



Department
of Health &
Social Care

The Lord O'Shaughnessy
Parliamentary Under Secretary of State
Department of Health and Social Care
39 Victoria Street, SW1H 0EU

Vaughan Gething AM
Cabinet Secretary for Health and Social Services
5th Floor
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19 December 2018

Dear Vaughan,

HEALTHCARE (INTERNATIONAL ARRANGEMENTS) BILL

Thank you for your letter of 4 December. May I first take this opportunity to congratulate you on your reappointment as Minister for Health and Social Care. I look forward to working with you further on this and other issues.

Regarding the Healthcare (International Arrangements) Bill, I would like to underline from the outset that we have always acknowledged that the provisions in the Bill may be exercised in ways which relate to a devolved matter, and it is for that reason that we are looking to secure your support for recommending a Legislative Consent Motion.

I am delighted to hear that you are prepared to recommend consent to the Bill. This is a truly positive step forward and demonstrates that this Bill can be taken forward in the interests of the whole of the UK.

As discussed between our officials, we could amend the Bill to insert a statutory duty on the UK Government to consult the Devolved Administrations before making regulations under Clause 2 of the Bill that contain provisions which are within devolved competence. This would necessarily extend to any regulations that amend, repeal or revoke a Measure or Act of the National Assembly for Wales. We would like to make this change as soon as practically possible.

With regard to the Memorandum of Understanding setting out more detail as to how and when consultation would take place, we are very happy to provide you with assurances that the Welsh Government, and indeed all of the DAs, would be meaningfully consulted on the development and drafting of regulations. We can discuss this further as officials progress the drafting of an MoU.

As I am sure you can appreciate, this is a time-sensitive issue and it is in both of our interests to progress the passage of the Bill as a matter of expediency. We would very much like to work with you and all the DAs in good faith to proceed with the drafting of an MoU. The MoU would set out the detail of how UKG will consult the DAs to underpin the proposed statutory consultation requirement. If feasible, it would be helpful to agree the key terms before we amend the Bill.

This Bill is expressly concerned with implementing international agreements and the extent to which regulations implement new agreements. There is already an MoU between the UK and the Devolved Administrations concerning international agreements that deals with respective roles in the negotiations process which is under review and so this is not something we can currently open via the HIAB.

With regard to the clarification sought on financial arrangements, I believe our officials have discussed this at some length. To reiterate, we do not want the current administrative system to change and thereby place additional burdens on the Devolved Administrations. By this I mean that the Department for Health and Social Care will continue to fund and administer schemes that entitle individuals across the whole United Kingdom to access healthcare abroad. Where these schemes entitle foreign nationals to access domestic healthcare services, it will remain the responsibility of all the four nations to provide those individuals with that healthcare, to legislate for that provision through charging regulations, and bear the costs, accordingly. Going forward, and as part of our close working, we would expect to provide analysis on the potential costs and benefits of reciprocal agreements to the UK Government, to the NHS in England, Wales, Scotland and Northern Ireland, and to UK citizens and residents and to involve the DAs in formation of strategy in this area.

I would like to stress that my Department is fully committed to working with you and all the DAs in the interests of individuals in all the four nations and their access to healthcare abroad. I will make every effort to proceed by consensus in this area and hope that in doing so I am able to alleviate some of the broader concerns you have expressed throughout our discussions on this matter. Indeed, many of these concerns have been expressed by all the DAs and I hope that the measures proposed in this letter will provide assurances to colleagues in Scotland and Northern Ireland as well.

I look forward to hearing back from you and hope we can indeed move this forward at pace to ensure we can jointly provide individuals in Wales with confidence that the measures in this Bill will apply to them as well.

I am copying this letter to the First Minister of Wales, the Secretary of State for Wales and the Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office. I am also copying it to the Scottish Government's Cabinet Secretary for Health and Sport and Cabinet Secretary for Government Business and Constitutional Relations, and to the Permanent Secretary at the Department of Health in Northern Ireland and Head of the Northern Ireland Civil Service.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John', is centered on a white background. The signature is fluid and cursive, with a large loop at the beginning and a wavy tail.

LORD O'SHAUGHNESSY