

4. BILL FOR SECOND READING

4.1. National Health and Care Service Bill 2016 – Second Reading approved

Mr Quayle to move:

That the National Health and Care Service Bill 2016 be read a second time.

The Speaker: I turn to Item 4 on our Order Paper: Bill for Second Reading, the National Health and Care Service Bill. I call on the mover, Hon. Member for Middle, the Minister, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.

I am pleased to be able to move the Second Reading of the National Health and Care Service Bill for the Department of Health and Social Care.

This is an important Bill that will modernise the existing legislative framework for our health and care services set by the NHS Act 2001 and allow the Department to deliver the five-year strategy that Tynwald Court unanimously approved in November last year. The Bill also ensures that the Department is well placed to deliver its obligations in respect of healthcare, including where those obligations are closely linked to the regulatory regimes in the United Kingdom.

Hon. Members, the Bill has six key deliverables and these are: (1) an integrated health and care service; (2) provision for a Health and Care Service Charter; (3) provision to create detailed schemes; (4) a revised approach to charges and contributions; (5) strengthening our position with regard to commissioning and contracts, including our requirement to hold an improved service provider list; and finally, (6) strengthening the role of our committees and complaints process.

The most significant change in this legislation, compared with the current National Health Service Act 2001, is the proposed introduction of the National Health and Care Service Charter and the NHCS schemes.

The Charter will set out the Department's general commitments around standards, values and behaviours in respect of the NHCS, and will be linked to the Department's five-year strategy. The NHCS schemes will provide a more detailed regulatory framework, setting out how services will be provided in accordance with certain standards of care.

The Bill also strengthened the Department's ability to charge for, or to contribute towards, the costs of the services provided. Any decisions regarding charges and contributions will have regard to the funds available to the Department at that time to provide health and care services.

The Department, Mr Speaker, has to be fiscally aware of what it can afford to provide and cannot be expected to fund every possible element of care provision. The Department will still be able to make exceptions to charges where appropriate, as of course we do now.

The Bill includes provision for care to be provided by persons who have been commissioned by or on behalf of the Department, or who have entered into a contract with the Department. A good example of this is our current arrangement for GP and dental services. The Bill provides a clear framework for that contracting of services to take place.

A number of new provisions, Mr Speaker, have been included in the Bill. The most significant of these relates to the ability of the Department to charge for the occupation of any of its facilities.

In particular, I have been keen to see a mechanism introduced by which the Department can facilitate the movement of what we call 'stranded patients'. This provision addresses the problem whereby some individuals become stranded in the acute hospital for a number of different reasons. I hope we would all agree that a hospital setting is not an ideal place for people to live in permanently or for extended time periods, but, unfortunately, in my time as Minister I have been made aware that we do have individuals who have stayed within Noble's Hospital setting for two years or more; not only adding to the workload of staff, but putting their own health and wellbeing at risk.

This provision allows a charge to be levied for the occupation of a hospital bed, where an individual has been deemed fit for medical discharge and, for one reason or another, they or their family/relative have refused to accept more suitable accommodation and care for them.

We know we have a duty of care to support vulnerable people and of course we are not intending, through this charge, to target those who are vulnerable or who may struggle to make decisions about their own care, but this will provide a mechanism that, when used appropriately, will encourage people to secure more appropriate accommodation fit for their medical and care needs.

Another new provision extends the potential for Department facilities to be used for other purposes when they are not needed for NHCS care. These purposes could include contracting with private consultants for the use of the operating theatre at Ramsey Cottage Hospital, as long as any additional use does not reduce or impact on the Department's ability to deliver its obligations to provide NHCS care.

Finally, the Bill introduces a requirement for the Department to arrange for regular and independent monitoring and review of the NHCS schemes.

The remainder of the Bill simply re-enacts and updates existing provisions relating to the establishment of certain committees and the NHCS complaints procedure.

Mr Speaker and Hon. Members, I would also seek consideration for the suspension of Standing Orders with regard to the clauses stage of the Bill. We are currently scheduled, owing to the Easter break, to take clauses through on 26th April. If the House agrees, I would be seeking consideration for the reading of clauses to be carried out at the sitting on 12th April 2016. Therefore, this is purely advance notice to give anyone wanting to make amendment clauses the opportunity to know that the date will be changed, but it is purely because of the Easter holiday that there is a considerable gap.

Mr Speaker, I beg to move that the National Health and Care Service Bill be read for the second time.

The Speaker: Hon. Member, Mr Peake.

Mr Peake: Mr Speaker, I beg to second and reserve my remarks.

The Speaker: Thank you, Hon. Members.

In relation to the notice given by the mover that he will be seeking to move the suspension of Standing Orders to permit the clauses stage to be done earlier than the next but one sitting, which would be on the 12th April, Standing Order 4.7(1) would need to be suspended. We will take that business – provided of course the Second Reading has passed – immediately after that vote in accordance with the decision of the House.

Hon. Members, does anyone wish to speak?

The Hon. Member for Douglas West, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker, and apologies to the House that Question Time finished so early.

The NHCS customer Charter is clearly a good thing, and I congratulate the Minister and the Members and all the officers for bringing it forward. It is entirely in line with the very sensible analysis and recommendations made by the Francis Report working group in 2013, which was chaired by Michael Coleman and included many former senior officers of the Department.

The specific recommendations started from a clear statement:

That there should be a single point where the system's common values and the rights, expectations and obligations of patients are laid out.

And the working group recommended that the Department should consider, '... the development of a constitution.' This is what the Charter provides. But I believe the Charter should be reviewed and

approved by Tynwald, rather than merely revised and amended by the Department as proposed. Can the Minister or Department Members advise why an amendment should not be introduced to this effect?

More importantly, the Charter is not a substitute for a statement of functions; this is different. This specification of functions, as proposed, takes place in the schemes which are acknowledged, themselves, very important. But clause 8 and clause 9, as proposed, are an interesting variant of the traditional, even normal, way of setting out how Government will provide national health and care services.

The Department is also candid – *very candid*, in fact – when laying out its objective for having set out the Department’s duty to provide care in the way it has. The Department sees this Bill as a piece of enabling legislation, with departmental functions set out in the schemes which can be adopted, changed and terminated by the Department using the annulment legislative process in Tynwald thereafter. The Department has clearly drafted this Bill as a framework under which there will be supporting schemes and procedures containing the detail about how the national health and care service operates.

I think it is quite clear that the Department is seeking power to transform the delivery of health provision in our Island, unconstrained by legal obligations in primary law and only slightly fettered by parliamentary process. It seems to me this was made quite clear in the Members’ presentation about why the Department feels it is important to modernise legislation, despite the fact that this legislation is, in actual fact, pretty modern in Manx terms.

For instance, our current National Health Service Act was adopted in 2001 and the parallel Social Services Act in 2011. Compare that to the 1970s/1980s Fire Services legislation, the 1975 estate agents/property management legislation, the 1990s sexual offences legislation: outdated sentencing; all legislation which was not found a place in this administration’s programme.

There was a clear statement in the presentation that the legislation needed to be modernised and I quote:

... to ensure the Department is legally compliant in the delivery of its health and care obligations.

And second quote:

... to allow the Department to develop and strengthen services and deliver the new five-year Strategy.

My question to the Minister and Members is whether they can advise in respect of whether they would be content to strengthen the legislative control of this framework by changing the legislative process from one of annulment to one of approval with the schemes and committees? So therefore changes to our health and care strategy were actually subject to Tynwald debate and approval?

Beyond that it is, I believe, remarkable that there is no place in the proposed legislation for a clear statement of the duty of the Department to promote health and mental health, etc. along the lines of that in section 1 of the current National Health Service Act, which states that the duty of the Department is to:

... continue to promote in the Island a comprehensive health service designed to secure improvement in:

(i) the physical and mental health of the people of the Island, and

(ii) the prevention, diagnosis and treatment of illness, and

(b) for that purpose provide or secure in the Island or elsewhere the effective provision of services in accordance with the following provisions of this Act.

Then there are 20 to 30 clauses or sections in the Act about specific functions and service provision.

This approach that I describe in the 2001 Act is mirrored in the current Social Services legislation. There the Department of Health and Social Care has a duty under that legislation to:

... continue to have the functions in relation to social care services and carer support provided ...

– and so on and so on.

The approach being proposed here is also beyond that proposed across, even after years of Conservative reform. The National Health Service Bill 2015, currently at the Second Reading stage in Westminster, provides that the Secretary of State has a duty:

... to promote a comprehensive health service designed to secure improvement in the physical and mental health of the people ... and in the prevention, diagnosis and treatment of illness, and for that purpose to provide or secure the effective provision of services in accordance with this Act.

It remains the case that:

... services so provided must be free of charge except in so far as the making and recovery of charges is expressly provided for by or under any enactment whenever passed.

But the Bill across continues with provisions that explicitly mention high-security psychiatric, medical, dental, ophthalmic, pharmaceutical and public health service functions, and the necessity:

... to meet all reasonable requirements:

- (a) for hospital accommodation,
- (b) other accommodation, for the purpose of any service provided under this Act.

– and so on.

In the light of this profound and, I think, unprecedented change in the primary law basis for a national Health Service in the British Isles, can the Minister or Members explain clearly why the primary legal basis for health provision is being removed?

Would the Department consider the introduction of a clause, as sketched in my remarks in the last few minutes, into this Bill? Very specifically, for instance, I see no mention in the Bill, I believe, as presented here today, about travelling and that sort of thing. Is that significant? What can be read into all of this?

I also want to consider the integration issue, and what I mean is bringing together the provision of health and social care through this Bill, adding something to the path from which a detour was taken in 2010, but which was re-joined in April 2014 when the integrated Health and Social Care Department was put back together. Can the Minister or Members explain why there is little actual legislative integration in this Bill? I acknowledge the explanatory memorandum statement that:

It is acknowledged that as more health and social care is integrated, and in accordance with the development of the Department's recently published five-year Strategy, more legislation may in due course be required to dovetail the relevant health and social care legal obligations.

But it is quite clear that after passage of this Bill, we will continue to have two complaints processes and independent review bodies in the same Department, and neither seems to be integrated with the emerging systems in Government, including a proposed ombudsman service.

The social care system of complaints and independent review body in section 26 of the Social Services Act 2011 seems fine to me, so why can this regime not be extended to cover health and mental health?

Even across, where social care remains a local responsibility, the proposed legislation allows for the Secretary of State to exercise the functions with a view to:

... integrating the provision of health services and of social care services.

– in accordance with the Act that is being proposed is Westminster.

Moving on to more specifics: the list of qualified suppliers' clause is rather unspecified. What are the grounds for refusal onto any list? Are they economic, professional qualification, fitness and proprietary? And who can appeal the inclusion of a person on the list under the proposed clause 14(4)? I have had issues with this on a couple of occasions in the last two or three years. Why is the list not always published in full: 14(3)?

Is it really valid for the appeal body to make the final decision under 14(6) and 14(7)? I would have thought the appeal body were better to send the original decision back for review by the deciding body, or what is the point of having the deciding body in the first place?

Might it be more helpful – and moving onto another specific point – to actually deal with the nature of the comprehensive Health Service in trade and procurement contexts, to future-proof the situation? I note the UK Bill references the situation in respect of Protocol (No. 26) to the Treaty on European Union about services and the World Trade Organisation’s General Agreement on Trade in Services. There is a specific reference to making sure that the health services are excluded in terms of competition-type frameworks.

Now, this is where I put my Guy Fawkes’ hat on. What is the purpose of the Health Services Consultative Committee? Could it be got rid of – burned, in Guy Fawkes’ speak – or rather could it have its role enhanced to become an independent board-type body: actually, really, overseeing health and social care provision in the public interest; doing more rather than merely:

Tendering to the Department’s views on any general matters relating to the Service ...

– which the Department –

... shall have regard to.

The Health Services Consultative Committee was rather forgotten by the Minister for a time in parliamentary Questions/Answers and in debates, but it seems to have been rehabilitated. Why? It could perhaps be abolished and, if not abolished, surely its role and significance should actually be increased?

The third annual report of the Health Services Consultative Committee, covering the year to March 2015, made three very interesting recommendations which I would like debated during the passage of this Bill.

Firstly, recommendation 12 was that the Department should:

Conduct an overhaul of health based committees and their meetings in the Department in order to determine their purpose and structure, to streamline decision-making, clarify accountability and avoid duplication and gaps.

Can the Department share with this House the findings and conclusions of this review and intended overhaul before the next Reading of this Bill?

Secondly, has political intervention concerning Noble’s Hospital been focused away from clinical decisions to strategic direction and policy issues – recommendation 9 of the Health Services Consultative Committee? What political intervention was HSCC meaning? Was it Tynwald Members or was it Tynwald Members wearing their ministerial or departmental membership hats? And that question is very relevant to why we need an HSCC, if we do.

Thirdly, in line with their first recommendation, can the Minister or Members advise how HSCC was involved in the preparation of the new five-year strategy, especially at its early stages, so this House can consider what value HSCC has brought and can bring in particular?

Moving to the final specific point – and accepting the stranded person case which the Minister has referenced again this morning – can the Minister or Members tell us more about the charging and means-testing regimes proposed? The current Act seems to be largely sufficient and efficient in this respect, except for the stranded person’s situation.

Certainly the existing Social Services Act has its sections 15 to 22 and 25 which seem to deal with charges, financial assessment, investigation of resources, recovery in case of misrepresentation or non-disclosure, disposal of assets, funding by resident of more expensive accommodation, deferred payment of costs and power to charge land, recovery of charges, false representations. What precisely is needed in terms of charging that is extra? And why can the current regime neither be extended nor updated with the adoption of the social services charging and means-testing regime?

In summary, I am concerned with several aspects of this Bill and the unknown consequences of putting it onto our statute books. In fact, I am taken back to November 1999, which is in fact when I first decided to try out to be an MHK because I was so disappointed with the Social Services Bill when it was proposed in consultation; because I think we are in a similar situation now to what were back in 1999. I wrote then, back in 1999:

It is very hard to read merely the Bill, without the analysis of changes from the *status quo* and also without the narrative about how the Bill legislates for changes that have been introduced *ad hoc* in recent years.

A much more detailed paper should be published about how the proposed legislation interacts with associated legislation and other relevant legislation, regulations, orders, letters and so on.

I carried on in my consultation response back then.

What rights do users and carers have?

What obligations does the Department have in respect of actual provision?

In this consultation [then and likewise now] it seems to be stated that the legislation is being brought in line with practice. This seems to me to be the wrong way around and seems to reflect badly on provision in the past.

The Department is given too much power in the Bill to develop process and criteria and the like. For instance it decides what information to provide and how to provide it.

It seems to be assumed in the Bill that users and carers cannot procure things for themselves. It is stated in the consultation that administrative orders have been used in the past to develop provision. That was wrong then in that eligibility criteria for provision were changed practically in camera with merely professionals and perhaps a Minister involved.

It seems that more means-testing is being introduced.

The proposed Independent Review Board and associated process seems rather close to the Council of Ministers and Department, with important aspects of the board's membership and work being determined by the Department.

Social services provision, even according to the consultation, has developed in recent years so that it is focused on the 'greatest need'. Provision should be provided to meet 'all need'. Adequate resources need to be made available either privately or publically inside the legislation.

Most importantly – and I conclude with this – it seems to me that the full implications of this Bill need to be spelled out in this House and in the Court as this Bill goes through its passage. It seems to me a profoundly important Bill in terms of changing the way that health and social care is promoted on the Island, provided on the Island, and to dismiss it as a quick-passage Bill would be wrong.

I sit down, Mr Speaker, and thank you very much, Members, for the time.

The Speaker: The Hon. Member for Douglas North, Mr Houghton.

Mr Houghton: Yes, thank you, Mr Speaker.

I simply rise to congratulate the Hon. Member for West Douglas, Mr Thomas, for raising such a lot of comprehensive issues; issues that he has made quite clear that do not always correlate with that of the United Kingdom.

The point that he makes where this Bill goes beyond the Bill in the United Kingdom – that is currently before Parliament and this one here – gives me an amount of concern simply because of the reciprocation of issues, standards and other matters, whereby obviously our healthcare professionals need to be working along the same lines as the United Kingdom as far as their method of operation, their *modus operandi*, with all that they do. Not that we always want to follow or replicate the United Kingdom, but in this case I see it as vitally important that we do things very much the same way.

I, when I read the Bill myself, thought 'this Bill is extremely bureaucratic. Is it going too far?' We really need to know is it too far, as the Hon. Member very clearly spelled out this morning? He has gone to an awful lot of trouble explaining where he feels it is going too far and the fact that we ... We, Hon. Members in this House, really require to know – rather than just getting an answer from the best of his ability in the reply from the Minister – a further understanding, perhaps at clauses stage.

I am supportive of the Bill, as I am sure the Hon. Member is. The Hon. Member, Mr Thomas, may likely, I am sure, bring amendments in order to pad out his concerns later, and we will all be interested in that. I have not spoken to the Hon. Member about this.

We have had a presentation on matters and there were an awful lot of points covered; thank you. But I just feel that, if this Bill is going further than necessary – because it is an extremely bureaucratic Bill in what it is actually doing – that some of those issues perhaps may be up for consideration to be reined in somewhat.

The Hon. Member, Mr Thomas – and I raised this myself at the presentation ... about that of stranded patients. Of course, we cannot have people bed-blocking and being dumped for two years

by families in hospital; we know that. But, like I said in the presentation, I have had issues where patients have been hurried out of hospital by Social Services, looking to move them on into a nursing home, etc. only for them to have to be brought back a short period later into acute care at Noble's because they were really too ill to be transferred to a lesser form of private care.

The huge expense to the families of that has to be taken into consideration, whereas someone who is really not well at all – and if you are not well at all, you should be in hospital – are moved to the private providers of health in these nursing homes and they find themselves that they are back in Noble's but paying the rent of the room in the private healthcare establishment for weeks and weeks because of the contract being open for their re-establishment there.

So we need to be very careful. I did gain assurance from the Minister at the presentation, but I really think that this Hon. House needs this reassurance that people will not be rushed into there. The two-year scenario that he is mentioning: yes, I am sure every Member would support that, but the actual transition for those people who may need long-term care, but who are not seriously ill has always been an issue that has been required to have the highest of consideration on both sides.

We really need an absolute assurance from the Minister on that, for those people in transition to private care and not be forced there, other than those exceptional cases where someone was fit for medical discharge and clearly fit for medical discharge to their own homes, notwithstanding any form of care, sheltered housing, residential care, or indeed even nursing care, because a lot of people get pushed into nursing care having taken them out of Noble's, and really a lesser form of care, but that takes longer to find a provision for them, is required.

So I cannot speak strongly enough that we need to be very careful in what we are actually doing here. I am supportive of the measure, but the measure has to be tempered somewhat, as I have explained.

Mr Speaker, I think I will leave it at all that. My points are covered. I am simply supporting the concerns of the Hon. Member for West Douglas and I commend him for all the very hard work that he has done in comparing the issue that is currently before UK Parliament and ourselves. I think that is very timely and if the Minister is unable – I mean I will be supporting the Bill in the main because there are an awful lot of good points in the Bill – to properly explain some of these issues that the Hon. Member, Mr Thomas, has made, I think we should give him leave to explain those at the clauses stage.

Thank you, sir.

The Speaker: The Hon. Member for Michael, Mr Cannan.

Mr Cannan: Thank you, Mr Speaker.

An interesting debate so far and I congratulate the Member for West Douglas on having clearly studied the Bill to such a degree and raised, I think, some fairly valid points.

My question, actually, for the Minister revolves around the proposed NHCS Charter which is central to this Bill in terms of what care the NHS is going to deliver and how that is going to be delivered. Clause 5, obviously, is going to introduce the first element of the new legislative framework, by requiring the Department to publish and maintain a charter; and clause 6 will confirm that the Department must have regard to the Charter when it is providing care.

Can I ask the Minister: what stage is this charter actually at; is there a framework that we can actually be provided with before we go into the clauses stage to actually understand what that charter will say; and perhaps some more clarification as to not only what that charter will say, but how the NHS will conduct itself when delivering care in accordance with the points and objectives that have been set out in that charter?

The Speaker: Hon. Member for Onchan, Mr Karran.

Mr Karran: I have to say that I do not have the same enthusiasm as the Hon. Member for North Douglas about being on a par with the UK. Thirty years ago, as part of the left in this House, we would have been fighting for as many reciprocal agreements with the UK as possible, in order to protect the welfare state and protect social justice. But I feel that at the moment just blindly following the UK would be a ridiculous situation, because I think the agendas of the present UK government, even though we have seen a massive U-turn as far as the issues as far as the disabled are concerned, have come about through their own civil war within their party.

So I think the issue that we must not do is just follow the UK. This Island, over the last 30 years, has developed the involvement of trying to actually create better provision than the UK counterpart on many fronts. There is still a long way to go as far as that is concerned.

The issues I have with this Bill are simple. One is the issue of there is far too much cosiness within the health services. I see regularly the repeats of history, because we have not dealt with issues. The issue of the care provision as far as nursing and residential homes, I would be tempted to see whether there was a chance of putting in the enabling legislation into this Bill, to allow, once and for all, for people after a specific date of birth to go into a compulsory scheme. Alas, we did not manage to get that through in 1988, which would have meant anybody younger than my age would not be a problem as far as the ageing concern is concerned. That is one issue that I am disappointed with and maybe will consider putting something to it.

I think another thing that we need to do, Vainstyr Loayreyder, is the issue of whether there is a need, in order to provide the care provision that we need for the long-term care of the elderly in nursing and residential care, maybe we should be looking at giving some sort of enabling legislation to give grant and loan schemes in order that the private sector will build nursing and residential homes for the Department, and part of that grant and loan scheme would be a way of developing minimum standards of service in order to help the problem that we see here with bed-blocking at the present time.

One of the other things that concerns me about this Bill is I have seen the neutering of MHKs over the last 30 years, particularly with the present system. I think Hon. Members should be very careful that the danger of this Bill is taking the power away from the elected Members to the unaccountable staff that often end up having justification, like I have just been talking about in the Question in this sitting before, of where I was dealing with somebody only last night at half eight, who was on to me about their disgraceful situation of the unaccountability of the way we 'existingly' have as far as Social Services are considered. What we do not want to do is augment that with this Bill.

I understand that the situation we have is that you are going into difficult times. We have gone through the biggest economic boom; legislating and providing services has never been easier in the last 15 or 20 years as far as people sitting in this House, and that will change. But I do feel that the examination of allowing the power to go to unelected people who are unaccountable is something that you need to seriously worry about. I think that is something that needs to be debated.

As far as the health services charter is concerned, just can the Minister clarify: where will this updated review charter be debated? Will it be in Tynwald? Will Tynwald have to approve it or will it be something everyone can then pretend that, 'Oh we can't do anything about it!?' Parliamentary democracy is about the elected Members having the final say. That is something that I have seen ebbed away.

Can the Minister also tell us about 14 and 21? One of the things that I am deeply concerned about – especially as I was the one who actually brought 21 in when I was Member of Health and I fought them for five years on an independent review body, as far as complaints on the Hospital – is the fact that we need to try and change this way of dealing with this. We need some way of creating an electoral college, where these people are not at the behest of patronage of the Department, but actually organisations should be able to put people forward for such important bodies; because otherwise it does come down to being seen as just part of the patronage system that we have so desperately failed to address over the last 15 years under this present political system.

But the point is I think that the other things that we need to do, when it comes down to the care side of this Bill, is that we have to develop from the original 1988 Act a proper lay inspection outside the employment of the Department, as far as standards of inspection and representations from different organisations that are not part of the patronage of the DHSS. I think it is lacking within this Bill to see such issues being addressed.

What I would like to ask, in regulations, if you would just tell us at the present time, as far as the Department must respond to any such questions or Health Services Consultative Committee may refer to. But who actually appoints them? That is the question that needs to be asked. I have seen a fantastic growth in the public service, but when we look at the fantastic benefit to the public, that has been very questionable.

I think, with this Bill, it has a number of things that give me concern. I also feel there are issues that need to be fundamentally looked at as far as this Care Bill is concerned. In my opinion, I think it is crazy that we fought hard to develop an incontinence service for people who have incontinence problems, but as soon as you go into a nursing home, they are not freely available to them in that nursing home. In my opinion, that has a detrimental effect as far as their care is concerned. I believe that they still are citizens of the Isle of Man and should be treated on the same basis. These are little things that make big issues and I am considering putting amendments to this Bill as far as that is concerned.

I would like to ask the Shirveishagh to explain to this House, when he talks about the criteria of the bed-blocking and charging them in a health services bed, what provision has he got as far as this Bill is concerned to get somebody out of a hospital bed and maybe into a nursing home? If you have got a situation where we need those beds – and there has never been a more urgent time than we have at the moment, when we are regularly hearing of people spending the first day of their stay in hospital in an accident and emergency unit at the present time.

So this is a serious issue, but I think maybe the Department needs to consider what the mechanism is to get bed-blockers out into a nursing home bed in the first place and how they are going to do that. Because I am not sure that it is clear within this Bill.

The last thing that I find disappointing in this Bill – when we brought the original 1988 Bill in – is the issue of the fact that we need a clear undertaking that it becomes a criminal offence not to report abuse of residents in nursing and residential homes. It becomes a criminal offence, if you know that people are being abused, *not* to report it. I think that reporting issue, in my opinion, unless there is some independent input into the selection of these bodies, needs to be on the basis of the fact that maybe they should be able to report that to the police – never mind to the cosy way we have set up how we inspect these homes.

Finally, I think a sadness is when you look at this Bill and we see the issues about the fact of not having that independent review. We ended up back in the 1990s building a residential home that I would not put my name towards simply because it broke its own laws, but at that time departments did not prosecute each other. So consequently we now have a building that would be illegal as a residential home if it was owned by the private sector. This cosiness and the concerns that the Hon. Member for West Douglas is bringing up are something that this Island cannot afford. We have got to change rapidly how this Government operates, than how it has been operating in the past where there has been no accountability on executive power.

I just hope that the Minister takes on the points that I have raised about the National Health and Care Service Bill, as far as that is concerned.

I just would like to make another issue, as far as the Minister is concerned. I am deeply concerned that we are in a position where we do need maybe to be thinking of putting in some sort of legislative priority to provide the services to give adequate respite and intervention to keep people in their own homes. I have just dealt with a case not so long ago where the parent has a profoundly disabled person, whose grandmother and her were looking after them. With sensible intervention, we could have kept that person from costing us £1,000 a week in care now. I am dealing with another case of parents with a profoundly disabled ... We need to maybe put something in this Bill. I

would like the Minister to see where we are putting in this Bill the statutory obligations, not just for the health services but also to provide the respite, the care, to keep these profoundly disabled people in the community, which does save us a lot of money. I hear the talk, but I do not see the walk. I would like to see the Minister, if he has got any views as far as that issue is concerned.

The Speaker: I call on the mover to reply, Mr Quayle.

Mr Quayle: Thank you, Mr Speaker.

I thank the Hon. Members for raising their points. This is an incredibly important piece of legislation that we are taking forward and I think that needs to be accepted and taken forward. I am going to obviously answer all the individual Members' concerns, but I am a little bit concerned that Members have missed the spirit of what is being proposed with this Bill.

This is a Bill, a new piece of legislation, a new way of doing things. It is going to be a living, breathing Health and Care Bill. I think some of the Members want a fully-detailed scheme, with everything set down in writing about what happens if ... and what happens on this, which is not what the scheme is there for.

This is a scheme, Mr Speaker, that will be fully consulted with all members of the public and then it will be brought to Tynwald for a Tynwald debate. It is not just trying to slip in stuff that we want to see and get the public to pay for all sorts of charges without their input and without Hon. Members of Tynwald Court.

This enables us to react quickly to the ever-moving health and social care sector without having to wait for a lengthy period of getting legislation drafted and approved. We can simply go out for consultation with the public, full debate in Tynwald and then it happens quickly, but still – and the Hon. Member, Mr Karran, I 100% agree with his comment about parliamentary democracy. Members must have the final say. This legislation absolutely nails it; Members do have the final say. This is – I just want to reassure Hon. Members – not us trying to slip in legislation by the back door. This is fully debated with the public and Tynwald Court will have a full say in it.

If I can then go through the Hon. Members' individual comments, and I thank Mr Thomas' congratulations on bringing the Charter forward.

He cited the Francis Report on the need to bring a charter and he wants the Charter to be approved by Tynwald, and we could agree with that.

He is concerned with the lack of detail in the Bill. The detail will be included in the schemes which will be consulted on and laid before Tynwald, and that is my entire point. I respect the amount of work he has put in it, but I think he seems to miss the whole concept of the Bill: that this is a Bill that reacts to what is happening in our society. Any detail, the public will have the opportunity to debate and then Tynwald will have the final say. So that is when the detail and the minutiae that he is looking at for all the different areas will be debated.

This is what I would call an enabling system with the schemes to enable a quick reaction to problems because the health service and social care areas are always changing; there are always new drugs and new treatments coming onto the scene. This gives the Department the opportunity to react quickly and much quicker than the current system allows, but it will be – again I keep on pressing the point home – with the full consultation of members of the public and Tynwald will get the opportunity to have a vote on it.

We are seeking power to change how the services are delivered as they are very siloed at present and need to be integrated to ensure that patient and customer journeys through our services are improved. The schemes will be subject to consultation, debate and laid before Tynwald.

Mr Thomas continued, 'There is very little detail about the services, if you look at the NHS Act 2001.' By creating detailed schemes, this will give a lot more detail about what people can expect.

Travelling provision will be in the schemes – that was one of our concerns, but this will be put in the scheme to be debated in the future, the detail.

Integration – yes, we probably will need to update other legislation to truly secure integrated care – but this is a good start, in my opinion.

He mentions lists, and these are necessary and exist at present. The main reason for refusal for inclusion on the list is that insufficient information regarding qualifications is provided for consideration by the Department. We have had very few appeals to date and the majority are resolved by the professional body related to the clinical practice, the IRB. Now there are two; both do different things, with the social care IRB not having the same remit, and established under totally different legislation.

He then mentioned the HSCC; they do provide effective scrutiny and advice from them to the Department. At present we would not wish to dissolve them.

Stranded patients, he mentioned and it has been agreed that there is an appropriate legal vehicle to bring charging for acute beds into place. However, if I could just clarify – and this was a comment ... I accept the concerns of the Hon. Member for Douglas North, Mr Houghton. I am sure Mr Karran and Mr Thomas, Mr Cannan, they would all – and everyone in this Hon. House – have concerns that we are not hoofing people out of hospital (**A Member:** Hear, hear) and then bringing in a charge to raise extra money. At the moment – and this will continue – you have the right of an appeal. If you think yourself or your beloved one are being moved out of hospital and you do not think that they are medically fit, there is a clear procedure where you can appeal and get a second opinion as to the clinician who is looking after yourself or your loved one before they are moved out. So we are not planning on changing that; that system is already there.

But I think Hon. Members do accept, and have all agreed with me, about the example I have given of the person waiting over two years – that is who we are going after. I cannot give enough assurances to Hon. Members that I am not standing here trying to take people out of Noble's Hospital when they need to be still in, or trying to raise money via the backdoor of charging the minute we decide you are fit to leave and you cannot get out for various reasons – maybe there is not a nursing home bed waiting for you. We are not going to be charging people then. This is long-term offenders and it needs to be stopped, because bed blocking is causing cancellations of operations, it is costing the taxpayer an awful lot of money.

Mr Thomas has very detailed comments and requirements, which I respect. But my whole point is he seems to have overlooked the purpose of this Bill I started off with at the start of my comments, which is to enable further legal frameworks for the service we provide and to provide more assurance and clarity for those people who use our services by bringing forward schemes – which have been consulted with the public and then Tynwald – and I cannot think of anything more open and transparent than that, going forward.

Moving on to Mr Houghton – comprehensive issues going beyond the UK Bill. The Bill does retain all our legal and compliance frameworks and agreements with the United Kingdom, if that gives the Hon. Member some reassurance.

But what is too far, going forward? I think the majority of people would support the modernisation of the current legislation and it would be helpful if the Hon. Member for Douglas North, Mr Houghton, could advise what powers he would want to see reigned in and maybe he could come and see me after to discuss his views because this ... I have a totally open mind on this. (**Mr Houghton:** Thank you.) If he has got some very good views then I am more than happy to support any amendment. I think if we explain it better – and maybe I have not done – he might be happy.

Just back to the discharge thing, which again he did raise, no one apart from a clinician can discharge from hospital. Social care *cannot*, it has to be a clinician. And I think there is the safety mechanism, which is not being done away with, it is being retained; I think that should give the reassurance that we are not going to do anything underhand.

Now, there is no argument that people who are ill and need hospital should be in hospital. However, places and beds are limited and sometimes filled with individuals who need much more suitable accommodation than an acute hospital. That is why we need integrated care so that people

can have a choice to return to their own homes in the community and be looked after where they wish to be.

The clauses stage will provide a lot of the detail. But also, Mr Speaker, we are bringing forward very shortly at Ramsey District Cottage Hospital, four step-up step-down beds. That is going to be a really good facility because where people are assessed as ... with a little bit of extra help and strength and teaching of skills – if they have had a stroke or a heart attack – on how to live at home, they will be able to go to that facility to be retrained. So rather than going to a nursing home or a residential home, we will have this facility to help a certain percentage of people who are assessed as benefiting from that service, the opportunity to go into the step-down facility and, equally *vice versa*, living in the community instead of maybe having to go into a nursing home. If we feel that we can help get your strength up and retrain you if you have had a serious health issue then that facility will also be open – so it is all there, designed ... extra help for members of the public.

Moving on to Mr Cannan who questioned the Charter, we have been working on a draft Charter, but it cannot be rushed and it needs consultation with stakeholders, members of the public. As I say, this is not my Charter, it is not the Department's Charter, it is not an individual Member's Charter; this is the people of the Isle of Man's Charter and it must be consulted with them. And I think the Hon. Member could look at the NHS constitution, if he so wishes, to see the type of document that we are aiming to provide.

Moving on to Mr Karran, he does not want us to follow the UK. We are trying to create better provision than the UK, that is what we are trying to do here.

He felt there was too much cosiness in the Health Service, care provision in residential and nursing homes. Enabling legislation to allow people to join a compulsory scheme to pay for care – and I think his focus is on social care legislation with his comments. I could share his concerns about the provision currently available to people, and I can advise him that significant work is underway to address this. The HSCC Committee are looking into this concern shared by the Hon. Member for Rushen, Mr Watterson. It is not something new; we fully accept, and I totally get and support his concerns on where we as a Government and an Island are going in the future with nursing home provision.

We have seen the figures. In the next 20 years, 10,000 extra people over the age of 65 – we reckon we will need another 440 circa nursing beds. The cost to my hon. friend, the Treasury Minister, a nursing bed ... we are looking in the tens of millions of pounds, going forward, for the Island's population. But these will be addressed and I am more than happy ... and I believe he sits on a committee that is looking into it also. I am sure that committee, chaired by the Hon. Member, Mr Robertshaw ... the findings of his committee will be taken on-board when we are developing our strategy.

He felt Social Services are not accountable; we would argue this is not the case as they are part of Government and obviously need to follow the same governance as other public service providers. He also mentioned the Charter; where will it be debated? It will be extensively consulted on with stakeholders and then, of course, come to Tynwald for consideration and discussion.

He felt there was a need to change the way the IRB are working. They are not appointed by the Department, and they have no patronage. They are appointed independently by the Appointments Committee. Now the HSCC also are appointed by the Appointments Committee and not the Department of Health and Social Care.

Regarding inspection and regulation – currently done in many ways, both, as Mr Karran says, by internal processes and external processes and by independent bodies. The Department can address the issues of equalities in the incontinence service – that really is a departmental concern, without putting it in primary legislation – and I do not think incontinence pads being in primary legislation is the correct place for it. At present we can evict people from hospital, but that is harsh, and we want to address this in a more balanced way and this provision allows us to do this.

Mr Karran – another part was criminal offences not to report abuse. Now, this Bill is obviously not the right place for this and it would be very difficult to deliver this requirement, as the Hon.

Member, I am sure, would appreciate that vulnerable people in care facilities would maybe not be able to determine abuse if they saw it. So is he suggesting we should prosecute them if they do not report it?

Mr Karran: I was talking about the staff, where they can lose their job for doing something.

Mr Quayle: But, with all due respect, this is not the Bill to do what the Hon. Member is looking at. There are other Bills where he may wish to suggest an amendment.

Then we come on to respite and intervention that the Hon. Member, Mr Karran raised. If we could get support for the integrated approach we want to deliver around care then this would improve the provision of services to enable people to stay in their own homes and communities, and that is the whole concept of the five-year plan: taking resources out of acute, doing more in primary, enabling people to live in their own home and in the community longer. It is not always possible to provide very complex support to people, as we do not have the skill-set on the Island to support the complex cases, but obviously we are always going to do our best.

So I hope I have answered all Hon. Members' key points, but the key point is this is an unusual way forward; it is new with schemes, but it enables us to react quickly to changing health and social care issues. It is fully consulted with the public and Members of Tynwald Court, and therefore I think that will give you all the detail you want when it comes in. This is not the place to have fully detailed legislation, which is what the Hon. Member for Douglas West, Mr Thomas, was wanting.

I hope Members – now that I have explained it – can accept and support the measures going forward and I beg to move.

The Speaker: Hon. Members, the motion is that the National Health and Care Service Bill be read a second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.