



Department of
Health

An Roinn Sláinte

Mánnystrie O Poustie

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**Temporary Amendments
to the Health and Social
Care Framework
Document for the Period
June 2020 – May 2022:
Consultation
Analysis**

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Background/context

On 9 June 2020 Robin Swann MLA, Minister of Health, in a statement 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. In his statement the Minister announced that his approach to rebuilding HSC services has two key elements.

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.

Secondly, establishing a new Management Board for Rebuilding HSC Services. The Management Board consists of senior Departmental officials, Trust chief executives and senior officials from other key arm's-length bodies and 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 new governance arrangements will be facilitated through temporary amendments to the existing Health and Social Care Framework Document, which sets out the roles and responsibilities of all Health and Social Care bodies.

Consultation process

Introduction

As part of a commitment to engagement, the Department wrote to a range of relevant bodies on 9 June 2020 inviting views on the temporary amendments as part of a soundings exercise. In total 36 responses were received as part of this exercise. The Department welcomed the responses from the relevant bodies and advised that these would be addressed in full in the initial review in January 2021 of the temporary changes to the Framework Document together with any representations received from the subsequent public consultation.

Following on from this, the Department launched a public consultation in line with the commitment made. This was to ensure that the views of all external stakeholders on the temporary amendments are fully considered.

The consultation on the Temporary amendments to the Health and Social Care Framework Document for the period June 2020 – May 2022 commenced on 14th September 2020 and closed on 4th December 2020.

People wishing to respond to the consultation could do so by:

- Completing the questionnaire online or in hard copy;
- Providing free text response (i.e. not directly addressing the consultation questions) either through email or written correspondence.

Overview of responses

In total, the Department received 36 responses to the consultation.

The table below outlines the breakdown of responses by individuals and organisations:

	Number of Responses
Individual	16
Organisation	20
Total	36

The Department of Health would like take this opportunity to thank all of those who responded to the consultation.

Analysis by Question

Question 1:

Do you agree with the provisions in the new paragraph 2.4 in the HSC Framework Document 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?

Yes	No	Not answered	Total
10	13	13	36

Responses from those indicating that they were not in support of the creation of the Management Board for Rebuilding HSC Services largely referred to the Southern Trust's decision to redeploy respiratory and Emergency Department (ED) staff in response to the Covid-19 pandemic and the temporary suspension of Type 1 ED services (including children's ED) at Daisy Hill Hospital (DHH) which they maintain was incorrectly reported in the Southern Trust's 5th Oct 2020 Resilience Plan to address Winter Pressures. Many respondents raised that the report incorrectly stated that "Emergency Care services will continue to be provided on both acute hospital sites." In addition, it was raised that any decisions made should be put before an independent consultation or review so that the proposals can be debated.

The majority of those who indicated support for the creation of the Management Board also raised the following concerns:

- Membership of the Management Board should include specific representation of the Chief Allied Health Professions Officer and the voluntary and community sector.
- Lack of confidence in the consultation process due to the delay in public consultation until several months after the Management Board had been established.
- There must be full openness and transparency as to the operation of the Management Board. It must be subject to independent scrutiny with full access to the data and information it will rely upon in its deliberations.
- There is a lack of coproduction with front-line staff, voluntary sector organisations, locally elected representative, non-statutory health and social care stakeholders, service users and their carers.
- There is no clear linkage to the Professional Bodies and Trade Unions as the representative voice of the workforce.
- At present the governance structure and lines of accountability are unclear, as are the checks and balances which are clearly needed in the midst of such wide powers.

In addition the Royal College of Paediatrics and Child Health, in their response, made reference to Re-mobilise, Recover, Re-design: The Framework for NHS Scotland, which names, among others, Royal Colleges as external partners to the Mobilisation Recovery Group who will take forward the Framework for NHS Mobilisation in Scotland.

Department's response

Whilst the Rebuilding Management Board has been put in place, it does not dilute from Trust's obligations to consult with relevant stakeholders when decisions are being taken. The pressure of the COVID-19 pandemic has sometimes necessitated quick decision making (for example where patient safety is at risk) and time may not always afford as full an engagement or consultation as both the Department and Trusts would like.

Importantly, Trusts are still responsible and accountable for taking local operational decisions. The key role of the Management Board is to consider strategic region-wide proposals or approaches. The Management Board reports to the Minister of Health who, as has always been the case, ultimately determines any policy changes.

The Chief Allied Health Professional Officer is now a member of the Management Board. In addition, to promote transparency the Department now publishes a summary of issues discussed after every meeting of the Management Board.

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?

Yes	No	Not answered	Total
11	13	12	36

In the main, the respondents indicating that they were not in support identified concerns that the amendments may provide an opportunity for Health Bodies, including some Trusts, to fast track centralisation of services without ensuring equity of access to everyone in NI or reducing health inequalities. Again, the Southern Trust's decision to temporarily suspend some services at Daisy Hill Hospital during the pandemic was highlighted as an example of this.

Those respondents in support agreed that urgent reform is required and that we must both rebuild and transform in parallel ensuring that our health service is fit for the future. Also, respondents highlighted that Trust plans should provide clear information on re-starting priority services, such as day care, respite and mental health services as well as clear information on how services will be delivered in a different way and provide assurance that support is in place for those requiring new or different help, particularly where services are reshaped, reduced or withdrawn.

It was noted that reactive changes in practice should not necessarily become embedded as custom and practice going forward as what is accepted in an emergency may not be sufficient in the longer term. In addition the commissioning priorities as linked to the four overarching strategic themes of the 2019/20 Commissioning Plan Direction must not be compromised in pursuance of stabilisation, that true balancing of COVID-19 and non COVID-19 activity must be achieved.

It was also highlighted that workforce investment will be imperative to resolving the increasing challenges with extensive waiting lists, in particular the scale of the backlog with regards cancer services must be acknowledged, and additional resources allocated to cancer services in order to meet the increased demand and reduce the backlog. With regards workforce representation UNISON stated in their response that “the Department must begin a process of engagement immediately with UNISON and other representative trade unions on future arrangements for the planning and delivery of HSC services.

Marie Curie, in their response referenced the COVID-19 Ethical Advice and Support Framework “which addresses a number of key areas – not least the balance between avoiding harm from, and the progression of, non-COVID conditions versus the risk of COVID morbidity. This, and other information in the COVID-19 Ethical Advice and Support Framework, would seem to be a vital tool for Trusts and other statutory bodies when considering how to stabilise and restore service delivery as quickly as possible by achieving the right balance between delivering COVID-19 and non COVID-19 activity”

Department’s response

The Department recognises and note the issues raised in the consultation responses.

The department recognises the very difficult decisions that Trusts and clinicians have to take. This includes striking the balance between managing the immense pressures arising from COVID-19 and from treating non COVID-19 patients.

The Department is clear that statutory responsibilities in relation to equality and good relations; and to consultation on major service changes must continue to be adhered to. The temporary changes the Framework, which is the subject of this consultation, do not change this position.

The Temporary Amendments to the Framework were made to enable the Department to give clear direction to the Health and Social Care Board, Public

Health Agency and Health and Social Care Trusts, reflecting the Minister's priorities for the next two years whilst trying to rebuild services affected by the ongoing pandemic.

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?

Yes	No	Not answered	Total
8	14	14	36

The majority of those who disagreed, expressed a concern that the consequences of the amendments to the Framework Document will ultimately increase health inequalities across Northern Ireland. The overriding perception is that the new amendments will afford Trusts greater decision making powers to not only decide which hospital and community services are provided but also where they are provided with centralisation of services to a smaller number of sites highlighted as a fear for the future. It was stated that the Trusts must "reduce health inequalities between, those for whom it provides, or may provide, health and social care" again with reference to the Southern Trust in particular.

With regards the impact of the new amendments on the transformation agenda it was queried how transformation would possibly be implemented at Trust level in a manner that would not create a vacuum, including potential permanent loss of services, potential withdrawal or reallocation of financial resources and destabilisation of jobs.

In addition concerns regarding the representation of the workforce were again raised with reference to the lack of stipulation within the Terms of Reference as to how workforce involvement would be facilitated, with no clear linkage to trade unions as the representative voice of the workforce set out within the Terms of Reference either or how trade union involvement and partnership working would be secured by the Management Board and what mechanisms will be put in place to deliver this.

For those who expressed agreement, it was noted that the current position of prioritisation of the continuing response to COVID-19 and the winter surge, is impacting on other patients waiting in agonising pain for treatments that have either been cancelled or scheduled for a time far in the future. It was stated that it is essential that the non COVID-19 activity moves beyond urgent and emergency treatments.

Department's response

The Department recognises and notes the issues raised in the consultation responses. The Department is clear that statutory responsibilities in relation to equality and good relations; and to consultation on major service changes must continue to be adhered to. The introduction of the temporary Strategic Framework changes do not change this position.

In relation to engagement with Trade Union side and voluntary & community sector the Transformation Advisory Board (TAB) has been re-constituted. TAB is chaired by the Minister and includes trade union, service user, voluntary & community sector and business representatives. This provides a mechanism for engagement with external stakeholders on strategic issues and proposed major service changes. The Department also continues to engage with Trade Union side through its usual channels.

The Temporary Amendments to the Framework were made to enable the Department to give clear direction to the Health and Social Care Board, Public Health Agency and Health and Social Care Trusts, reflecting the Minister's priorities for the next two years whilst trying to rebuild services affected by the ongoing pandemic. The amendments do not give Trusts greater decision making powers.

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?

Yes	No	Not answered	Total
19	4	13	36

Respondents indicating 'Yes' raised a number of issues:

- The Department must clarify how the Management Board will exercise its responsibilities to ensure appropriate oversight and accountability, in addition it was suggested that The Department of Health publicly disseminate regular information via its website regarding performance targets and subsequent progress reports to offer greater scrutiny.
- A collaborative approach at local operational levels would bring greater assurance and transparency including full engagement with services users, families, carers and 3rd sector with clarity on how co-production will be embedded.
- Decisions made by the Management Board must be open to scrutiny by the stakeholders including Unions, elected representatives, and organisations such as the Equality Commission, Commissioner for Older people and the taxpayer. It was noted that assurances were needed that the right expertise is at the heart of decisions made by the Board to ensure equity of access for the

treatment of patients across Northern Ireland; and to protect access to the most urgent services for our population.

- Clarity of the linkages with Delivering Together and Transformation including the Transformation Implementation Group (TIG) and Transformation Advisory Board (TAB) and clarity of the Department's plans to bring the commissioner-provider split to a conclusion including a timetable for this process that incorporates, in particular, existing undertakings in relation to the dissolution of the HSCB.

Department's response

The Department notes the issues raised in the consultation responses. The Department recognises the importance of engagement, consultation and discharging of responsibilities in relation to Section 75 and equality duties. The Department have worked collaboratively with the Trusts and the Patient Client Council to develop an approach to engagement and consultation in the current environment. This approach is being tested in relation to the orthopaedics and day case projects signed off for implementation during the summer of 2020. Proposals endorsed by the Management Board and subsequently signed off by the Minister have been published to allow for transparency and public scrutiny. In addition, a summary of issues discussed at the Rebuilding Management Board is published after each meeting.

Expert advice is available to the Rebuilding Management Board as required. It should also be noted that clinicians are at the centre of developing proposals for discussion at the Rebuilding Management Board.

Question 5:

Are any of the temporary amendments to the Health and Social Care Framework Document, set out in the consultation document, likely to have an adverse impact on any of the nine equality groups identified under Section 75 of the 1998 Act?

Yes	No	Not answered	Total
14	5	17	36

Respondents to this question indicated that the temporary amendments could have an adverse impact on the equality groups outlined in section 75 of the Northern Ireland Act 1998, in particular those with disabilities, older people, carers and children. It was a widely held view that decisions made by the Management Board have already adversely impacted on the equality groups by failing to ensure 'Equal and timely access to basic health services'. The decision made by the Southern Trust to temporarily redirect resources and access to services from Daisy Hill Hospital in Newry and relocate them to Craigavon Area Hospital was cited as an example of this as some patients were required to travel further to access emergency services during this time.

In their response UNISON stated that, in their view the Department has breached its obligations under section 75 of the Northern Ireland Act and its approved Equality Scheme. While there was acknowledgment that the Department has now completed an equality screening exercise for these proposals, the decision that changes to the Framework Document do not require a full Equality Impact Assessment (EQIA) at this stage is, in their view incorrect and is based on a flawed approach to screening. UNISON stated that they formally request that the Department review the screening decision and proceed to screen the policy in as requiring an immediate equality impact assessment, to be undertaken without delay.

Department's response

The Department is clear that statutory responsibilities in relation to equality and good relations; and to consultation in relation to major service changes must continue to be adhered to.

An Equality screening exercise was published in relation to the temporary changes to the Framework.

Question 6:

Are you aware of any indication or evidence – qualitative or quantitative – that any of the temporary amendments to the Health and Social Care Framework Document, set out in the consultation document, may have an adverse impact on equality of opportunity or on good relations?

Yes	No	Not answered	Total
16	5	15	36

Many of the respondents who indicated that the temporary amendments may have an adverse impact on equality of opportunity or good relations expressed their view that the administrative changes provide extra authority to Trusts, and Trust Chief Executives who sit on the new Management Board meaning they can over-see their own decisions. It was a widely held view that some of the decisions made since June have already negatively impacted on equality of opportunity and good relations within the Southern HSC Trust area.

Department's response

The Temporary Amendments to the Framework were made to enable the Department to give clear direction to the Health and Social Care Board, Public Health Agency and Health and Social Care Trusts, reflecting the Minister's priorities for the next two years whilst trying to rebuild services affected by the ongoing pandemic. The amendments do not give Trusts greater decision making powers.

The Minister of Health remains responsible for setting policy and for agreeing any policy changes.

The Department is clear that statutory responsibilities in relation to equality and good relations must continue to be adhered to. The introduction of the temporary Strategic Framework changes do not change this position.

Question 7:

Is there an opportunity to better promote equality of opportunity or good relations?

Yes	No	Not answered	Total
18	3	15	36

Responses to this question indicated that there was an opportunity to better promote equality of opportunity or good relations in the following areas:

- Clarity of how coproduction will be embedded;
- Clarity on the relationship between Transformation Implementation Group and Management Board;
- Steps taken to ensure that all stakeholders are informed and involved;
- Pay due regard to the promotion of equality of opportunity or to the desirability of promoting good relations; and effective application of the Section 75 duties.

Department's response

The Department is clear that statutory responsibilities in relation to equality and good relations must continue to be adhered to. The introduction of the temporary Strategic Framework changes do not change this position. The need to have due regard to equality and good relations duties has been explicitly stated in the Rebuilding Management Board revised terms of reference.

Any major change in service provision will be subject to consultation and equality and rural screenings, which will give due regard to equality and good relations.

Question 8:

Are there any aspects of the temporary amendments to the Health and Social Care Framework Document, set out in the consultation document, where potential human rights violations may occur?

Yes	No	Not answered	Total
14	6	16	36

Responses to this question indicated support for the view that aspects of the proposals could result in the potential violation of human rights. Specifically, concerns were raised in relation to the following:

- Article 2 (The right to life)
- Article 14 (Protection from discrimination)

In addition the 'Right to Health' Fact Sheet No. 31 from the Office of the United Nations High Commissioner for Human Rights and World Health Organization was cited as stating that access to health care and the building of hospitals must be accessible physically (in safe reach for all sections of the population, including children, adolescents, older persons, persons with disabilities and other vulnerable groups) as well as financially and on the basis of non-discrimination. Health services, goods and facilities must be provided to all without any discrimination. All services, goods and facilities must be available, accessible, acceptable and of good quality.

Department's response

The Department acknowledges the issues raised in relation to Human Rights.

The Department is clear that statutory responsibilities in relation to equality and good relations must continue to be adhered to. The same applies to all international law. The introduction of the temporary Strategic Framework changes do not change this position.

Any major change in service provision will be subject to consultation and equality and rural screenings, which will give due regard to equality and good relations.

Question 9:

Are the temporary amendments to the Health and Social Care Framework Document, set out in the consultation document, likely to have an adverse impact on rural areas?

Yes	No	Not answered	Total
13	6	17	36

Many respondents indicated that the temporary amendments could provide a platform for decisions to be made quickly, without the appropriate coproduction conducted which could potentially allow for the reduction and/or removal of services from hospitals in rural areas, leading to inequalities in service provision and ultimately poorer outcomes for those living in rural areas.

Specifically, it was raised that the amendments have already allowed the approval of the removal of life saving health care from Daisy Hill Hospital for almost seven months. Subsequently the rural population of Newry & Mourne unacceptably had to travel (over an hour for some) to the nearest Emergency Department to access medical intervention for time critical emergencies.

In addition, the need for access to reliable internet / network connection was raised as needing to be considered to enable equitable access to services being offered remotely going forward.

Department's response

The Department acknowledges the issue in relation to the potential impact on rural communities.

The Department is clear that statutory responsibilities in relation to equality and good relations must continue to be adhered to. This also applies in relation to rural impacts. The introduction of the temporary Strategic Framework changes do not change this position.

Any major change in service provision will be subject to consultation and equality and rural screenings, which will give due regard to equality and good relations.

Appendix One

Organisations which responded to the consultation

Details taken from individual responses where the responder has indicated that they represent an organisation

Age NI
ARC NI
British Dietetic Association (BDA)
Committee on the Administration of Justice
Diabetes UK
Families Involved NI (FINI)
Federation of (Ophthalmic and Dispensing) Opticians (FODO)
Long Term Conditions Alliance NI (LTCANI)
Macmillan Cancer Support
Marie Curie NI
Mid and East Antrim Borough Council
Pharmacy Forum NI
The Northern Ireland Local Government Association (NILGA)
The Royal College of Nursing (RCN)
The Royal College of Midwives (RCM)
The Royal College of Paediatrics and Child Health (RCPCH)
The Royal College of Psychiatrists (RCP)
The Society of Radiographers (SOR)
UNISON
Versus Arthritis