at a regional level must ensure that patient populations are not disadvantaged or discriminated against consequent to rurality.</li> </ul>

4. The Department welcomes the responses from the relevant bodies and will address these in full in its initial review in January 2021 of the temporary changes to the Framework Document together with any representations received from the public consultation.

#### **4. PROGRESS ACHIEVED DURING THE PERIOD JUNE TO SEPTEMBER 2020**

1. The background section in the 'Memorandum Temporary Amendment of the Health and Social Care Framework Document for the Period June 2020 to May 2022', attached as Annex A to this document, stated that: "the Covid-19 pandemic has presented unprecedented challenges for the planning and delivery of HSC services in Northern Ireland, which prior to Covid-19 were already facing major strategic challenges in the form of an ageing population, increasing demand for services, long and growing waiting lists, workforce pressures and the emergence of new and more expensive treatments. At the end of March 2020 there were some 307,000 patients on the outpatient waiting list, more than 93,000 waiting for inpatient and day case admissions and more than 131,000 patients waiting for diagnostic tests. The existing challenges confronting the social care sector, as described in the 'Power to People' report, have also been compounded by the pandemic.
2. Due to the need to redirect HSC resources to managing the Covid-19 pandemic, elective and diagnostic services have had to be curtailed with adverse impacts on the existing excessive waiting lists. The Department has collated a comprehensive assessment of the impact of Covid-19 covering the six weeks period from 9 March to 17 April 2020 across screening, primary care, community services, secondary care, and a wide range of programmes and projects. This detailed assessment indicates that the impact of the pandemic across HSC services, programmes and projects has been devastating, as resources have rightly been focused on the required emergency response. Further loss of service capacity was expected in the period from 18 April to 31 May 2020. Indeed, the latest figures published on 30 June showed a deterioration in the position with some 311,000 patients waiting on an outpatient appointment, more than 97,000 patients waiting for inpatient and day case admissions and more than 149,000 people waiting for diagnostic tests.
3. The impact of Covid-19 on HSC will be profound and long lasting. Covid-19 will be with us for some time and will continue to constrain service delivery across the HSC sector. Services will not be able to fully resume pre-Covid-19 delivery levels for some time due to the continued need to adhere to social distancing and for Personal Protective Equipment at volumes not required prior to the pandemic. In addition, the resilience of the HSC workforce is likely to have been eroded and will continue to be impacted with pressures particularly from the social care sector, which continues to be in the 'surge period'.
4. In the context of the situation described above, the HSC's overarching mission will be to incrementally increase HSC service capacity as quickly as possible across all programmes of care, within the prevailing Covid-19 conditions. The aim will be to maximise service activity within the context of managing the ongoing Covid-19 situation; embedding innovation and transformation; incorporating the Encompass programme; prioritising services; developing contingencies; and planning for the future all at the same time.

5. In order to achieve this mission the Department, through the temporary amendments to the Framework Document, and the establishment of a new Management Board, will give clear direction to the Health and Social Care Board (HSCB), Public Health Agency (PHA), Health and Social Care Trusts and the Business Services Organisation (BSO) of the Minister's priorities over the next two years to rebuild HSC services. To guide these bodies in this task the Department will publish a 'Strategic Framework for Rebuilding Health and Social Care Services' (the Strategic Framework). The Strategic Framework will address the adverse impact on the downturn of normal service delivery arising from the emergency plans that were introduced in March 2020 by HSC Trusts to respond to the surge in Covid-19 patients. The Strategic Framework will provide a basis on which to stabilise and restore service delivery as quickly as possible by requiring the above bodies to achieve the right balance between delivering Covid-19 and non-Covid-19 activity. The Department believes that it will take at least 2 years to achieve this, subject to the necessary investment being available and the effective management of Covid-19 during this period.
6. The temporary amendments to the HSC Framework Document are therefore necessary to facilitate the optimum implementation of the Strategic Framework. In pursuance of this the Department re-commits to its statutory obligations for personal and public involvement and consultation while respecting the need for co-production with service users and the HSC workforce.
7. The 'Strategic Framework for Rebuilding Health and Social Care Services'<sup>3</sup> was published by the Department in June 2020 and may be viewed at the web link indicated below. The new Management Board for Rebuilding HSC Services was also established in June 2020.

## **Progress Achieved**

The Management Board for Rebuilding HSC Services had its initial meeting on 10 June 2020 and has held a further 11 meetings in the period up to 2 September 2020 mainly on a weekly basis.

In the 12 weeks since it was established the Management Board has:

1. Established or assumed responsibility for the following 29 workstreams to produce Service rebuilding plans:
  1. Coronavirus Ap
  2. Daycase Elective Care
  3. Imaging Services
  4. Orthopaedics
  5. Workforce Strategy
  6. Leadership Strategy

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<sup>3</sup> <https://www.health-ni.gov.uk/sites/default/files/publications/health/rebuilding-hsc.pdf>

7. Pathology Services
8. Acute Care at Home
9. Adult Social Care
10. Ambulance Services Clinical Response Model
11. Cancer Services
12. Children's Social Care
13. Covid-19 Modelling
14. Dental Services
15. Hospital Visiting
16. Mental Health and Learning Disability Services
17. Ophthalmic Services
18. Paediatric Services
19. Personal Protective Equipment (PPE)
20. Pharmacy Services
21. Planning for further Covid-19 Waves/Surges
22. Primary Care Services
23. Rapid Learning Initiative
24. Screening Services
25. Service Delivery Innovation implemented during the Covid-19 Emergency
26. Covid-19 Testing
27. Trace, Track and Protect
28. Urgent and Emergency Care Services
29. Winter Pressures.

2. Delivered for approval by the Minister Services Rebuilding Plans for the period June to September 2020 prepared by each of the five Health and Social Care Trusts.
3. Delivered for approval by the Minister the establishment of a Regional Network for the delivery of Daycase Elective Care including the first regional elective care centre to be located at Lagan Valley Hospital.
4. Delivered for approval by the Minister the establishment of a Regional Network for the delivery of Orthopaedic Care.
5. Taken forward the development of medium-term Stability Plans for Oncology and Haematology Services subject to Ministerial approval and available funding.
6. Taken forward the development of a Surge Planning Strategic Framework to manage the HSC's response to potential further waves of Covid-19 subject to Ministerial approval.
7. Taken forward the development of Rebuilding Plans for the period October to December 2020, prepared by each of the five Health and Social Care Trusts, subject to Ministerial approval.
8. Taken forward the development of a No More Silos Action Plan for urgent and emergency care subject to Ministerial approval.

## 5. CONSULTATION QUESTIONS

### Questions

#### Question 1

Do you agree with the provisions in the new paragraph 2.4 in the HSC Framework Document<sup>4</sup> which stipulate the Department of Health's decision to create a new temporary management board, the 'Management Board for Rebuilding HSC Services' which will come into being in June 2020 for a period of two years to be reviewed thereafter?

*Note: New paragraph 2.4 in the HSC Framework Document*

*2.4 The Department has created a new temporary management board, the 'Management Board for Rebuilding HSC Services' which will come into being in June 2020 for a period of two years to be reviewed thereafter. The Management Board will report directly to the Minister and will be responsible for providing oversight and direction to the Health and Social Care Board (HSCB), the Public Health Agency (PHA), the Health and Social Care Trusts and the Business Services Organisation (BSO) on the implementation of the Department's 'Strategic Framework for Rebuilding HSC Services'. The Management Board will not exercise any other authority in relation to the statutory duties, roles and responsibilities, as specified in the Framework, Document which the Department has delegated to the HSCB, PHA and a number of other HSC bodies. The Management Board will be chaired by the Department's Permanent Secretary and its membership will be drawn from the Department's senior officials and other senior staff from across the HSC. The Minister's Special Adviser will attend meetings of the Management Board. The Minister and the Management Board will obtain advice from experts working in health and social care fields to inform its work in the rebuilding of HSC services as required.*

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<sup>4</sup> <https://www.health-ni.gov.uk/publications/dhssps-framework-document-september-2011>

## Question 2

Do you agree with the provisions in the new paragraph 2.38 in the HSC Framework Document in which the Minister of Health has directed the Health and Social Care Board (HSCB), Public Health Agency (PHA), Health and Social Care (HSC) HSC Trusts and the Business Services Organisation (BSO) that for the two year period commencing in June 2020 they are to prioritise their service planning, delivery and deployment of resources to stabilise and restore service delivery as quickly as possible by achieving the right balance between delivering Covid-19 and non-Covid-19 activity?

*Note: New paragraph 2.38 in the HSC Framework Document*

*2.38 The Minister directs the HSCB, PHA, HSC Trusts and BSO that for the two year period commencing in June 2020 they are to prioritise their service planning, delivery and deployment of resources to stabilise and restore service delivery as quickly as possible by achieving the right balance between delivering Covid-19 and non-Covid-19 activity. In pursuance of this priority the Commissioning Plan Direction (CPD), Commissioning Plan and associated Service and Budget Agreements (SBAs) for the 2019/20 financial year will be rolled forward into the years 2020/21 and 2021/22 and updated to reflect Departmental budget allocations in each of these years. Individual Trust Delivery Plans (TDP) for 2020/21 and 2021/22 should also prioritise activity designed to stabilise and restore service delivery as quickly as possible at the level of local commissioning and through regional collaboration with other Trusts guided by the Department's 'Strategic Framework for Rebuilding HSC Services'. The performance targets set out in the CPD, SBAs and TDPs for the financial year 2019/20 will be reviewed by the Department to determine the optimum method for assessing the performance of Trusts in the delivery of services during the period of the Covid-19 emergency during the years 2020/21 and 2021/22.*

## Question 3

Do you agree with the provisions in the new paragraph 3.7 in the HSC Framework Document which provide the overarching context for the implementation of the requirements in paragraphs 3.1 to 3.6, in the HSC Framework Document, during the two year period commencing in June 2020?

*Note: New paragraph 3.7 in the HSC Framework Document*

*3.7 Paragraph 2.38 provides the overarching context for the implementation of the requirements in paragraphs 3.1 to 3.6 during the two year period commencing in June 2020.*



#### **Question 4**

Are there any additional issues related to the temporary amendments to the HSC Framework Document that you would ask the Department to consider?

#### **6. HOW TO RESPOND TO THIS PUBLIC CONSULTATION DOCUMENT**

You can share your views on the temporary amendments to the Health and Social Care Framework Document in a number of ways. Our website [www.health-ni.gov.uk/consultations/HSCframework](http://www.health-ni.gov.uk/consultations/HSCframework) provides full details of the consultation and ways to get in touch.

You can send in your answers to the questions in this consultation document, and comments on the issues, either by post or by email, to:

#### **Rebuilding HSC Services Programme Coordination Office**

**Department of Health**

**Annexe 3**

**Castle Buildings**

**Stormont Estate**

**Belfast BT4 3SQ**

**Email:       RebuildingHSC.Services@health-ni.gov.uk**

**Telephone: 028 9052 3231**

A separate questionnaire is available to help you to record your comments and views, and can be downloaded on the Department's website [www.health-ni.gov.uk/consultations](http://www.health-ni.gov.uk/consultations).

You can also respond to the issues using our online questionnaire, which can be accessed at the following website <https://consultations.nidirect.gov.uk/doh-healthcare-policy-group/temporary-amendments-to-the-health-and-social-care>

The consultation closes at 5pm on Friday 04 December.

## **7. IMPACT ASSESSMENTS**

### **Equality Screening**

In accordance with guidance produced by the Equality Commission for NI and in keeping with Section 75 of the NI Act 1998, the temporary changes to the HSC Framework Document have been equality screened and a preliminary decision has been taken that a full equality impact assessment is not required at this stage. The preliminary decision is subject to change following analysis of feedback received during the consultation.

### **Rural Proofing**

Rural proofing is a process that aims to make sure that Government policies are carefully and objectively examined to make sure they treat those in rural areas fairly and to make public services available in a fair way, no matter where people live in NI. Where necessary, policy adjustments might be made to reflect rural needs and in particular to ensure that as far as possible public services are accessible on a fair basis to the rural community. Throughout the consultation process, careful consideration will be given to the needs of rural communities.

### **Regulatory Impact Assessment**

Any requirement for a Regulatory Impact Assessment will be revisited following analysis of feedback received during the consultation.

**DEPARTMENT OF HEALTH**

**MEMORANDUM**  
**TEMPORARY AMENDMENT OF THE HEALTH AND SOCIAL**  
**CARE FRAMEWORK DOCUMENT**  
**FOR THE PERIOD JUNE 2020 TO May 2022**

## MEMORANDUM

### Introduction

This memorandum describes temporary amendments made by the Department of Health to the Health and Social Care Framework Document (the Framework Document) which the Department has introduced for a period of up to 2 years with effect from June 2020. The amendments will be initially reviewed in January 2021 and thereafter kept under regular review by the Department. The two years period will be followed by a consultation on substantive and longer term changes to the Framework Document, reflecting both learning from this period, and the dissolution of the Health and Social Care Board (HSCB) which we anticipate to coincide with this timescale.

The temporary amendments are made under the following Sections in the Health and Social Care (Reform) Act (Northern Ireland) 2009.

#### ***Department's general power***

*3.-(1) The Department may-*

*(a) provide, or secure the provision of, such health and social care as it considers appropriate for the purposes of discharging its duties under section 2; and,*

*(b) do anything else which is calculated to facilitate, or is conducive or incidental, to the discharge of that duty.*

#### ***Department's priorities and objectives***

*4.-(1) The Department shall determine, and may from time to time revise, its priorities and objectives for the provision of health and social care in Northern Ireland.*

*(2) Before determining or revising any priorities or objectives under this section, the Department must consult such bodies or persons as it thinks appropriate.*

*(3) Where the Department is of the opinion that because of the urgency of the matter it is necessary to act under subsection (1) without consultation—*

- (a) subsection (2) does not apply; but*
- (b) the Department must as soon as reasonably practicable give notice to such bodies as it thinks appropriate of the grounds on which the Department formed that opinion.*

***The framework document***

***5. (3) The Department–***

- (a) shall keep the framework document under review; and*
- (b) may from time to time revise it.*

***Section 5. (5) In preparing the framework document, or any revision of it which appears to the Department to be significant, the Department must consult–***

- (a) each health and social care body as respects its functions (or persons considered by the Department to represent that body); and*
  - (b) any other bodies or persons the Department considers appropriate.*
- (6) Each health and social care body shall have regard to the framework document in carrying out its functions.*

In relation to Section 4(2) and Section 5(5) given the grave situation that Health and Social Care (HSC) is facing and the need therefore to move swiftly to begin the rebuilding of services, commencing from June 2020, the Department is engaging in an initial time limited sounding of the relevant bodies on the proposed temporary amendments and the establishment of the Management Board, to be followed by a 12 week consultation as soon as possible. While our normal practice would be to allow for a 12 weeks consultation period on such matters we are of the view that this two stage approach to engagement is reasonable and proportionate given the enormous rebuilding task that lies ahead and the need to implement this urgently.

**Background**

The Covid-19 pandemic has presented unprecedented challenges for the planning and delivery of HSC services in Northern Ireland, which prior to Covid-19 were already facing major strategic challenges in the form of an ageing population, increasing demand for services, long and growing waiting lists, workforce pressures and the emergence of new and more expensive treatments. At the end of March 2020 there were some 307,000 patients on the outpatient waiting list, more than 93,000 waiting for inpatient and day case admissions and more than 131,000 patients waiting for diagnostic tests. The existing challenges confronting the social care sector, as described in the 'Power to People' report, have also been compounded by the pandemic.

Due to the need to redirect HSC resources to managing the Covid-19 pandemic, elective and diagnostic services have had to be curtailed with adverse impacts on the existing excessive waiting lists. The Department has collated a comprehensive assessment of the impact of Covid-19 covering the six weeks period from 9 March to 17 April 2020 across screening, primary care, community services, secondary care, and a wide range of programmes and projects. This detailed assessment indicates that the impact of the pandemic across HSC services, programmes and projects has been devastating, as resources have rightly been focused on the required emergency response. Further loss of service capacity is expected in the period from 18 April to 31 May 2020.

The impact of Covid-19 on HSC will be profound and long lasting. Covid-19 will be with us for some time and will continue to constrain service delivery across the HSC sector. Services will not be able to fully resume pre-Covid-19 delivery levels for some time due to the continued need to adhere to social distancing and for Personal Protective Equipment at volumes not required prior to the pandemic. In addition, the resilience of the HSC workforce is likely to have been eroded and will continue to be impacted with pressures particularly from the social care sector, which continues to be in the 'surge period'.

In the context of the situation described above, the HSC's overarching mission will be to incrementally increase HSC service capacity as quickly as possible across all

programmes of care, within the prevailing Covid-19 conditions. The aim will be to maximise service activity within the context of managing the ongoing Covid-19 situation; embedding innovation and transformation; incorporating the Encompass programme; prioritising services; developing contingencies; and planning for the future all at the same time.

In order to achieve this mission the Department, through the temporary amendments to the Framework Document, and the establishment of a new Management Board, will give clear direction to the Health and Social Care Board (HSCB), Public Health Agency (PHA), Health and Social Care Trusts and the Business Services Organisation (BSO) of the Minister's priorities over the next two years to rebuild HSC services. To guide these bodies in this task the Department will publish a 'Strategic Framework for Rebuilding Health and Social Care Services' (the Strategic Framework). The Strategic Framework will address the adverse impact on the downturn of normal service delivery arising from the emergency plans that were introduced in March 2020 by HSC Trusts to respond to the surge in Covid-19 patients. The Strategic Framework will provide a basis on which to stabilise and restore service delivery as quickly as possible by requiring the above bodies to achieve the right balance between delivering Covid-19 and non-Covid-19 activity. The Department believes that it will take at least 2 years to achieve this, subject to the necessary investment being available and the effective management of Covid-19 during this period.

The temporary amendments to the Framework Document are therefore necessary to facilitate the optimum implementation of the Strategic Framework. In pursuance of this the Department re-commits to its statutory obligations for personal and public involvement and consultation while respecting the need for co-production with service users and the HSC workforce.

### **Amendments to the HSC Framework Document**

The Department has produced the Framework Document to meet the statutory requirement placed upon it by the Health and Social Care (Reform) Act (NI) 2009. The

Framework Document describes the roles and functions of the various health and social care bodies and the systems that govern their relationships with each other and the Department. The Department has made the following temporary changes to the Framework Document.

Insertion of new paragraph 2.4 (all subsequent paragraphs are renumbered)

2.4 The Department has created a new temporary management board, the 'Management Board for Rebuilding HSC Services' which will come into being in June 2020 for a period of two years to be reviewed thereafter. The Management Board will report directly to the Minister and will be responsible for providing oversight and direction to the Health and Social Care Board (HSCB), the Public Health Agency (PHA), the Health and Social Care Trusts and the Business Services Organisation (BSO) on the implementation of the Department's 'Strategic Framework for Rebuilding HSC Services'. The Management Board will not exercise any other authority in relation to the statutory duties, roles and responsibilities, as specified in the Framework, Document which the Department has delegated to the HSCB, PHA and a number of other HSC bodies. The Management Board will be chaired by the Department's Permanent Secretary and its membership will be drawn from the Department's senior officials and other senior staff from across the HSC. The Minister's Special Adviser will attend meetings of the Management Board.

The Minister and the Management Board will obtain advice from experts working in health and social care fields to inform its work in the rebuilding of HSC services as required.

Insertion of new paragraph 2.38 (all subsequent paragraphs are renumbered)

2.38 The Minister directs the HSCB, PHA, HSC Trusts and BSO that for the two year period commencing in June 2020 they are to prioritise their service planning, delivery and deployment of resources to stabilise and restore service delivery as quickly as possible by achieving the right balance between delivering Covid-19 and non-Covid-19 activity. In pursuance of this priority the Commissioning Plan Direction (CPD), Commissioning Plan and associated Service and Budget Agreements (SBAs) for the 2019/20 financial year will be rolled forward into the years 2020/21 and 2021/22 and



updated to reflect Departmental budget allocations in each of these years. Individual Trust Delivery Plans (TDP) for 2020/21 and 2021/22 should also prioritise activity designed to stabilise and restore service delivery as quickly as possible at the level of local commissioning and through regional collaboration with other Trusts guided by the Department's 'Strategic Framework for Rebuilding HSC Services'. The performance targets set out in the CPD, SBAs and TDPs for the financial year 2019/20 will be reviewed by the Department to determine the optimum method for assessing the performance of Trusts in the delivery of services during the period of the Covid-19 emergency during the years 2020/21 and 2021/22.

Insertion of new paragraph 3.7 (all subsequent paragraphs are renumbered)

3.7 Paragraph 2.38 provides the overarching context for the implementation of the requirements in paragraphs 3.1 to 3.6 during the two year period commencing in June 2020.

**Department of Health (NI)**

**June 2020**