

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

Mr Coleman to move:

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

The President: I call on the Hon. Member, Mr Coleman, to take the Second Reading and clauses stage of the National Health and Care Service Bill.

Mr Coleman: Thank you, Madam President.

I would now like to move the Second Reading of the National Health and Care Service Bill for the Department of Health and Social Care.

The main aim of this important Bill is to replace the provisions of the National Health Service Act 2001 with a modern and equitable framework under which the Department can provide quality health and care services for the people of the Isle of Man.

The Bill will also allow the Department to deliver the five-year strategy for Health and Social Care that was unanimously approved in Tynwald Court last November.

The Bill has intentionally been drafted as a framework under which there will be supporting Schemes and procedures describing in more detail the services provided. This will ensure that the Department can continue to deliver its obligations, including where those obligations are closely linked to regulatory regimes in the United Kingdom.

This legislation deals mostly with health related matters but some relevant adjustments have been made to recognise the fact that the Department now has both health and social care responsibilities.

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 approved service provider list; and (6) strengthening the role of our committees and complaints process.

The most significant change from the National Health Service Act 2001 is the proposed introduction of the National Health and Care Service Charter and the National Health and Care Service Schemes.

The Charter will be linked to the five-year strategy and will set out the Department's general commitments around standards, values and behaviours in respect of the National Health and Care Service (NHCS).

The NHCS Schemes will provide the more detailed regulatory framework for how services will be provided in accordance with the established standards of care.

The Bill strengthens the Department's ability to charge for, or to contribute towards the costs of, the services provided. The Department will still be able to make exemptions to charges where appropriate as it does now.

The Bill requires the Department to be fiscally aware of what it can afford to provide, in that it must have regard to the funds available to it when making any decisions regarding charges and contributions. This makes it clear that the Department cannot be expected to fund every possible element of health and care provision.

The Bill includes a framework for commissioning or contracting other persons to provide care on behalf of the Department, such as the current arrangements for GP and dental services.

Of the new provisions which have been included in the Bill, the most significant relates to the ability for the Department to charge for the occupation of any of its facilities. This will introduce a mechanism whereby the Department can facilitate the movement of 'stranded patients' to accommodation which is more suitable to their needs.

Stranded patients are individuals who have become stranded in the acute hospital, for a number of different reasons, sometimes for years. The hospital setting is not an ideal place for people to live for an extended time period and, in addition, adds to the workload of staff and puts their health and well-being at risk.

The new provision will allow a charge to be levied for the occupation of a hospital bed where an individual has been deemed fit for medical discharge and they or their family or relations have refused to accept more suitable accommodation and care for them.

The Department has a duty of care to support vulnerable people and the new provision, when used appropriately, will provide a mechanism which will encourage the securing of the most appropriate accommodation to fit the medical and care needs of people who are stranded in hospital.

Another new provision extends the potential for Department facilities to be used other than for NHCS purposes as long as this use does not reduce or impact on the Department's ability to deliver its obligations to provide NHCS care. An example of this might include contracting with private consultants for the use of, say, the operating theatre at Ramsey Cottage Hospital.

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.

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

The President: Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.
I beg to second and reserve my remarks.

The President: Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

As the Hon. Member who is moving this says, this is just a framework, so in terms of things happening there is not a lot in here, because most of it is going to come under the various Schemes, and that is where all the detail is going to be, no doubt.

I do notice that the procedure for these Schemes – and maybe the Member could enlighten us as to why this particular process was chosen. In Part 3, clause 8:

If Tynwald at the sitting at which a Scheme is laid or at the subsequent 25 sitting resolves that it is to be annulled, the Scheme ceases to have effect.

I know, with regard to that type of procedure, it is usually when we have fast-moving situations – it might be we use it in various police legislation. I know Health have used it in the past when new substances that are open to abuse have come out and they have changed the chemical compound of a drug, so they have needed to get a scheme in quickly, so they are able to use that process. But I just wonder, for the purposes of this legislation, why that particular process has been chosen, given that many of these Schemes are going to be quite critical to the operation of the service going forward?

But I think, as a framework, it is something we have been asking for in the primary legislation for a while; that there should be frameworks for all Departments really, to enable them to adapt quite easily, but at the same time there has to be those safeguards that you cannot give Departments a complete blank cheque, and, of course, the Schemes approved by Tynwald Court.

I just have that query, but I think it is certainly going to be a new chapter for the Health Service.

A final comment: the Department itself has had Social Care under its wing once before, so that is not a new provision – it was only out of the Department for a few years, but it is not particularly a controversial point.

So those are my comments at this stage, Madam President.

The President: Hon. Member, Mr Cretney.

Mr Cretney: Yes, thank you.

Two brief points at this stage, if I can? Could I just seek confirmation from the mover of the Bill that in terms of, whilst this is a new era for the National Health Service, that the free National Health Service provision will continue to be available – just for the record – and that it will not be a first step towards privatisation?

The second point, if I can: I welcome the ability for the Department to enter into contracts with private sector providers for the use of theatre facilities. I do believe that may constitute the opportunity for new income to the Department. It is something I suggested 10 years ago. I sound a bit like Mr Karran, but I did! I do think this is something that should be welcomed and will, hopefully, assist the Department in its endeavours to provide the service which I referred to a moment ago.

The President: The mover to reply.

Mr Coleman: As I said in my speech, one of the reasons we have gone for the schemed approach is that there are many things within the remit of both medical care and social care where we are very closely aligned to what happens in the UK. In fact, one of the things you mentioned was actually changes in substances, in their content; that is a very fast changing thing. But there are many other areas where we do link, very closely, to what is going on in the United Kingdom, and what this does is ... In fact, you will note, when we go onto clauses, that the actual Bill itself does not become legislation until the first Scheme is approved by Tynwald. So it is coming in as a framework to start off with and then it will come into legislation when the first actual Scheme is approved by Tynwald – and it has to be. As you will probably have noted, Mr Thomas made an amendment to the original Bill where it was not going to be originally necessary for Schemes to be approved by Tynwald; this is now in.

But it gives flexibility. We have a framework and we can slot detailed legislation into it rather than having to go through the whole lot again.

With reference to Mr Cretney, I think I said in the speech that we are going to be obliged to manage the Health Service and social care part of the Health Service as well, based upon the funds we have available.

I think everyone is aware that there is a minor deficit within the DHSC budget accounts for the year that has just gone and what it means is that we have to look very seriously at how we spend and what we get. A part of that ... when it says 'freely available as per beverage in 1948' – you know, free and available at the point of contact – I think that the environment we operate in these days is a little bit different to the post-war environment.

I think we need to recognise that there may be ... Take prescriptions to start off with, I am a diabetic and I get my diabetic medicine free, but I also get everything else free as well, so if I have a fungal infection on my big toe, the medicine is provided free. If we look at things like that, (**A Member:** Hear, hear.) why should I get my prescription for my fungal infection on my foot based upon that fact that I have a lifelong medical problem?

So I think that we are not saying we are going to take away free services, but we are going to look at the reasonableness of how we actually apply the criteria. That was just a silly example, but that is the type of thing that we are looking at.

Mr Cretney: I just wonder would the Hon. Member give way for a moment? (**Mr Coleman:** Certainly.) I just think the analogy he has used is not a good one in terms of diabetics; their extremities are pretty important.

The President: I am sure Mr Coleman would ...

Mr Corkish: I am sure he will toe the line there!

Mr Coleman: In fact, the Hon. Member of Council is actually very correct; it was a bad analogy because diabetes can affect the extremities. But that was an example of the type of thing.

Mr Cretney: I know, yes.

Mr Coleman: I was just saying we have to make the free services – we have to target them properly.

On the second one, again, we have been looking very closely at not just the use, perhaps, of Ramsey's operation theatre for private things, but we are also looking at the way we actually run our private services at the Hospital. We are not certain that we are getting as much payback as we could get from those private services and there is a study going on at the present time to make sure that it is appropriate.

So really what we are saying is we are going to look at the things that people get free at the moment. We have charges. We already have the legislation in place for charges for dental work and stuff like that. So it will be free for just about everything that was there previously, but we have to make our suit to the width of our material really and serious studies are going on to enable us to make sure that we are doing that appropriately.

The President: The motion is, Hon. Members, that the Bill be read a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

National Health and Care Service Bill 2016 – Consideration of clauses commenced

The President: We move onto the clauses.
Clause 1.

Mr Coleman: Madam President, Hon. Members, the National Health and Care Service Bill contains 27 clauses and a Schedule and, should the Branches support the Bill, it will come into effect on the day on which Royal Assent is announced in Tynwald.

Clause 1: Part 1 of the Bill is introductory with clause 1 confirming the short title of the Act as the National Health and Care Service Act 2016.

The word 'Care' has been included in the title of the Bill to reflect the fact that the remit of the Department of Health and Social Care includes the prevention of illness and services which support the vulnerable groups of our society such as children, young people and older people and adults with learning disabilities.

I beg to move that clause 1 do stand part of this Bill.

The President: Hon. Member.

Mr Henderson: Gura mie eu, Eaghtyrane. I beg to second and reserve my remarks.

The President: The motion is that clause 1 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 2

Mr Coleman: Clause 2 was amended in the House of Keys.

The revised clause 2 firstly allows for the Act to come into operation in accordance with appointed day orders, and for different days to be appointed for different purposes.

Subsection 2(2) then qualifies this by stating that whilst Parts 1 and 2, which deal with introductory provisions and the National Health and Care Service Charter, and sections 8 to 12, which deal with the establishment of Schemes, may be brought into operation at any time. The rest of the Act may not be brought in until at least one Scheme has been approved by Tynwald.

Subsection 2(3) allows an appointed day order to include any transitional or saving provisions which are necessary or expedient.

It is the Department's intention to bring as much of the Act as possible into operation at the earliest possible time after Royal Assent is announced.

I beg to move that clause 2 do stand part of this Bill.

The President: Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane. I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Cretney.

Mr Cretney: Yes, could I just ask the Hon. Member if I am right that the necessity to bring Schemes to Tynwald may well provide the comfort that I and others might wish to see in terms of the introduction of new charges?

The President: The mover to reply.

Mr Coleman: With the Schemes coming to Tynwald, the Court will have the opportunity to approve or not approve what is going through, and that means that Tynwald has an oversight on basically any charging mechanism, which the DHSC might wish to implement.

The President: The motion is that clause 2 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 3.

Mr Coleman: Clause 3 deals with necessary interpretation for the Bill and provides a list of definitions including: 'Appointments Commission', which is defined for the purposes of the appointment of committees; 'Care', which is defined to make it clear that the Department's responsibilities under the Act include both health care and services and a wider responsibility to provide care which may be set out in other legislation; 'Charter', which is defined in accordance with Part 2 of the Bill; 'Department', which is defined as meaning the Department of Health and Social Care; 'Independent Review Body', which is defined as having the meaning given in section 23(2) of the Bill; 'NHCS', which is defined as meaning the National Health and Care Service; 'Publish', which is defined to make it clear that where the Bill requires information to be published the Department must do so in a way which will give the public free and convenient access to it; and finally 'Scheme', which is defined with reference to clause 8 of the Bill.

I beg to move that clause 3 do stand part of this Bill.

The President: Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane. I beg to second and reserve my remarks.

The President: The motion is that clause 3 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

Mr Coleman: Clause 4 provides for a Scheme or Schemes established under the Act, and the care provided under those Schemes, to be collectively known as the Isle of Man National Health and Care Service.

I beg to move that clause 4 do stand part of this Bill.

The President: The Hon. Member.

Mr Henderson: Gura mie eu, Eaghtyrane. I beg to second and reserve my remarks.

The President: The motion is that clause 4 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

Mr Coleman: Clause 5 was also amended in the Keys.

It introduces the first element of the new legislative framework by requiring the Department to publish and maintain a Charter in respect of the National Health and Care Service.

The amendment in the Keys added a requirement for the Charter to be laid before Tynwald before it is published.

I beg to move that clause 5 do stand part of this Bill

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane. I beg to second and reserve my remarks.

The President: The motion is that clause 5 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

Mr Coleman: Clause 6 covers the character of the Charter. It states that the NHCS Charter must set out the Department's general commitments in respect of the NHCS and requires the Department to have regard to the Charter when it is providing care.

The idea for the Charter is based on the NHS Constitution in England, although it is intended that it will be adapted to reflect the scope of services offered by the Department.

It also reflects the recommendations from the Francis Report done into the Mid-Staffordshire hospital situation and is included as a recommendation in the version of the Francis Report that was laid before Tynwald in the Isle of Man.

I beg to move that clause 6 do stand part of this Bill.

The President: Hon. Member.

Mr Henderson: Gura mie eu, Eaghtyrane. I beg to second and reserve my remarks.

The President: The motion is that clause 6 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 7.

Mr Coleman: Clause 7 was also amended in the Keys.

Clause 7 requires the Department to review, and if appropriate, revise the NHCS Charter at least once every five years, and to amend it at any time.

The amendment in the Keys added a requirement for each revision or amendment of the Charter to be laid before Tynwald.

I beg to move that clause 7 do stand part of this Bill.

The President: Hon. Member.

Mr Henderson: Gura mie eu, Eaghtyrane. I beg to second and reserve my remarks.

The President: The motion is that clause 7 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Part 3, clause 8.

Mr Coleman: Clause 8 was also amended in the Keys.

Part 3 of the Bill deals with the second part of the new legislative framework and sets out how the Department will provide the NHCS in accordance with Schemes.

Clause 8 states that, subject to the requirements in clause 9 regarding standards of care, the Department must ensure that care is provided to individuals to the extent and in the manner set out in the Schemes.

It is anticipated that the first Scheme or Schemes will set out the current National Health Service model and thereafter the Department will, in accordance with its recently published five-year strategy, look to see how services might be delivered in a better and more efficient way, including through increased integration of health and social care, and develop new or amended Schemes.

The amendment in the Keys added a requirement for Schemes to be approved by Tynwald. This amendment was accepted by the Department after helpful discussions with Tynwald Members during the Keys' process when it was conceded that a positive opportunity to debate the Schemes, which will contain the detail about how the Department will provide care, was more appropriate than simply dealing with them by negative resolution, as long as the Department could maintain a position of flexibility to develop services quickly and efficiently in the future.

I beg to move that clause 8 do stand part of this Bill.

The President: Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

The Schemes obviously are going to be vitally important because this is where, as I said at the previous Reading, all the detail is going to be.

I just wonder whether the mover could give some commitment that, as each of these Schemes are made, they are easily catalogued for people to be able to understand because quite often, if we look, for example, at road traffic legislation, there are a whole raft of Schemes there and one finds it very difficult to actually find the information. So this obviously is the start of a new chapter for the

Health Service and maybe he could give assurance that once these are produced and approved, they are made available in a very easy to follow format for those people who wish to access them.

The President: The mover to reply.

Mr Coleman: Thank you, Madam President.

I think, simply from pure housekeeping within DHSC, we would need to keep such a record or catalogue ourselves in an easily accessible and amendable fashion. So I think I can give assurance that the Department will provide that information and need to maintain that information for its own purposes, but will provide it in a meaningful and easily accessible fashion.

The President: The motion is that clause 8 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 9.

Mr Coleman: Clause 9 sets out the standards of care which the Department is required to meet in respect of the provision of care under a Scheme.

Paragraph 9(a) requires the Department to provide care in accordance with generally accepted standards. This term is deliberately not defined but would include best practice guidelines, professional care standards and legal standards. Given the fact that best practice guidelines on the delivery of care change on a regular basis, a definition would be unduly restrictive and would run the risk of being out of date quickly.

Paragraph 9(b) requires, subject to available resources, care to be provided to the highest levels of human knowledge and skill necessary to save lives and improve health.

Paragraph 9(c) requires care to be administered with compassion and concern for the wellbeing of the individuals to whom it is provided.

Paragraph 9(d) requires care to be comprehensive and to be provided to all – meaning everyone on the Island.

Paragraph 9(e) requires care to be designed to improve, prevent, diagnose and treat both physical and mental health conditions with equal regard.

Paragraph 9(f) requires the care provided to support individuals to promote and manage their own health. The Department recognises that this support should also extend to carers.

Finally, paragraph 9(g) requires care to provide the best value for money by using the resources allocated to a Scheme in the most effective, fair and sustainable manner.

I beg to move that clause 9 do stand part of this Bill.

The President: Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: Hon. Member, Mr Turner.

Mr Turner: Thank you, Madam President.

In this, it sets out that the care would be extended to whoever might arrive on the Island. I understand that no doubt it will be the Schemes that will provide the detail as to how we look to recoup any charges in that, but I want the Member maybe to say whether the policy of the Department is to recoup charges from non-residents who may access our care; because it is normal that, when we travel anywhere around the world, we have taken out relevant insurance, of course, to ensure if we require treatments then that country, quite rightfully, requires paying for it.

So I just wonder if he can explain. I understand all of that detail will come in the Schemes but, as it is mentioned that they will have this duty to provide the care, do they have things in mind to ensure that the costs are recovered?

The President: The mover to reply.

Mr Coleman: Thank you, Madam President.

I can assure you that the Department is looking very carefully at the ability to claim back for care in the circumstances of visitors to the Island.

There is a very strange situation where someone who is Spanish comes through the UK, comes to the Isle of Man and they get their care and it is free. If we go on holiday to Spain, we have to pay for it or take out insurance for it. That obviously is not a fair situation. (**A Member:** Absolutely!)

We also are looking at people who live abroad and come here (**A Member:** Hear, hear.) for one or two months a year but go back with a year's prescription medicine. (**A Member:** Hear, hear.) These are the sorts of things which we know of and we know they are recurring and we are endeavouring, through legislation – the Schemes – to try to do something positively about it.

The legislation section within the Department of Health and Social Care is looking at this and we have been looking at it for some time, but it gets to be very difficult. We also have a situation, strangely enough, that someone goes away and has private treatment in the UK and they come back, and then they use our services free for some of the additional things that are required, which the provider of their original care cannot do because they are not on the Island.

So I can assure you that this is one of the major things we are looking at within our Department.

The President: The motion is that clause 9 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 10.

Mr Coleman: Clause 10 requires the Department, when making a Scheme, to determine the care which will be provided under a Scheme, to determine how and under what terms and conditions that care will be provided, and to determine how the Scheme will be administered.

It is intended that there will be a full and open consultation about any new or amended Schemes before the Schemes are submitted to Tynwald for approval.

I beg to move that clause 10 do stand part of this Bill.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The motion is that clause 10 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

Mr Coleman: Clause 11 continues the existing provision whereby the Department can make charges in respect of NHCS care.

Subsection 11(1) states that a Scheme must include details of any charges for the provision of care, for the use of Department facilities, and for how those charges will be calculated.

Subsection 11(2) makes it clear that the Department does not have to make a charge. Current charges include prescription and dental charges and charges to overseas visitors.

Subsection 11(3) confirms that the Department must be fiscally aware of the cost implications of providing care, by requiring it to have due regard to the funds and other resources available to it when setting a charge.

Subsection 11(4) continues the existing provision whereby the Department can exempt individuals from a charge for care or reduce the amount of the charge.

Subsection 11(5) sets out that a charge is a debt due to the Department or to the person providing the care, unless a Scheme states otherwise, and finally, subsection 11(6) confirms that the Department must pay any monies it receives into general revenue.

I beg to move that clause 11 do stand part of this Bill.

The President: Hon. Member.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The Hon. Member, Mr Anderson.

Mr Anderson: Thank you, Madam President.

Welcoming the continuation of this existing provision where the Department can make charges, I am well aware that it can make charges but has not done so for various political reasons, shall we say, in the past. I believe the previous Chief Minister was resistant to us bringing in charges for certain categories. The world has certainly changed since that time and the Department is under severe financial pressure.

Could the mover explain: is there an element of the future means testing have a bearing in this area, when eventually that means testing comes in, where people could be means tested?

In the Second Reading, when the mover gave an explanation of where he gets free medical care when he should not do, maybe a better example that could be given is that there are many retired people on the Island who have significant income – who have already, when I was Health Minister, made the point to me that they should not be getting their eyesight tested and dental treatments free just because they are over a certain age. Is there any movement in this area and maybe the mover could tell me: is there any movement in bringing in charges in this area?

The President: The mover to reply.

Mr Coleman: I thank Mr Anderson for his question.

I think that you are all aware of the problem we have with finance within the health and social care area and I think that it behoves the Department to look at any of the possible ways in future, as long as they are reasonable – bearing in mind that, as this clause actually says, there will be consultation and it will come to Tynwald anyway in a Scheme and that Tynwald will have the ability to amend that Scheme if they are not happy with it. But I think it would be wrong for the Department to exclude, certainly, the investigation of any options for the future.

The President: The motion is that clause 11 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

National Health and Care Service Bill 2016 – Consideration of clauses concluded

The President: Clause 12.

Mr Coleman: Clause 12 continues the current provision whereby the Department can make a contribution towards specified care-related costs which have been incurred, or may be incurred, in respect of an individual's care under a Scheme. Existing payments include contributions towards the travel and accommodation costs of people who have been referred to the United Kingdom for care.

Subsection 12(2) confirms that the Department must also have due regard to the funds and other resources available to it when making contributions.

I beg to move that clause 12 do stand part of this Bill.

The President: Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The motion is that clause 12 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 13.

Mr Coleman: Clause 13 confirms that persons other than Department employees can provide care under a Scheme, and states that a Scheme may provide for all or any part of the care provided to be commissioned by, or on behalf of, the Department, or to be provided by a person who has entered into a contract with the Department.

The arrangements for the care of patients who need to be transferred to the United Kingdom for treatment are currently commissioned via the North West Regional Commissioning Group.

GP and community dental services are examples of where care is provided in accordance with contracts.

I beg to move that clause 13 do stand part of this Bill.

The President: Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The motion is that clause 13 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 14.

Mr Coleman: Clause 14 continues the existing provision whereby the Department is required to maintain a list of people that it is satisfied are qualified to provide care via commissioning or contractual arrangements.

The need to be on a list is a requirement for certain health care professions, such as GPs, in order to maintain their licence to practice. The list is also a mechanism for the Department to ensure that care provided on its behalf is provided by appropriately qualified people.

Subsection 14(2) allows for the list to also include the names of individuals who are providing care on behalf of the Department. This does not mean that every single NHCS care provider must be on the list but the option for an individual to be added to the list must be available.

The Department may publish the list in full or to such extent as it considers appropriate, and can keep the list in any form it considers appropriate.

UK regulators require specific information to be readily available to certain organisations, if they request to see it, and the Isle of Man is obliged to ensure that this can happen.

Subsection 14(4) states that the Department must publish details of the application and determination process for persons wanting to be added to the list. Subsections 14(6) and (7)

establish an appeals process for anyone who the Department has determined should not be added to the list or should be removed from it.

I beg to move that clause 14 do stand part of this Bill.

The President: Hon. Member.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The motion is that clause 14 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 15.

Mr Coleman: Clause 15 allows the Department's facilities to be used for the delivery of private care. This reflects the current situation, and the use of the private wing at Noble's Hospital, and provides for the Department, in future, to look at using its facilities in a more flexible way for private care, should the demand arise.

Subsection 15(2) requires care or facilities provided otherwise than under a Scheme to be subject to terms and conditions determined by the Department. This will allow the Department to ensure that private care does not impact on the provision of National Health and Care Services.

I beg to move that clause 15 do stand part of this Bill.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu.

I beg to second and reserve my remarks.

The President: The motion is that clause 15 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 16.

Mr Coleman: Clause 16 introduces a new provision whereby the Department can address the ongoing issue of 'stranded patients'. Stranded patients are patients who have been deemed fit for discharge but for one reason or another remain on wards at Nobles Hospital; thus reducing the number of available beds and intolerably adding to staff workloads.

An acute hospital ward is not the best place for people to live for an extended period, but over several years the acute services have seen an increase in the number of stranded patients.

Subsections 16(1) and (2) allow the Department to facilitate the movement of stranded patients through a charging regime when either they or their relatives or carers refuse to make provision to relocate individuals to more suitable accommodation.

The Department has a comprehensive discharge process which includes careful assessment of an individual's care needs by both health and social care professionals and an assessment of their ability to fund those needs.

These assessments are done with the full involvement of the individual and their family, and it is only where everyone concerned in the assessment process is content that it would be in the best interests of the individual to move to an alternative facility, and they or their family still refuse to leave, that the Department may resort to making a charge.

Subsection 16(5) defines who can be deemed to have the relevant authority to be an 'appropriate person' for the purposes of communicating with an individual, or their family, about the final decision that they should vacate a facility.

Subsections 16(3) and (4) allow the Department to determine the level of charge to be levied; having regard to the means available from private sources to fund the individual's care, and states how the charges can be collected.

Subsection 16(5) defines who can act as the 'individual's representative' for the purposes of discussing and taking decisions about a person's accommodation needs.

This recognises the Department's duty to safeguard vulnerable people who may not have the capacity to make their own decisions about where they should live.

I beg to move that Clause 16 do stand part of this Bill.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu.

I beg to second and reserve my remarks.

The President: Hon. Member, Mr Wild.

Mr Wild: Thank you, Madam President.

Out of interest, more than anything, could I ask the mover to clarify, if possible, the scale of this problem and a feel for what sort of charge may come through, please? Thank you.

The President: The Hon. Member, Mr Crookall.

Mr Crookall: Thank you, Madam President.

I think we would all welcome this clause. I think for years we have been hearing about the issues up at the hospital and bed-blocking, for want of another word. I am sure as and when this is needed it will be used very carefully to make sure that it is done properly. There needs to be a safeguard there, but we know that the cost that this has brought on to the Department has been huge over the years, so I think we would all welcome this and I am glad to see it.

The President: The mover to reply.

Mr Coleman: Thank you, Madam President.

Of late, we have been short of a few beds at some times to the extent that maybe 30 beds were needed and we have been scrambling around trying to find a place for people who have acute care needs.

One of the suggestions that we have is that some of the people – and again, it is best based upon assessment – can move from an acute care bed on a ward, perhaps to a residential or a nursing home, which (a) would free up an acute care bed and (b) it might be more suitable.

One of the worst places to be, probably, from the point of view of catching an infection is being in a hospital ward, because other people are there, and it is probably, perhaps in older and more vulnerable people that they are going to be susceptible to these types of infection – and this is proven; the statistics show it.

There is also a cost element involved. The cost of an acute care bed is a lot more than it is to have – if it is suitable – a nursing home bed or a residential home bed.

This situation is actually happening as we speak and people are being moved into homes and things like that, and their families are helping out with financial issues here. This really is to provide us with a mechanism where the families can help but refuse to help, and this happens all too frequently.

With reference to the charge, if we move them to the nursing home charge, then they would get the standard benefit from the state and, if there is any extra then the family will have to make that up, but it is a lot less than making up the charge of having a hospital bed on a ward.

In the UK, bed-blocking is sorted out by an Act whereby – because health and social care are separate – if someone is deemed to be bed-blocking, the hospital can actually charge social care for the bed. So this is a somewhat less draconian method, but perhaps more suitable. But it does give us the flexibility and I can assure you that this would only be used with the maximum amount of sensitivity and feeling for the patient.

The President: The motion is then that clause 16 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

I understand you wish to take 17 and 18 together.

Mr Coleman: Thank you, Madam President.

Paragraph (a) of clause 17 allows the Department to establish a committee to provide it with scrutiny and advice on the provision of its services. This paragraph is written in such a way that the work of this committee is not restricted to just health care services.

In conjunction with regulations made under clause 23, this paragraph provides for the retention of the Health Services Consultative Committee (HSCC) from the National Health Service Act 2001.

Paragraphs (b) and (c) of clause 17 allow the Department to establish other committees to exercise its functions and to co-ordinate the provision and delivery of care under the Schemes.

An example of such a committee is the Clinical Recommendations Committee which prioritises services in order of effectiveness, based upon the needs of the population of the Isle of Man, and makes recommendations about the most pressing clinical needs to be progressed by the Department, and about those clinical interventions which should be a low priority.

Clause 18 states that the Department may seek advice from any of the committees it has established and must take account of any advice it receives. However, it is not bound by that advice.

I beg to move that clauses 17 and 18 do stand part of this Bill.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The motion is that clauses 17 and 18 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 19 and 20.

Mr Coleman: Clause 19 confirms that complaints can be made by individuals about any element of care provided under a Scheme, whether that care is provided by the Department or by a commissioned or contracted service provider.

Subsection 19(2) lists the type of complaints that may be raised and addressed through this provision.

Clause 20 states that the Department must publish the procedure for making and considering a complaint. The procedure must ensure that the rules of natural justice are followed.

I beg to move that clauses 19 and 20 do stand part of this Bill.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The motion is that clauses 19 and 20 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 21.

Mr Coleman: Clause 21 extends the existing provision so that either the complainant or the Department may refer a complaint which has not been resolved under the complaints procedure established under clause 20 to the Health Independent Review Body (the IRB).

Subsections (2), (3) and (4) explain how the IRB will consider and deal with a complaint and confirm that if an individual is not satisfied with the outcome of this process they can seek any other remedy they see fit.

I beg to move that clause 21 do stand part of this Bill.

The President: Hon. Member.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The motion is that clause 21 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Part 6, clause 22.

Mr Coleman: Part 6 of the Bill deals with final and supplemental provisions.

Firstly, subsection 22(1) confirms that the Department may enter into a contract with any person for the use of its facilities for any purpose whatsoever and must pay any proceeds into general revenue. This provides the Department with the ability to ensure that its facilities are used to full effect and to give best value for money.

Subsection 22(2) requires the Department to ensure that the provisions of a Scheme are regularly and independently monitored and reviewed, and subsection 22(3) requires that the Department publishes any reports it receives on the findings of a review.

This is a new provision but it reflects the existing position whereby the Department has commissioned an external review of its health services by an external provider.

I beg to move that clause 22 do stand part of this Bill.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The motion is then that clause 22 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 23.

Mr Coleman: Clause 23 involves regulations.

Subsection 23(1) empowers the Department to make any regulations which are necessary or convenient for the administration of the Act, and subsection 23(2) then lists certain regulations which the Department might wish to make.

These include regulations covering the appointment, constitution and scope of the Health Services Consultative Committee and the Health Independent Review Body, and include provision for either or both of these to be given functions in addition to their basic roles.

Such a provision could be used, for example, if it was decided at some point in the future that it would be appropriate to appoint an NHCS Ombudsman.

Paragraph 23(2)(j) provides for regulations to stipulate a particular committee or body as being responsible for hearing and determining appeals by persons aggrieved by the exclusion or removal of their names from the list of qualified care providers, referred to in clause 14.

Subsection 23(3) requires regulations made under the Act to be approved by Tynwald.

I beg to move that clause 23 do stand part of this Bill.

The President: Hon. Member.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The motion is that clause 23 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 24.

Mr Coleman: Clause 24 provides for various regulations, made under the National Health Service Act 2001, to continue in force as if they were made under the new Act.

As a consequence of this Bill a number of existing sets of regulations will be reviewed and replaced, including by Schemes, but in the meantime they need to be retained.

The regulations to be saved are: The National Health Service (Appointment of Consultants) Regulations 2003; The National Health Service (General Ophthalmic Services) Regulations 2004; The National Health Service (Pharmaceutical Services) Regulations 2005; The National Health Service (Optical Payments) Regulations 2004; The National Health Service (Charges for Drugs and Appliances) Regulations 2004; The National Health Service (Dental Charges) Regulations 2006; The National Health Service (Overseas Visitors) Regulations 2011; The National Health Service (Expenses in Attending Hospital) Regulations 2004; The Health Services Consultative Committee Constitution Regulations 2012; The National Health Service (Independent Review Body) Regulations 2004; and The National Health Service (Complaints) Regulations 2004.

Subsections 24(2) and (3) repeal certain provisions from the NHS Independent Review Body Regulations and the Health Services Consultative Committee Constitution Regulations which will no longer be required as a consequence of this Act.

Subsection 24(5) provides for a scheme made under this Act to amend or repeal any of the regulations saved.

I beg to move that clause 24 do stand part of this Bill.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

The President: The motion is that clause 24 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 25.

Mr Coleman: Clause 25 provides for contracts that were entered into under the National Health Service Act 2001 to continue under the new Act as if they were entered into in accordance with a Scheme. Examples of such contracts are the arrangements for general practitioner and general dental practitioner services.

I beg to move that clause 25 do stand part of this Bill.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.
I beg to second and reserve my remarks.

The President: The motion is that clause 25 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 26 and the Schedule.

Mr Coleman: Madam President, clause 26 provides that the Schedule, which makes amendments to other legislation as a consequence of this Act, has effect.

For the most part, the amendments listed in the Schedule simply change references to the National Health Service or to previous National Health Service Acts in the following Acts to refer to the National Health and Care Service Act 2016: The Law Reform (Personal Injuries) Act 1949; The Children and Young Persons Act 1966; The Dental Act 1985; The Design Right Act 1991; The Sexual Offences Act 1992; The Access to Health Records and Reports Act 1993; The Termination of Pregnancy (Medical Defences) Act 1995; The Video Recordings Act 1995; The Mental Health Act 1998; The Children and Young Persons Act 2001; The Education Act 2001; The Medicines Act 2003; The Employment Act 2006; The Public Sector Pensions Act 2011; The Social Services Act 2011; and The Regulation of Care Act 2013.

References to the term 'hospital' are also removed or amended as the term is not used in the new Act.

The Access to Health Records and Reports Act is also amended to insert a new definition of 'general practitioner' with reference to both the Health Care Professionals Act 2014 and the National Health and Care Service Act 2016.

The Medicines Act 2003 is amended to remove the term 'health centre', which is not used in the Bill, and to instead refer to premises provided under the National Health and Care Service.
I beg to move that clause 26 and the Schedule do stand part of this Bill.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.
I beg to second and reserve my remarks.

The President: The motion is that clause 26 and the Schedule stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
And finally, clause 27.

Mr Coleman: Finally, clause 27 repeals the National Health Service Act 2001 which will be replaced by the new Act.
I beg to move that clause 27 do stand part of this Bill.

The President: The Hon. Member, Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.
I beg to second and reserve my remarks.

The President: The motion is that clause 27 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Hon. Members, that concludes consideration of the Second Reading and the clauses stage of the Bill.