

**Dyddiad:** Dydd Mercher 17 Ebrill 2002

**Lleoliad:** Ystafell Bwyllgora 3, Cynulliad Cenedlaethol Cymru

**Teitl:** Delio ag Is-ddeddfwriaeth

1. Dylai'r Aelodau fod yn ymwybodol bod y Cadeirydd wedi cytuno ar brotocol i ddelio ag is-ddeddfwriaeth gyda'r Gweinidog a chynrychiolwyr o bleidiau eraill, a'i fod yn cynnig y dylid mabwysiadu protocol tebyg i ddelio â deddfwriaeth sylfaenol ddrafft.

2. Fe welwch o'r ohebiaeth a amgaeir mai hanfod y protocol yw bod Aelodau yn derbyn Gorchmynion drafft arfaethedig cyn papurau pwyllgor eraill a'u bod yn cyflwyno unrhyw welliannau iddynt yn ysgrifenedig. Dim ond gwelliannau o'r fath i'r Gorchmynion drafft arfaethedig fydd yn cael eu trafod.

Ysgrifenyddiaeth y Pwyllgorau  
Ebrill 2002

**Pwyllgor Iechyd a Gwasanaethau  
Cymdeithasol**

**Health and Social Services Committee**

Bae Caerdydd / Cardiff Bay  
Caerdydd / Cardiff CF99 1NA

Eich cyf / Your Ref

Ein cyf / Our Ref HSS(Sub Leg)

Jane Hutt AM  
Minister for Health and Social Services

14 March 2002

## **HANDLING OF SUBORDINATE LEGISLATION**

Thank you for your letter of 11 March setting out your proposals for handling the proposed secondary legislation that will flow from the NHS Reform and Health Care Professions Bill when enacted. The clarification is helpful and I am pleased that we will have the opportunity to scrutinise *proposed* draft Orders at an early stage and before the formal process under Standing Order 22 is underway.

The Assembly's endorsement of the report of the Assembly Review of Procedure means that this will be the first of many substantial pieces of proposed and draft secondary legislation that the Committee will look at. I would therefore like to agree with you and other members a protocol for handling the process.

Firstly, In the interests of democracy and transparency, and following para 5.5 of the Review's report, the Committee needs to be aware at an early stage of proposed subordinate legislation. We are developing the mechanisms for this with the schedule that you are going to provide regularly and with the committee clerk liaising with her colleague for the Legislation Committee.

Wherever possible, especially with secondary legislation resulting from new primary legislation, the Committee should have the opportunity of looking at the proposals in the form of a *proposed* draft Order before the formal Standing Order 22 procedure starts, as we will be doing with the current Bill.

*Proposed* draft Orders coming before the Committee should have the proposed explanatory memorandum to assist our understanding of the Assembly Government's intentions. The Committee should have adequate time to examine the proposals, and so that we use our time effectively in Committee members should give prior notice of any amendments they propose. This will enable you to prepare a response to them in time for the meeting. Using the example of the schedule set out in your letter I suggest the following timetable:

Date of Committee meeting.....	Wednesday 29 May
<i>Proposed</i> draft Order circulated to Committee members.....	Friday 17 May
Amendments proposed by Members notified to the Minister and Committee Clerk .....	Midday, Friday 24 May

Discussion on the proposed draft during the meeting on 29 May would be limited to notified amendments.

I suggest that, in addition to debating the notified amendments in the Committee, you respond formally to the Committee after the meeting, setting out which amendments you are disposed to accept and your reasons for rejecting any amendments the Committee has recommended. This would help members' consideration of the drafts you subsequently put forward formally under Standing Order 22.

I am concerned that the process for notifying members of a draft Order under Standing Order 22.1 is not positive enough for the needs of Committee members. I should be grateful if you would agree to notify Committee members specifically, through the Clerk, when draft Orders that the Committee has considered as proposed drafts are published under Standing Order 22.1. It is important that Committee members are able to examine any alterations that may have been made in the interim as a result of consultation or changes in your policy. Members may then decide whether to make representations to you that the Committee should have a further opportunity to discuss the changes.

Should it be decided under Standing order 22.5 that the Orders should return to the Committee, I would once more expect members to give prior notice of any proposed amendments to you and the Clerk by midday on the Friday before the meeting.

I should be grateful for your views and those of other members.

I should like to adopt a similar protocol in respect of any draft primary legislation that comes before the Committee in future.

Kirsty Williams AM

Chair

**Jane Hutt AM**  
**Minister for Health and Social Services**

Kirsty Willams AM,  
Chair  
Health and Social Services Committee  
Room B.3.13  
National Assembly for Wales  
Cardiff Bay

11 March 2002

Dear Kirsty

**NHS ReSTRUCTURE PROGRAMME: TIMETABLE AND HANDLING OF Secondary  
Legislation**

At the Party Spokespersons meeting on Tuesday last it was agreed that Mike Ponton and Jane Westlake would liaise with each other and with lawyers about the timetabling of the secondary legislation emanating from the NHS reform bill. The proposals below reflect their discussion.

Formal work in accordance with Standing Order (SO) 22 cannot commence until the Bill has received Royal Assent and this is not expected until the Assembly's summer recess. It is important that preliminary work on the Orders begins during the recess, so that the draft Orders Can be submitted to Business Committee at the earliest opportunity in the autumn.

For this reason I want to consult the Committee on the terms of the *proposed* draft Orders during the summer term, so that I can then undertake any consultation required under SO22.1 and SO22.2. during the recess. The Committee's consideration would be on the understanding that the *proposed* draft Orders can only be taken forward as draft legislation following Royal Assent.

Indicative dates for presentations of draft SIs are set out below. It must be noted that due to the reduced time available for drafting, it is likely that some if not all of the SIs will have to be presented to the

Committee as English only drafts and that the drafts themselves may require refinement. Therefore there is some risk that the dates set out below may not be achieved and may have to be varied.

Consultation process with stakeholders and others on all the draft orders except the commencement order (*see para 6*) will take place between 28 June and 23 August 2002, with scrutiny of responses and any proposed amendments to be completed by 13 September 2002 at the latest.

Following consultation, I will circulate the drafts to Assembly members in accordance with SO22.1. If the draft Orders need any changes from those agreed by the Committee in the summer term, HSS committee and other members will have the opportunity to make representations then as to whether the drafts should be considered again by the HSS committee. If members are content that the drafts do not need to be referred to the Committee I shall refer them to the Business Committee accordingly, under the requirements of SO22.5. However we will need to plan for the eventuality that the Committee may need to see them again at short notice.

Subject to the Business Committee's agreement and the Deputy Presiding Officer's decision I should then proceed to lay the draft Orders and submit them to the legislation committee in accordance with SO22.9. The one exception to this would be the Commencement Order that I propose to deal with under the executive procedures in SO22.27 et seq.

The schedule of legislation and the timing for the committee's consideration of the proposed draft is on the following page.

I should be grateful if you and Dai Lloyd & David Melding, to whom I am copying this letter, would let me know if you are content with the procedure.

Yours



Proposed Subordinate Legislation	Earliest date for HSSC discussion of <i>proposed</i> draft Statutory Instrument (pre-NHS Reform Bill Royal Assent)		Key milestone dates (post NHS Reform Bill Royal Assent)
NHS Reform and Health Care Professions Act (Commencement) (Wales) Order	17 April 2002	For the Committee to note	Needs to come into force as soon as possible after Royal Assent
The Abolition of Health Authorities (Wales) Order	17 April 2002	For the Committee to note	<p><b>Consultation Process with Stakeholders:</b> 28 June to 23 August 2002.</p> <p><b>Scrutiny of responses</b> to be completed by 13 September 2002.</p> <p><b>Consideration by Business Committee:</b> 15 October 2002</p> <p><b>Consideration by Legislation Committee:</b> 17 December 2002</p> <p><b>Consideration by Plenary:</b> 23 January 2003</p>
The Local Health Boards (Establishment) (Wales) Order	17 April 2002	For the Committee to note	
The Local Health Boards (Transfer of assets, staff and liabilities) Wales Regulations	29 May 2002	For the Committee to note	
The Local Health Boards (Functions) (Wales) Regulations	29 May 2002	For discussion by committee	
The Health and Well-being Strategies (Wales) Regulations	15 May 2002	For discussion by committee	

The Local Health Boards (Membership and Constitution) (Wales) Regulations	29 May 2002	For discussion by committee
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Please note:

- i. Subordinate legislation relating to the Commission for Health Improvement has been excluded from this note as this is not directly related to the NHS Wales Restructure Programme and also needs to run according to an England and Wales timetable.
- ii. Titles of SIs are provisional and may be varied, but the content will stay the same