MEMO

From the Permanent Secretary and HSC Chief Executive

Department of Health
An Roinn Sláinte
Männystrie O Poustie
www.health-ni.gov.uk

From: Peter May

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To: HSC Chief Executives

DEPARTMENT OF HEALTH POLICY GUIDANCE CIRCULAR

GUIDANCE ON ROLES AND RESPONSIBILITIES – CHANGE OR WITHDRAWAL OF SERVICES

Introduction

1. The purpose of this circular is to update the guidance on the decision making relating to change or withdrawal of services. The changes reflect recent structural changes across the HSC and intend to provide further clarity on the process of change or withdrawal of services – both temporary and permanent. This circular replaces previously published guidance relating to change or withdrawal of services and is effective from 12 September 2023. This circular does not impact or change any aspects of the obligations and responsibilities with regards to involvement and is consistent with Involvement & Consultation Schemes developed in 2023.

2. The respective roles and responsibilities of all organisations within the HSC system are set out in the HSC Framework Document and in individual Management Statements. However, the Principal Accounting Officer and the Minister are ultimately responsible for the efficient and effective deployment of public money in health, social services and public safety. This means there are occasions when decisions about services will need the final approval of the Department. **Departmental officials will determine if the issue can be approved at official level, or if Ministerial approval is needed.** Where there is any doubt about the threshold, the Minister will be engaged on who the decision maker should be.

3. This scope of this circular relates to all Health and Social Care services including Children's Services, Learning Disability Services, Mental Health Services, Older People's Services and Acute Services.

Role of Department and HSC bodies

4. **The Department** has an overall duty to promote an integrated system of health and social care designed to improve the health and social well-being of the people in Northern Ireland. The Department sets the strategic direction and provides targets for delivery. The SPPG is responsible within the DoH for planning, financial and performance management of the HSC.

5. **The Public Health Agency (PHA)** has lead responsibility for the implementing of Personal and Public Involvement Policy (PPI) across the HSC. This circular does not amend this responsibility and does not provide new advice relating to the PPI policy. HSC bodies that are considering change or withdrawal of service (whether permanent or temporary) may wish to seek guidance from the PHA in relation to best practice on public involvement and consultation.

6. **HSC bodies** are required to provide health and social care services in line with their statutory duties and response to instructions from the Department / Minister. A list of all relevant HSC bodies is attached at **Annex A**.

Involvement with the public, including statutory responsibility to involve and consult

7. *Health and Wellbeing 2026: Delivering Together* states a commitment to ensure that the design of new and reconfigured services is taken forward on the basis of partnership working. Patients, clients, carers and communities should be at the centre of decision making in health and social care. This means that they must be meaningfully involved in the design, delivery and evaluation of their services. HSC bodies are accountable to people and communities for the quality, accessibility and responsiveness of the services they plan and provide.

8. Section 75 of the Northern Ireland Act 1998 and sections 19 and 20 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 impose statutory duties on Health and Social Care (HSC) bodies related to the involvement and consultation process. Nothing in this circular affects those statutory duties or the associated guidance on compliance. Personal and Public Involvement which requires effective and meaningful engagement of service users and carers and/or the public continues to take a critical element of commissioning, service development, delivery and evaluation

9. **It is for HSC bodies to determine if a decision to change or withdraw a service requires a public consultation**. Such decision must be made in line with the Northern Ireland Act and the Social Care (Reform) Act. Public involvement must always take place – whether a public consultation is required or not. The PHA can provide further advice on engagement and involvement with the public on decision making related to change or withdrawal of service.

Permanent change or withdrawal of service: decision making and Departmental approval

10. **HSC bodies are responsible for the delivery of services and can make operational decisions about the service delivery independently.**[1] However, HSC bodies must at all times work collaboratively with PHA, SPPG and other Departmental colleagues and should advice of their intent for a change to, or withdrawal of, a service as soon as practicable.

11. Operational proposals about change or withdrawal of services will not normally require Departmental approval. However, regular collaboration with colleagues in other HSC bodies, PHA and in the Department (both policy colleagues and SPPG) should be normal practice. This may help find alternative solutions with overall better outcomes and will help to determine if a change or withdrawal is major and/or controversial. Such communication can be through formal channels, such as regional programme boards and groups or by direct contact with relevant officials. HSC bodies are expected to exercise judgment about what is major and/or controversial. It is not the Department's aim to take upon itself final approval for all operational decisions about service provision.

12. When a HSC body has determined that a public consultation is required, **the Department (through SPPG) must be formally notified of the public consultation to change or withdraw services**. If the consultation documents refer to regional policies, strategies and standards, the Department must approve such references with a Departmental decision to be processed quickly. The HSC body does not require Departmental approval to start a public consultation. However, as outlined above, some decisions will require Departmental approval after consultation is complete.

13. **If a proposal to change or withdraw a service is determined by the Department to be major and/or controversial or if the proposals are contrary to Departmental policy, Departmental approval to make the final decision on the change or withdrawal is required.** It is not practicable to develop definitive criteria for these terms.

14. If a public consultation has taken place, after the completion of the consultation to change or withdraw a service the HSC body must within a reasonable timeframe[2] furnish the Department with a consultation report and the HSC bodies' proposed way forward which is supported by their Board.

15. If a proposal requires Departmental approval, the Department (through SPPG) will take account of the following factors, based on information provided by the HSC body making the proposal for a change or withdrawal of service:
    - the extent to which the proposal is consistent with the Minister's priorities and Departmental policies;
    - that the proposals are reasonable and the impact they will have on interdependent services or other providers;
    - the assessment of the proposal against the criteria at **Annex B**, where appropriate; and

[1] This include day to day management of services.
[2] The Consultation Institute have advised that best practice would indicate that such reports should be completed within 3 months or an explanation provided as to why this might take longer.

- the views of public and local community representatives.

16. The Department (through SPPG) when taking account of these factors will liaise with others in their consideration. This will include policy colleagues and the PHA. It may also include other HSC bodies, or others.

17. In its consideration Departmental officials will consider if a decision to permanently change or withdraw a service can be made by officials or if Ministerial approval is needed. During a period of absence of Minister, officials will follow official guidance whether a decision can be taken or not.

18. A flow chart of the process can be found at **Annex C**.

Temporary change or withdrawal of service: process and decision making

19. **The Department (through SPPG) must be informed at the earliest opportunity and** in advance of major or controversial temporary change or withdrawal to service provision. At all times the public should be involved as far as practicable and in compliance with their policy and statutory responsibilities in relation to involvement and consultation (to the extent determined by the HSC body).

20. **It is for the HSC body to decide whether to undertake a public consultation in advance of a temporary change or withdrawal of service**.

21. If the HSC body has determined that a public consultation is required, but it has not been completed prior to making the decision, it is recommended that a public consultation should be carried out following the decision where the rationale for the temporary change or withdrawal is set out and where the option of re-opening or reinstating the service. Alternatively, if a temporary change or withdrawal has taken place, the Trust can consider a permanent change or withdrawal and (if required) carry out a public consultation on such permanent change or withdrawal without first carrying out a public consultation on the temporary change or withdrawal of a service.

22. A temporary change or withdrawal of service cannot be used as a way to avoid involvement and a public consultation (if determined required by the HSC body). If the HSC body has determined that a public consultation would normally be required, but that the decision cannot wait, the HSC body must involve the public as much as possible prior to making the decision.

23. If the HSC body has decided to carry out a public consultation, and the consultation documents refer to regional policies, strategies and standards, the Department (through SPPG) must approve such references. Sufficient time must be allowed for the Department to consider the references and provide approval. No Departmental approval is required to start a public consultation.

24. When an HSC body intend to enact a temporary change or withdrawal of service that is major or controversial or if the proposals are contrary to Departmental policy, the HSC body must consult the Department (through SPPG) and must take into account comments received by the Department. When being consulted the

SPPG will liaise with and take the view of policy colleagues and the PHA. The views of others may also be sought.

25. **The final decision making on temporary change or withdrawal is always with the HSC body. However, in reaching a final decision to temporarily change or withdraw a service, the HSC body should consider whether or not it has the Departments support to do so. If an HSC body is proceeding to enact a temporary change or withdrawal of service without Departmental support it must be clear on its rational and justification for making the change.**

26. A temporary change or withdrawal of service is intended to be temporary in response to circumstances that require temporary actions. If a temporary change is long standing, it will normally be more appropriate to consider permanent change or withdrawal of service. A temporary change cannot continue indefinitely.

27. A flow chart of the process can be found at **Annex C**.

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Annex A

List of HSC bodies

HSC bodies include all Department of Health Arms Lengths bodies that provide health and social care services.

The relevant bodies include:

- Belfast Health and Social Care Trust (BHSCT)
- Northern Health and Social Care Trust (NHSCT)
- South Eastern Health and Social Care Trust (SEHSCT)
- Southern Health and Social Care Trust (SHSCT)
- Western Health and Social Care Trust (WHSCT)
- Northern Ireland Ambulance Service Trust (NIAS)
- Northern Ireland Blood Transfusion Service (NIBTS)
- Northern Ireland Medical and Dental Training Agency (NIMDTA)
- Regulation and Quality Improvement Authority (RQIA)
- Public Health Agency (PHA)
- Patient and Client Council (PCC)
- Northern Ireland Practice and Education Council for Nursing & Midwifery (NIPEC)
- Northern Ireland Social Care Council (NISCC)
- Northern Ireland Guardian Ad Litem Agency (NIGALA)
- Business Services Organisation (BSO)

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Annex B

Criteria for Reconfiguring HSC Services

The Expert Panel's Report "Systems not Structures: Changing Health and Social Care" ('Bengoa') published 25 October 2016 proposed 7 reconfiguration criteria to be used when assessing the sustainability of health and social care services. In parallel, a commitment was given in 'Health and Wellbeing 2026: Delivering Together', to embark on a consultation on the proposed criteria for reconfiguring health and social care services.

A formal public consultation ran in late 2016 to early 2017. Analysis and consideration of representations received during the public consultation resulted in the refinement of the Expert Panel's recommended criteria. The refined criteria were reflected in the Consultation Analysis Report published in April 2019 under the process for decision making during the period of Executive formation.

This resulted in an update to the Department's guidance "Change or Withdrawal of Services – Revised Guidance on Roles and Responsibilities, issued in September 2019.

The criteria are:

Criterion 1: There is evidence that the outcomes for people using HSC services are below standards recognised by the Department of Health, or statutory requirements are not met, or safety concerns are evident and impact on the long term sustainability of services.

Criterion 2: There are clear pathways for the patient and client population at local and region wide levels.

Criterion 3: The service cannot meet professional standards or minimum volumes of activity, as recognised by the Department of Health, that are needed to maintain expertise.

Criterion 4: The workforce required to safely and sustainably deliver the service is not available/cannot be recruited, developed or retained, or can only be secured with high levels of agency/locum staff.

Criterion 5: There are effective alternative care models as recognised by the Department of Health in place.

Criterion 6: The delivery of the service to the required standard is costing significantly more than that of peers or of alternative models due to a combination of the above factors.

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Annex C – Process for change or withdrawal of a service