

Health & Social Services Committee HSS-17-01(p.1)

Date: 5 December 2001
Venue: Committee Room 3, National Assembly for Wales
Title: Health Legislation

Purpose

1. Two health Bills were announced in the Queen's Speech on 20 June and I wrote to all members on 25 July 2001 detailing the content and timetable of both Bills.
2. Further to my Monthly Report 18 October 2001, this paper provides Committee members with:
 - background information and the current position of the NHS Reform and Health Care Professions Bill;
 - background information and the current position of the NHS (Wales) Bill; and
 - a re-iteration of the scope of the Health & Social Services Committee to influence legislation.

NHS Reform and Health Care Professions Bill

Content

3. The NHS Reform and Health Care Professions Bill (previously referred to as the NHS Reform Bill) was announced in the Queen's speech on 20 June 2001. At this time it had three themes:

a. Theme 1 - "Devolve responsibility for GPs and other Family Health Service contractors, for example dentists, opticians, and pharmacists, from the existing health authorities to local Primary Care Trusts (PCTs), who are best placed to commission services for local people."

Note: Policy in Wales is not to pursue the English PCT model – we are adapting an LHB model in Wales.

b. Theme 2 - "Give patients greater influence in the running of the NHS, in line with the NHS Plan. Patients and the public will have the opportunity to be involved in the decisions that affect their care and that of the local community. Democratically elected local bodies, acting through their new scrutiny and oversight committees, will scrutinise the local health service, and will get the exclusive right to refer contested local service changes to the new National Reconfiguration Panel."

Note: Policy in Wales is not to commence either the English Care Trust model or the Local Government Oversight and Scrutiny Committees. Our approach is vested in the developing and implementing new Health and Wellbeing Strategies.

c. Theme 3 - "Reform professional self-regulation. This would involve modernising the way the General Medical Council is run. The GMC is already consulting on options for this. The Bill would also modernise the way appeals from decisions of regulatory bodies are handled, and the way they are accountable to Parliament."

Note: This is a reserved function that has not been delegated to the Assembly.

Current clauses

4. Current clauses are detailed at Annex A.

5. Wales only clauses are:

- Clauses 6 (Local Health Boards) - This clause inserts three new sections into the NHS Act 1977. Section 16BA enables the National Assembly for Wales ("the Assembly"), by order, to establish statutory bodies to be known as Local Health Boards (LHBs) to exercise health functions as directed by the Assembly. Each Board will be established for an area of Wales specified in its establishment order.
- Clause 9 (Funding of Local Health Boards) - This clause provides for the funding of Local Health Boards, the setting of financial duties and the establishment of resource limits. The provisions in this new section closely mirror the existing provisions in section 97 for the funding of Health Authorities.
- Clause 22 (Health and Well-being Strategies in Wales) - This clause places a duty on each newly formed Local Health Board in Wales and each Local Authority in Wales to jointly formulate and implement a Health and Well Strategy for the Local Authority area. The clause requires that the local health board and local authority have regard to the strategy in exercise of their functions. In line with the principle of devolution the clause provides the National Assembly with regulation making powers in respect of matters which the strategy must address; consultation and publication of the strategy; and reporting on the strategy to the Assembly. This clause also provides the Assembly with regulation making powers in respect of rationalising the health and social care planning regimes in Wales.

Amendments

6. Amendments relevant to Wales, tabled to date, are as follows:

- Clause 1 - Opposition amendment 86 - to introduce the requirement for consultation of various health service staff about the establishment, and choice of name, of Strategic Health Authorities in England and Health Authorities in Wales.
- Clause 4 - Government Amendment 92 - a technical change to ensure that power to direct Health Authorities in Wales is not affected.
- Schedule 5 - Government amendments 117, 118, 119, 120 and 121 - technical and consequential to existing legislation in as a result of the creation of LHBs
- Clause 9 - Opposition amendments 142, 143, 144 – the overall effect of these is to seek to limit the Assembly’s discretion in determining budgets for Local Health Boards.

Timing

7. First Reading of the Bill was on Thursday 8 November with publication on Friday 9 November. The Bill and the accompanying Explanatory Notes can be accessed through the link below:

<http://www.publications.parliament.uk/pa/cm200102/cmbills/047/2002047.htm>

8. Second Reading took place on 20 November 2001.

9. Committee Stage began on Tuesday 27 November and will be brought to a conclusion on 18 December 2001. Members of the Committee and reports of proceedings can be accessed through the link below:

<http://www.publications.parliament.uk/pa/cm200102/cmstand/a/cmnhs.htm>

10. Commons Report and Third Reading is likely to follow Christmas recess.

11. After completing the Commons stages, the Bill is sent straight away to the House of Lords, where it is introduced, and First Reading takes place, at the first convenient opportunity. The Bill as passed by the Commons is then printed (normally available the following day) and proceeds through the following theoretical stages:

- Second Reading (usually a Committee of the whole House, rather than a standing committee)
- Committee Stage (on the floor of the house),
- Report and Third Reading.

Any amendments made in the Lords have to be considered by the Commons.

Consequential Secondary Legislation

12. Clauses have been included to enable the Assembly, by Order, to determine the detailed aspects of the legislation. I noted my suggestion in October's Monthly Report that the Committee should schedule adequate time for consideration of these Orders.

Implementation

13. I confirmed in my Plenary statement of 15th November that Local Health Groups will be strengthened to become Local Health Boards (LHBs), in each local authority area. These will be the building blocks of the new NHS in Wales. The principles of coterminosity with local authorities is widely regarded as providing very important advantages. I intend to set up 22 Local Health Boards. They will become statutory bodies to give them the power and status essential for them to discharge their responsibilities. A period of shadow running will be essential to prepare LHBs for their new role, underpinned by the support of an All-Wales LHB and Partnership Development Team.

Scope for influence by HSSC members

14. The Bill is open to amendments moved by MPs and Members of the House of Lords. There is clearly a role for Welsh Members of Parliament to scrutinise and influence the Bills as it proceeds through Parliament.

15. The 'Wales only' clauses included within the NHS Reform Bill are brief enabling clauses that allow the Assembly, by Order, to determine the detailed aspects of the legislation. HSSC members will, therefore, have full opportunity to influence the final outcome through consideration of Secondary Legislation.

NHS (Wales) Bill

Content

16. As in my letter dated 25 July, it is my expectation that this will include the following main components:

- Creation of a new body to ensure the continuity of the functions of the abolished Welsh National Board for Nursing, Midwifery and Health Visiting (WNB)
- Creation of a Wales Centre for Health
- Reform of Community Health Councils (CHCs)

Timing

17. The NHS (Wales) Bill was given advanced drafting authority in the Queen's Speech, thus allowing for early publication of the Bill. This means that Parliamentary Counsel can draft the Bill and it can be published for consultation, to be introduced into Parliament when parliamentary time allows.

18. The intention is that the Bill should be published in draft this session, to allow for pre-legislative scrutiny by the Assembly and Westminster.

Scope for influence by HSSC members

19. The draft NHS (Wales) Bill and its consequential Orders will need to be given full consideration by the Committee. The draft Bill may be considered by the Committee between its publication and its introduction into Parliament. We will then have a further opportunity to influence the outcome of the Bill through the consideration of the consequential draft Orders.

20. Once again, the Bill will be open to amendments moved by MPs and Members of the House of Lords. There is clearly a role for Welsh Members of Parliament to scrutinise and influence this Bill as it proceeds through Parliament.

Secretary of State for Wales

21. I am pleased that the Secretary of State for Wales has agreed that Wales Office ministers will be happy to attend future Committee discussions of the Bills, in view of the clear role that Welsh MPs can play in the scrutiny and influencing of Bills as they proceed through Parliament.

Compliance

22. This submission is designed to inform HSSC Members of the legislative process and it has no direct financial implications.

Action for Subject Committee

23. This is a paper to note

Jane Hutt

Minister for Health & Social Services

ANNEX A – Bill Clauses

ID	Clause
1	English Health Authorities: Change of name
2	Primary Care Trusts
3	Directions: Distribution of Functions
4	Personal Medical Services, Personal Dental Services and Local Pharmaceutical Services
5	Local Representative Committees
6	Local Health Boards
7	Funding of Strategic Health Authorities and Health Authorities
8	Funding of Primary Care Trusts
9	Funding of Local Health Boards
10	Expenditure of NHS Bodies
11	Duty of Quality
12	Further functions for the Commission of Health Improvement
13	Commission for Health Improvement: Inspections and Investigations
14	Commission for Health Improvement: Constitution
15	Establishment of Patients Forums
16	Entry and Inspection of Premises
17	Annual report
18	Supplementary
19	Commission for Patient and Public Involvement in Health
20	Abolition of Community Health Councils in England
21	Joint working with the Prison Service
22	Health and Well-being Strategies in Wales
23	Council for the Regulation of Health Care Professionals
24	Powers and duties of the Council: General
25	Regulatory Bodies and the Council
26	Complaints about Regulatory bodies
27	Reference of Disciplinary cases by Council to Court
28	Appeals: Medical Practitioners
29	Appeals: Dentists
30	Appeals: Opticians
31	Appeals: Osteopaths
32	Appeals: Chiropractors
33	Regulation of the Profession of Pharmacy
34	Amendments of Health Service legislation in connection with consolidation
35	Minor and consequential amendments and repeals
36	Regulations and Orders
37	Supplementary and Consequential provision etc.
38	Wales

39 Financial Provisions
40 Short title, interpretation, commencement and extent

Jane Hutt
Minister for Health and Social Services