Isle of Man Government
Reiltys Ellan Vannin

Health and Care Transformation Programme

Creating a new Organisation to Provide Health and Social Care Services – Manx Care

Summary of responses to the consultation on the Manx Care Bill

Contents

Glossary

The Bill	The Manx Care Bill
Core principles of the NHS	Taken from the amended motion in Tynwald on 20 March 2018[1]: That Tynwald endorses and affirms the seven modern day core principles of the NHS (National Health Service): 1. The NHS provides a comprehensive service available to all. 2. Access to NHS services is based on clinical need, not an individual's ability to pay. 3. The NHS aspires to the highest standards of excellence and professionalism. 4. The NHS aspires to put patients at the heart of everything it does. 5. The NHS works across organisational boundaries and in partnership with other organisations in the interest of patients, local communities and the wider population. 6. The NHS is committed to providing best value for taxpayers' money and the most effective, fair and sustainable use of finite resources. 7. The NHS is accountable to the public, communities and patients that it serves.'
DHSC	Department of Health and Social Care
Establish Arm's Length of Health and Care Services Project	The project within the Transformation Programme that will separate the delivery and commissioning of health and social care services (Manx Care) from the strategic planning and policy making of the DHSC
Final Report	The Final Report of Sir Jonathan Michael's Independent Review of the Health and Social Care System of the Isle of Man
Independent Review	Sir Jonathan Michael's Independent Review of the Health and Social Care System of the Isle of Man
NICE	National Institute for Health and Care Excellence
Nolan principles	The principles of public life, which are the basis of the ethical standards expected of public office holders.
Pathfinders Projects	A series of projects used to develop and test the process for review and new service design (under three interlinked projects within the Transformation Programme - Undertake Needs Assessment, Undertake Service-by-Service Review and Design and Implement Care Pathways). For more information see - https://www.gov.im/about-the-government/departments/cabinet-office/health-and-care-transformation/#accordion
Primary Care	Providers that act as the first contact and principal point of care for services within the health and social care system, includes general practice (GPs), dentists, pharmacies, and opticians.
Transformation Programme	Health and Care Transformation Programme being managed by the Transformation Programme team within the Cabinet Office in collaboration with the DHSC and the Treasury.
TPMO	Transformation Programme Management Office which is responsible for the overall delivery of the Transformation Programme and leads on cross cutting workstreams and the overarching governance and reporting of the Transformation Programme.

[1] http://www.tynwald.org.im/business/hansard/20002020/t180320.pdf#search=%22NHS%22

1. Background

Following an independent review of health and social care in the Isle of Man by Sir Jonathan Michael, Tynwald unanimously approved the Final Report of that review in May 2019. The review concluded that our Island is well placed to become a model of how to deliver a fully integrated health and social care system. However, to achieve this aim, a fundamental rethink of the current arrangements is required. The Final Report included 26 recommendations which are being implemented by the Transformation Programme team.

The Transformation Programme consists of 14 projects[2] and has two key elements:

- the right restructuring for now: to deliver the foundations needed to ensure legislation, governance and funding that enables the future structure and ambition; and
- the right focus for the future: to ensure the right resource and approach on longer-term projects focused on embedding high-quality, sustainable health and care services.

The right restructuring for now includes the creation of Manx Care - a new organisation being established to deliver health and social care services for our Island. It is being set up as a statutory board of Government; and will be at arm's length from the DHSC, with a board that is majority non-executive and contains no political representation.

The DHSC will set the policy and strategy for health and social care.

There will be an agreement between DHSC and Manx Care relating to the provision of health and care services, known as the mandate. Within the mandate, the DHSC will set out what services should be provided to address the needs of the population, to what standard and the funding available to provide those services. Manx Care will be responsible for delivering those services in the best way possible. This may be done either by providing them directly or by commissioning services from other providers (both on and off Island).

Primary legislation is required to establish Manx Care as a new statutory board. This consultation related to the legislation that has been drafted to establish it: the Manx Care Bill.

[2] Further detail on the projects can be found on the Transformation Programme's website - https://www.gov.im/about-the-government/departments/cabinet-office/health-and-care-transformation/

2. Summary

A public consultation was undertaken from 6 March 2020 to 17 April 2020. In addition to publishing the consultation on the Government's consultation hub, hard copies were placed in each of the public libraries and in several health and social care facilities and locations around the Island.

The questions posed by the consultation sought views on the proposed text of the Manx Care Bill. While many of the comments received have provided useful feedback on the Manx Care Bill itself, the responses also included comments on the wider Transformation Programme. These additional, broader comments will not result in changes to the Manx Care Bill, but have been passed to the relevant project leads within the Transformation Programme for consideration when developing the work in the specific projects. For example, a number of respondents commented on the adequacy of current social care services. This will be considered as part of the Service-by-Service Review Project as well as the Care Pathways Project.

The Transformation Programme received 36 responses to the consultation: four from organisations and 32 from individuals:

- 12 gave permission to publish their response in full;
- 20 gave permission to publish anonymously; and
- four did not consent to their responses being published on the consultation hub.

The Transformation Programme is grateful to all those who took the time to submit their views to this consultation. Please note that the comments used in this report are as written in the consultation response.

3. Report structure

This report provides an overview of the comments received for each part of the Bill, along with responses to these comments from the Transformation Programme. It has been structured to reflect the format that was followed for the consultation document. As such, each successive section relates to a section of the Bill and, for each, there is a short explanation followed by a summary of responses received, examples of comments and feedback and finally, the response from the Transformation Programme.

4. Part 1 – Introductory

Part 1 sets out the title of the Bill, when it will come into operation and the necessary definitions of terms used.

Question: Do you have any views on the proposed name Manx Care?

Thirty-five responses were received on this question, of which three did not give feedback on the proposed name, but rather expressed opposition to the aim of establishing an arm's length body from Government as the provider of health and social care services. Comments opposing the purpose of the Manx Care Bill are grouped for response in section 16 of this document.

Of the 33 responses that provided feedback on the proposed name, nine stated that they did not have a view on the proposed name, eight were in favour and 16 were either unhappy with it or suggested alternative names or additional elements that should be included in the name.

Some examples of the responses are shown below:

- I am not entirely sure if I like the proposed name. I feel it sounds more like a business name for a Domiciliary agency.
- It's nebulous and ignores Health. Manx National Health and Social Care Service
- I support the use of this name. It simply and clearly describes the function of the new organisation.
- Manx Health and Care Services might have been more descriptive but the term Manx Care is embedded in the public mind now.
- Often in new organisations too much time is spent discussing titles. The name is inconsequential. It is the operations and new corporate governance which are central.

As more than 50% of respondents were either in favour of or ambivalent about the name Manx Care, we have decided to retain the name Manx Care for the statutory board.

Question: Do you have any other comments on this part of the Bill?

Comments of particular relevance to this part of the Bill included the following:

- It needs to be made clear that Manx Care will support both adults and children. Outcomes can sometimes be hard to measure with care depending on where they are on their caring journey.
- Part 1, clause 2(2) Self-evidently, the careful crafting of such order(s) and their timing will be crucial to the effective application of primary legislation. Equivalent orders in other Departments have not always received the time and effort required to ensure the effective outworking of primary legislation.
- It is vital that whilst the Bill is in progress the Dept (DHSC) continues its current function. The idea of 'shadowing' the new Manx Care organisation is not only useful but will be vital to the seamless transition.

- The island as a whole is struggling to adhere to the Social Services Act 2011 and the National Health and Care services Act 2016. So, we believe that when forming the Manx Care Bill, this properly realised.

The Transformation Programme acknowledges the comments made. Regarding the orders for commencement, the intention is that Manx Care will become a statutory board in April 2021, with the new "Manx Care" body set up in shadow form ahead of this date.

As far as the issues with implementation of the Social Services Act 2011 and the National Health and Care Services Act 2016 are concerned, these will be considered further as part of the planned National Health and Social Care Service Bill (see section 17 – next steps for more information).

Some of the responses to this question were more relevant to other parts of the Bill. As such, we have incorporated them in the appropriate parts of this summary so that themes in the responses may be more easily identified.

5. Part 2 – Duties and responsibilities of the Department

Part 2 of the Bill sets out the duties of DHSC for ensuring the provision of a comprehensive health and social care service for the Isle of Man. The Bill establishes a number of new high-level duties for the DHSC. These are needed to ensure that the allocation of responsibilities between the DHSC and Manx Care will operate effectively.

Question Do you have any comments on Part 2 of the Bill?

Many useful and detailed comments were provided. Points of particular relevance have been grouped by theme below.

Improvement in quality of services
Some respondents felt that there was a lack of clarity around defining improvement in service, the standards to be obtained, and the associated time frames. The Bill is, necessarily, high-level and cannot contain this level of detail. The mandate will set out the standards required of Manx Care in the provision of services to the public.

Promoting education and training
The majority of the comments received on this new duty highlighted its importance; they also mentioned perceived issues around education and training and provided some suggested improvements. These have been referred to the Workforce and Culture Project of the Transformation Programme for consideration.

Public Involvement and Consultation
Again, the comments received on this new duty supported it in principle, but wanted assurance that it would include all patients and service users (including children, carers and those who may not find it easy or appropriate to interact with authority figures). The Transformation Programme agrees that public involvement should be tailored and accessible to all patients and service users. These comments will be taken into account when considering the implementation of this duty.

Candour and accountability
Some of the comments on this theme were:

- [The Duty of Candour] has been in place in England since 2014 and despite report after report, IOM Govt has failed to introduce it.
- It is evident in some historical cases that the DHSC are not able to demonstrate a duty of candour so how will Manx Care do so? It could be said that the DHSC is transferring all their responsibilities, including those they have not achieved, to another organisation that they say will achieve.
- It allows the DHSC to remove themselves from direct responsibility and therefore be able to hide behind Manx Care when the necessary services are not met.
- [The threshold] needs to be defined as do the breaches which should be set at zero level. The word if possible should not be here… Reasonable again this wording means that it is possible for the department to say what is reasonable not the service user. Informing the user in writing? When and how? Days, weeks, years? Does writing include electronic communication and what are the safe guards to ensure that these are delivered and comprehensible to the user?

The Transformation Programme confirms that the DHSC will retain ultimate responsibility for health and social care services on the Isle of Man. While Manx Care will discharge the functions mandated to it, it will be held accountable by the DHSC and, as clause 13 of the draft Bill makes clear, ultimate responsibility for services remains with the DHSC. To ensure greater transparency, the mandate will be published and available to the public.

As the Bill is the high-level law, it will not include all of the information and detail requested in the feedback. Further regulations will be introduced to address the detailed requirements of duty of candour including thresholds and procedures in the future. The intention is that this is brought into operation in April 2021 alongside the establishment of Manx Care.

Other

- Would be more progressive to just say health when you mean mental and physical health they are interactive. In explanation say heart means both acts and responsibilities outline areas and acts that protect the vulnerable. Using health strengthens public health view and makes it health not illness focused. Public still see health as hospital.
- There is no indication as to how the Department can deliver its duties. It does not appear to commission Manx Care directly. This is horribly reminiscent of the disastrous Lansley NAH reforms in the UK.
- Annual mandates are too short term. Often the picture is bigger and time frame longer. Having a separate monopoly service supplier/contractor just creates another layer of jobs, contracts, legal services, oversight. Yes, you need aims objectives and policies and reliable performance measures and quality assurances, but this won't deliver those.

The DHSC's duties, which include the duty to "secure improvement in the physical and mental health of people in the Island", are set out in current legislation and are simply restated here. To change the wording of the duty in this Bill without amending it in the original legislation (National Health Service Act 2001) may create confusion. The Transformation Programme acknowledges that the separation of mental and physical health can be seen as old fashioned; so this will be reviewed in the planned modernisation of legislation in the National Health and Social Care Bill.

The DHSC will obtain services via the mandate with Manx Care. This mandate will be the agreement between the DHSC and Manx Care requiring that Manx Care provides a range of health and social care services to address the needs of the Island's population, to a specified standard and within the agreed funding envelope. This mandate will be a more detailed document than the UK Government's mandate to NHS England and NHS Improvement. As recommended by Sir Jonathan Michael within the Final Report, the DHSC will "*set priorities in an annual mandate to the delivery organisation*". The mandate will be refreshed annually, although the intention is that the DHSC works towards creating a 3 to 5-year mandate, in line with the proposal to move to 3 to 5-year funding arrangements.

The benefits of separating the service provider of health and care services from the DHSC were clearly outlined in the Final Report, and include increased transparency and accountability across the system. Additionally, and importantly, the Final Report states that

"*this approach differs from the current model in England whereby the commissioning and delivery of services are still separated by primary legislation".*

The creation of Manx Care is a building block of the Transformation Programme, which aims to create and deliver a high-quality health and care service that works for people on the Isle of Man now, and in the future. One that, from prevention to cure, works together to keep people well; gives equal prioritisation to health and social care; and is one of the best 'person-centred' sustainable services.

6. Part 3 – Manx Care and the Mandate

This part establishes Manx Care as a statutory board and sets out its function - to provide health and care services in accordance with the agreement between the DHSC and Manx Care (the mandate).

Question – Do you have any comments on part 3 of the Bill?

The feedback on this part of the Bill has been grouped by theme below, with some comments shown as examples:

Accountability and Public Involvement

- At the moment you have an IRB [Independent Review Body] system which is not working. The same will happen with Manx Care. DHSC/Manx Care will work together and we will have the same excuses.
- What are the consequences/penalties for Manx Care of noncompliance with the Mandate?
  At Schedule 2 point 2, the Mandate transfers the responsibility for complaints about its duties not being discharged. This may significantly impact independence in complaint handling. This could be an ill-considered retrograde step without more detailed consideration at the legislative level. Similarly, any subcontractor to Manx Care will also handle its own complaints internally.
- In the event of failure of services the dept. and Manx care seem to incestuous? We need appeals and independent reviews built in ; objectives or requirements specified in the mandate and in directions under review.
- Access by the public to Tynwald to report concerns should be part of the mandate review. The overarching motto should be the patients' safety and well being comes first - Tynwald should have the ability to change and improve situations quickly in cases where a direct intervention is required.

The Transformation Programme's ambition is to create a health and care service that improves quality of care, organises care around patient and service user needs and delivers the right care, in the right place, at the right time and in the most affordable way. One of the principal reasons for establishing an arm's length body to provide services instead of the DHSC is to achieve greater accountability for the provision of these services. Under the current system, the DHSC has been holding itself to account. To ensure true accountability, it is important that there is a separation between the DHSC and the body that provides the services to the public (which will be Manx Care).

The mandate will set out the consequences of Manx Care failing to meet any of its obligations. Within the Transformation Programme, the team behind the Establish Arm's Length Delivery of Health and Care Services Project is developing the mandate with colleagues across Government. There will be several steps to the sanction process but ultimately the Council of Ministers will have the power to intervene, if required.

Finances

- There needs to be greater understanding of the costs involved in delivering services. The way in which the budget is given now does not work and therefore, the cost of services are not fully understood. This needs to be addressed in the Bill.
- The Mandate effectively enforces the money provided, making Manx Care powerless to adjust the overall spend required to secure the services… Any representations/business cases/funds required to secure services may become the subject of dispute.
- In terms of the costs... Presumably complaint and satisfaction feedback systems will be part of [public scrutiny], with accountability resting with those who appoint / reappoint Manx Care .
- More expensive salaries. How much this going to cost ?
- The Managers within "Manx Care" must have the flexibility to set and use their budget according to how they believe they can best meet the demands of the contract. There should be no central Government shackles on them doing this.

The Final Report acknowledged that the changes needed could come at a cost, but noted that the recommendations in the Final Report "*are collectively essential to ensure that health and care services on the Island are focussed on the needs of the service user, safe, of high quality and get most value for taxpayers*". The Final Report also highlighted the lack of data available to inform, plan and deliver care successfully. The Transformation Programme includes a Data, Information and Knowledge Project to identify and define the data needed; to determine how that data should be collected, verified, aggregated, interrogated and reported; and to deliver the necessary steps to implement the specified changes.

The mandate will specify the amount of funding to be provided to Manx Care for the services to be provided. It is intended that the mandate will evolve over time as more data around costs becomes available. Both the mandate and the annual report from Manx Care, in which it will account for services provided along with the actual costs, will be accessible to the public. Whilst the DHSC will set the overall budget, Manx Care will have autonomy to make decisions on how best to use the funds to meet the requirements of the mandate, subject to the appropriate rules and regulations.

Other

- It is not clear if Manx Care will be responsible for commissioning / providing all health (acute, community, primary and CHC) and mental care services. Who will be commissioning services from the acute providers in England?
- If this bill goes through then there should not be any need for secondary legislation and if there is exactly what are the time scales involved?
- Is unfortunate that in this consultation doc that 'underperformance' is brought into play… The model males provision for performance mangement which by its very management definition embraces performance across the spectrum. That should

have been sufficient.
It is vital that the provisions of Sched 2 of the Mandate are looked at as being flexible.

Under the mandate, Manx Care will either provide services directly or commission services needed from providers on or off the Island. The mandate will include the service levels and quality standards that Manx Care must comply with when providing services, and performance will be measured against these. We want the Transformation Programme and the new delivery model to be successful in achieving its aim to deliver high-quality, sustainable health and care services; however, the law must have options in place to cover all eventualities.

This Bill makes provision for secondary legislation so that detail can be added to the legislation in certain areas, notably the duty of candour, can be added. It is planned that the secondary legislation will be in place at the time that the Bill is brought into force. Establishing Manx Care is only one part of the systemic change that needs to be achieved. Over the coming years, new legislation and longer-term integrated pathways will be implemented to embed lasting change. The provisions within the Bill have been drafted to allow flexibility to enable this long-lasting change.

7. Part 4 – Manx Care's duties

Part 4 of the Bill sets out the duties that will apply to Manx Care.

Question – Do you have any comments on part 4 of the Bill?

Responses to this question have again been grouped by theme:

Duty as to effectiveness, efficiency etc.

- Value for money is one thing, quality of care is what should be the priority
- Phrases like 'providing best value for taxpayers' money and the most effectiveness, fair and sustainable use of finite resources' sound good in theory, but often seem to lead to a reduction in services to the bare minimum. Health and social care should be a first-class service, provided by Government, properly funded by the taxpayer (e.g. in Scandinavian countries).

The Transformation Programme recognises that resources are finite and that achieving high-quality, sustainable health and social care services will require effective, efficient and fair use of those resources. Improving the efficient use of available resources does not necessarily mean cutting costs. Efficiencies are sometimes best achieved through short-term investments to make services more effective and efficient, which can also lead to improvement in quality. Our ambition is that health and social care services should be of such a quality that everyone on the Island is proud of them.

Duty of candour

- Manx Care will operate under the Nolan Principles and therefore 'Openness' will be a governing factor in all its dealing internal and external. Difficult to see why 'Candour' is restricted to safety and harm within this consultation.
- I have been advised already by senior management at Nobles that they operate… under Duty of Candour despite it not being introduced as yet. I am happy to provide you lever arch files of paperwork which evidence the exact opposite… Why do you think the public will believe anything you are quoting when as I write this I am in a continual loop of excuses and no answers ?
- Clear means for reporting of shortfall in care should be inherent.

Manx Care will operate under the Nolan principles and the Isle of Man Government's Code of Conduct for Public Servants[3], which are the basis of the ethical standards expected of all those who work in the public service. Enshrining in statute the duty of candour, focussed on safety in the health and social care setting in particular, will strengthen this requirement for everyone working for the DHSC and Manx Care. The duty will be supported by regulations about safety and harm and will outline the specific reporting requirements to be followed, should a certain threshold be breached. In addition, there will be an underpinning governance framework that establishes this duty throughout the organisations, and ensure that honesty and transparency become the norm.

Duty as to clinical and social care governance framework

[3] https://hr.gov.im/media/1146/urn8codeofconductforpublics.pdf

- The minimum standards at present involve too much paperwork exercise for staff and managers which takes away direct care from the Service users.
- Where the current system fails is the political governance and management governance responsibilities, as has been already pointed out in several reports.
- As a way of operating ethically (Nolan) I would agree but Manx Care is much much more than that and will present governance challenges in its relationship amongst; DHSC, the public, professionals inside and outside 'the system' the private sector and the Third Sector. That is a complex Corp Gov situation which is currently broad brushed by the IOMG provisions. The Corp Gov of Manx Care as an operation requires much more detailed analysis.
- There is at present inefficiency in the hospital management and poor liaison between Hospital & GP care… who is ultimately in charge of the patient /clients welfare is not clear.
- Standards of delivery of Health care must be tailored to the needs of Isle of Man residents… and must involve unannounced visits by peer groups and lay members. Staff review of delivery has to involve ability to whistle blowers and for these to be protected. Successes should be celebrated and published including best practice… reporting back of effectiveness of policy and implementation should be weekly to begin with and include as a statutory requirement of areas of strengths… and weaknesses that need reviewing/changed.

The Transformation Programme acknowledges the comments provided on clinical and social care governance as well as corporate governance. They have all been noted and will be considered by the Governance and Accountability Project, which is focussed on such issues. This project will seek to implement a joined-up and structured approach to governance and accountability across all responsibilities and activities of the DHSC including those which are delivered by other organisations. Many of the points raised will be covered by a framework of responsibility, which will be put in place between the DHSC and Manx Care.

Duty as to improvement in quality of services

- Section 20 (p 9) indicates that Manx Care providers (i.e. contract, service or other person not directly part of Manx Care staff/services), are required to strive to improve quality of its care. From the commissioning view, [we] find it very hard to believe that such organisations would agree to this, as they are contracted only to provide the defined services via an SLA [Service Level Agreement]. Asking for a requirement to provide continual improvement is too ambiguous as it cannot be enforced, nor adequately monitored without all sorts of additional functional monitoring groups. Commissioning on this basis may be hamstrung. The duty here would be better set out as Manx Care has a responsibility for continual improvement of any direct service delivered by its staff and direct associates and that a minimum standard related to the commissioned contractual arrangement is always met.
- High Quality Training, Communication, and involvement with service users on all levels are key. Otherwise there will be a tendency to create jargon to meet the specification of the contract but little actual ongoing improvement.

All health and social care providers should monitor delivery standards and make ongoing efforts to implement continuous improvement of services. Part of the Transformation Programme's work is to help foster and develop that culture of improvement throughout the

system. This will be embedded in the clinical and social care governance framework referenced above, which will focus specifically on ensuring that standards of care are being met and that the quality of services is continuously improved, as well as in contracts with commissioned service providers.

Along with this culture of improvement, the Transformation Programme aims to deliver a modern model of integrated health and care services focussed on the service user, which will include much more in the way of engagement and involvement of patients, services users and carers in the all aspects of the system, including design, creation, delivery and assessment of services in order to improve the quality of services and the health of individuals and the Island population as a whole.

Duty as to promoting autonomy

- The broad brush coverage in the bullet point gives cause for concern - 'Consistent with the duty of DHSC.....' looks like an opportunity for DHSC to interfere with a Manx Care operation. Remarks such as this give disquiet. If this experiment is to succeed. Once DHSC has delegated then... Manx Care proceeds with its operations
- This is simply the DHSC wishing to wash its hands of direct responsibility.

The Transformation Programme agrees that the responsibilities of the organisations must be clarified further. This will be considered and documented by the Establish Arm's Length Delivery of Health and Care Services Project. Ultimately, however, the DHSC will retain ultimate responsibility for the health and social care service and this is clearly spelt out within the Bill.

The comment in the consultation document states that Manx Care would have a duty to promote autonomy for each service provider with which it has an arrangement. Likewise, the DHSC has a duty to promote autonomy in Manx Care. This does not imply nor provide an opportunity for the DHSC to interfere with operational decisions made by Manx Care rather it enables Manx Care to deliver on the mandate as it sees appropriate.

Duty as to promoting education and training

- Section 24 indicates a duty to promote education and training… This should be strengthened to state that Manx Care must ensure (not promote) and that all relevant/required training is provide to employees. Statutory training must be as defined as being carried by the DHSC and monitored to continually ensure maximum compliance alongside wide opportunity for all staff attendance.

To comply with legal and regulatory requirements, there will always be a responsibility for Manx Care to provide mandatory education and training. In addition to this, however, Manx Care will have a duty to promote additional education and training for the development of its staff members.

Duty to promote involvement of service users

- Will children also have involvement to input into the care? Will children who are caring for someone with a care need will also be able to be involved?

- Only taking 'reasonable' steps to involve the public is too vague. Who will be the judge... The openness, transparency and dialogue that is missing from our current DHSC should be developed now to a stage so that the enhancement or otherwise can be assessed and determined when Manx Care become responsible for it.
- Manx Care is not the solution to an 'Inclusion Policy'. Serious separate consideration needs to be given as to how DHSC engages with the public. That is not the duty of Manx Care. There is a 'systemic lack of communication'..... then that needs addressing. It is difficult to see why this is included here. Manx Care is a day to day operational provider subject to DHSC. It is a DHSC responsibility to address 'Inclusion'

The Transformation Programme agrees that setting up a new organisation to deliver services will not solve all problems. It is a building block in the wider Transformation Programme, which aims to put every person at the centre of their care and create a health and social care system that the Isle of Man can be proud of.

Involvement of patients and service users is key to achieving a transformed health and social care system. Engaging patients and service users will be a key consideration for the DHSC at a policy and strategic level, and for Manx Care in relation to the provision of services. To be effective, all communication and engagement with patients and service users needs to be clear, relevant and accessible to all. The detailed processes and channels for implementing this are still being developed and relevant comments will be fed into that process for consideration.

Other

- Noted through out this that much of this is based on England and Wales, why no consideration about what is done in Scotland? Surely what is done there is of equal value and equally worthy of consideration
- First and foremost delivery is patient centred and delivered for patient safety and good practice. This must involve a patient advocate service whereby a hospital based patient representative body is there to guide, advise and represent patient interests… It is… a means by which misunderstandings leading to disputes can be dealt with in a fair and measured way. Patient representatives should be on review panels in one form or other and have direct access to Tynwald
- Without adequate resources and funding this can't be achieved. Funding and resources need addressing first. Stop ******* funds on heritage transport, part time, £38 million unneeded Liverpool terminals, etc
- As said previously this is all very well on paper but hugely dependant on good staff and management. Recruitment is a huge problem.
- It needs to be done properly, supported by IT (ie one system rather than a multitude which do not talk to each other). Care also needs to be taken to inform the naturally suspicious that their data is not being collected for nefarious purposes by government.

Sir Jonathan's Review considered several different jurisdictions, although the Final Report specifically referred to the legislation of England and Wales, which has been used as the basis of the provisions to be brought in for the Isle of Man.

The Transformation Programme accepts the merit of the suggestion that a patient and service user advocate or patient and service user representative service should be developed. The Establish Arm's Length Delivery of Health and Care Services Project will consider how this might work in practice and will develop the policy to inform work on the National Health and Social Care Services Bill.

The other themes raised in these responses will all be addressed by other projects within the Transformation Programme, for example: the New Funding Arrangements Project will address the need for changes in the amount of funding the health and social care system receives and will drive changes in the mechanisms through which funding is allocated to the system over time; the Workforce and Culture Project is undertaking workforce modelling and will work with the other parts of the Transformation Programme and the DHSC to address aspects of the culture that require improvement in line with the recommendations of the Final Report; and the Digital Strategy Project will focus on accelerating the current digital strategy for the DHSC, recognising that effective and flexible digital systems and reliable, shared information are critical components of an integrated health and care system.

8. Part 5 – Functions: Additional

This part of the Bill gives Manx Care the authority to deliver services in the way it sees fit. It also sets out, however, that if Manx Care fails to discharge its functions as required, the Council of Ministers will have the power to direct Manx Care to operate differently; to direct the DHSC to step in; or find another organisation to discharge those functions.

Question – Do you have any comments on part 5 of the Bill?

Feedback was given on the roles of the Council of Ministers and DHSC in the case of failure of Manx Care, and some examples of the comments received are below:

- Ensuring the required services are maintained is better achieved when the Government takes direct responsibility through their DHSC as it then remains more answerable to the electorate.
- This seems a pragmatic and sensible approach and should lessen political interference.
- The DHSC should be able to do this directly without the artificial separation. Failure of current management and directorates and departments and clinical staff won't change with this.
- Having COMIN make the decision to change or remove the Manx Care mandate takes both the scrutiny and the decisions away from the Manx people and their elected representatives, which is not democratic.
- I don't think the public have confidence that this won't involve political interference? The Goverment should be at arms length - so not confident the risks are limited in this organisational structure;
- CoMin should at the very least be able to issue warning notices with mandates to issue fixed term periods that Manx Care has to change direction or deal with an issue before the DHSC is asked to stand in… internal audits from finance point of view should run along side medical audits (delivery and outcomes). This audit should not be an onerous bureaucratic process for staff but should be part of IT systems. Audits for partners providing services for and receiving care from Manx Care should be viewed by DHSC on a weekly basis to begin with, again nothing too onerous
- There is no dispute resolution between the Department and Manx Care.

The Transformation Programme has sought to achieve a balance between giving Manx Care the necessary operational independence and ensuring that the Government retains ultimate accountability for the national health and social care service. To achieve this aim, Manx Care is being set up as a public sector organisation at arm's length from the DHSC. Should issues arise, then these would be addressed through mechanisms between the DHSC and Manx Care in the first instance. Dispute resolution mechanisms will be set out within the mandate. Within the Bill, the DHSC can issue warning notices, if required. As it will be necessary for the DHSC to continue to have access to senior health professionals in order to fulfil its function, it will be best placed to understand the issues faced by Manx Care. The DHSC would notify the Council of Ministers only as a last resort.

The Council of Ministers consists of individuals who are elected and therefore accountable to the public. Manx Care cannot be so far removed from Government that the politicians have no oversight of the health and social care service for the Island. Should there be an issue in

future, Isle of Man residents would want their elected representatives to have some power to step in and rectify the situation. For operational purposes, however, Manx Care should be allowed to run independently. This will be made possible by having a board with no political members and by the DHSC having a duty to promote the autonomy of Manx Care. It is standard provision, however, for statutory boards to be subject to directions from the Council of Ministers as the ultimate authority.

Feedback was also given on whether the powers are appropriate:

- Sounds good in theory, but the decision to 'pull the plug' on a failing organisation will be taken only as a last resort, so 'failing' may last a long time.
- significantly fails? Exactly what is the definition of this? …if failings are found then the Government which we elect should act right away not wait
- I become concerned as to where the weighting falls in building a new positive organisation or looking at mechanism to castigate, before it gets off the ground
- I am concerned that the senior officials of Manx Care who are in effect public servants would simply be moved to other key positions within the Public Service in the case of sanctions to Manx Care… The only way to ensure that Key Performance Measurements (as set by the DHSC) are effectively met by the senior Leadership is by appointing them by for 3-year mandates that would only be renewed if the KPM's are sufficiently met.

The Transformation Programme shares the desire for Manx Care to be successful; however, the law must cover all eventualities and options need to be in place in case Manx Care does not succeed.

The non-executive members of the board will be on fixed terms of appointment between three and five years, allowing membership to be reviewed on a regular basis. This will be supplemented by additional corporate governance requirements setting standards for how the organisation is led, directed and controlled.

Other

- 26 (2) allows Manx Care to delegate ANY of its functions to be carried out by exec OR non-exec officers. There is no definition here that the delegation should be in line with the experience/qualifications of the individual.
- What guidelines. Nice ? Uk ? DHSC is acting under it's own guidelines this needs to be clarified.
- It is no use saying that Manx Care will fix everything whilst people are waiting years for hospital appointments and weeks for GP appointments, against a background of govt stating 'look how marvellously we're doing', Be honest with the populace.

Under clause 26(6) of the Bill, Manx Care retains liability for all of its activities. As such, it is in Manx Care's interest to ensure that activities are carried out by experienced and appropriately qualified individuals. In addition, there will be relevant governance frameworks in place and there is already legislation that requires certain professions to be appropriately qualified for the services provided.

The Transformation Programme's aim is to create a health and care service that improves quality of care, organises care around patient and service user needs and delivers the right

care, in the right place, at the right time and in the most affordable way. The creation of Manx Care is a significant building block in the Transformation Programme. Other projects within the Transformation Programme are reviewing services to develop pathways that put each person at the centre of their care. Within those projects, consideration will be given to standards of best practice, including but not limited to NICE, and will give consideration to how those standards fit the Island context.

9. Part 6 – Plans and Reports

Clause 29 requires Manx Care to publish an operating plan that sets out how it intends to fulfil its responsibilities in order to comply with the mandate and clause 30 requires an annual report to be published.

Question – Do you have any comments on part 6 of the Bill?

There was general support for the increased transparency that would be provided by a publicly available operating plan and annual report.

Feedback has been grouped by theme with examples of the associated comments below.

Transparency and accountability

- Yes, efficiency, what's good what's not should be made available on a yearly basis. Not just on line but in paper form… [and] Published in local press. Name and shame failing services.....only way to try and achieve high levels of service.
- Accountability is all very well when there is an alternative. On the IOM there isn't an alternative. Honesty and transparency re what can be realistically delivered is far more effective in the long run.
- good that the Manx tax payer will see how the service is performing
- Annual reports per se are in the main a waste of time, energy and money. Staff in organisation spend long hours producing stats which are then scrutinised by Boards of governance and published… 'who reads?' and the answer generally is no one
- The trick here is not to have a glossy report to keep politicians happy but a simple document which the service user can understand and that it actually says in plain English what they have achieved and seek to achieve... Essential to have good oversight by service users!
- I strongly support the wording about operating plans because it makes provision for proper and mandatory continuous review for improvement. Where applicable, this principle could be well applied in other Govt departments.

Timing and frequency

- Any plan and report needs to be rolling 5 years with timetabling and review, with explanation and action for slippages
- The overview Operating Plan must be a public document from the first year and cover those first two years as stated so the public know in advance what to expect.
- I support the production of an annual and publicly available report.
- First plan and report should be at the very beginning- to set out it "stall". For the first 5 years there should be interim reports, shorter , every 6 months to give a shorter review on half the key pointers, and the annual report should then group together 2 shorter reviews and also key planning for the coming year with clearly set out aims and markers for success. Annual report has to include near misses and actions taken- anonymously of course.

Taken together the operating plan and annual report will be a way to increase transparency and for Manx Care to demonstrate its accountability to its members, the public, other stakeholders and the DHSC. The operating plan, which will be available from the first year of

operation, will set out how Manx Care intends to fulfil its responsibilities in order to comply with the mandate. The annual report will then clearly summarise whether Manx Care has been able to deliver on its operating plan in the delivery of the health and care services over the year. It should allow all stakeholders to assess how Manx Care has performed in relation to the use of its funding, and the efficiency, effectiveness, and standard of the services provided.

10. Part 7 – Miscellaneous and Supplementary

Question – Do you have any comments on part 7 of the Bill?

The majority of comments on this part related to the duty of care and duty to share information.

Duty of Care

- The main recommendation related to need for duty of care - why is this not part of the proposed bill - it is alarming that there is no duty of care in manx legislation.
- Government is the only organisation that has a Duty of Care, and should be the main provider of health and social care.
- Does not include explicit statement on duty of care and e.g. confidentiality that was highlighted in report
- The DHSC has a 'Duty of Care'. This Duty of Care has implications far greater than the duty of confidentiality, the duty to share information where appropriate, and duty of candour. There will inevitably be individuals whose needs cannot be met easily or cheaply, and I believe only Government has the ability to respond appropriately. I believe Duty of Care should remain with the Government.
- Duty of care often requires brevity and individuals need support to enable them to put the clients needs first., where needs of organisation, political party line or powerful professional groups may monopolize the agenda. We are fooling ourselves if we believe altruism and integrity prevail.
- There needs to be an explicit duty of care within legislation - it should not be dismissed as ok as reliant on common law. This duty of care was highlighted as key issue in the review - and the weak dismissal of such an important issue here reinforces the view that DHSC is not client centred!

Duty of care is a common law[4] duty in the Isle of Man and in England and Wales. This means it is not defined in any piece of legislation but instead has been developed through the courts making decisions on legal points and creating binding precedents setting an obligation on one party to take care to prevent harm being suffered by another. Duty of care applies to the DHSC and will apply to Manx Care as well as all other persons providing services. They owe a duty of care to patients, service users, colleagues, employers and themselves without the need to state that in legislation. Including a duty of care in legislation would supersede, and therefore limit, the application of the common law duty which would not be desirable.

Duty to share information

- Again timescales?
- I strongly support the duty (requirement) to share appropriate information, an aspect which has been lacking for certain areas in the past (when the application of 'patient confidentiality' has been inappropriately applied, including between Govt Departments, thus leading to potential harm).
- I think this is an area where the health system is poor at present. Greatly improved data sharing is to be encouraged with appropriate safeguards.

[4] also referred to as 'judge-made' or case law.

- Changes to clinical and social practices involving Do Not Resuscitate Orders, Advanced Directives and Living wills and their legal interfaces need to be cautiously considered when transferring these and any associated responsibilities. Patient information must remain under the involvement and desired management of patients and families / carers where and routine checks on the use of such information be made. It has to be highlighted that patient /carer consent may be withdrawn at any moment and that authority needs inserting into this or any other Bill.
- You mention access under Data Protection. What about access for deceased persons under "ACCESS TO HEALTH RECORDS AND REPORTS ACT 1993" Again, I can provide you reams of paperwork on how DHSC is currently treating the public for access under the above. This act needs to be clear.
- Confidentially standard is good but should have proviso that if it is in the best interests of the patient information must be shared with 3rd parties .Even it it breaks confidentiality.
- Very clear guidelines will be needed, which are part of fundamental training. It is this whole area that sets out a new ethos for the new service. This are is key.
- The duty to share information, initially between the DHSC and ManxCare must be approached with caution and subject to debate and further consultation on how the information is obtained, collated, stored and shared. The standards are not yet fully developed or sufficiently know widely including local storage systems and processes for off island sharing. This in itself should require further legislation to determine the legal safeguards and penalties of breaches. Patient awareness and potential corrective actions for these must be made clear to all.

All necessary data sharing agreements will be put in place, for example between Manx Care and the DHSC, other Government Departments and other providers that it commissions services from. The existing Data Protection legislation already covers data security adequately and clearly sets out an individual's rights to object to their data being processed. This is sufficient to cover any concerns about the personal data of patients and service users. Additionally, there will be some consequential amendments made to the Access to Health Records and Reports Act 1993 to capture circumstances where Manx Care may be the holder of records under that Act and ensure clarity.

11. Schedule 1 – Part 1 – Manx Care: Membership

The first part of Schedule 1 outlines requirements for membership of the Manx Care board, including for non-executive and executive members.

Question – Do you have any comments on this part of the Bill?

There was support for a non-political, majority non-executive board of Manx Care. Many of the comments received suggested particular roles for the non-executive directors including:

- safety/quality;
- informatics/communication;
- members with an understanding of the 'business of care' - someone who understands the regulations and operational delivery of care in the wider setting;
- lay members;
- members of recognised existing care groups;
- medical audit;
- human resources;
- logistics; and
- procurement.

A selection of other feedback is shown below, outlining other themes that were covered in responses relevant to the board:

- Is there likelihood that allowing the Department to appoint a Board… the membership may be slightly prejudiced and therefore not acting "independently"……Would the board have proper support for instance a company secretary (legal) and an independent director to support the board ie the means by which an "NHS" board would be similar to that of commercial boards.
- Will board meetings be open to members o the public (at least for a part)? How will healthcare workers be able to feed into strategy decisions?
- The… professional qualified persons… should be actively involved in the Health service , and not some retired people who have lost touch with the present delivery of Health & social care.

The Establish Arm's Length Delivery of Health and Care Project is considering the specific responsibilities of the board members to ensure they cover the interests of the different stakeholders. The non-executive members will include lay members, as recommended in Sir Jonathan Michael's Final Report. The Transformation Programme is working through the board membership and roles, and will set these out in detail as part of the corporate governance framework. When developing that framework, consideration will be given to the support needed for the board to function efficiently and effectively and to holding board meetings in public.

The "appropriately qualified persons" referred to in this part of the Bill will be actively involved in the health and social care services. It is intended that it will be two or more people that fulfil specialist roles such as Director of Social Care, Medical Director or Director of Nursing.

12. Part 2 – Organisation and Staff

This part allows for the transfer of staff from the DHSC to the new Manx Care body. It also provides for recruitment of staff directly by Manx Care and for employees of the Public Service Commission to be stationed with Manx Care.

The staff transfer scheme under Schedule 4 sets out how the DHSC can transfer its current staff to Manx Care and states that existing terms and conditions must be protected.

Question – Do you have any comments on these parts of the Bill?

There were a number of comments raised around transferring staff, a selection of these are shown below:

- Transferring staff should include the length of time those conditions and terms will be honoured.
- Failure to consult health care staff on transferring them to another organisation has been lamentably slow. If their terms and conditions are protected, then it should state clearly how long for.
- The introduction of any different employment practices such as changes to rota's, shift patterns, part time working, location, travel arrangements, etc will, where in dispute, may be considered as a change in terms and conditions and will in effect be in breach of this Bill and will be dealt with as such.
- Automatically using the same people as previously surely cannot produce… changes. Manx Care should be recruiting from scratch with existing DHSC personnel automatically shortlisted for interviews, but not guaranteed positions.
- Doesn't mention superannuation schemes.
- There is a need to ensure that staff of all grades appreciate what the change/transfer means given that the intention is to hold them much more accountable for their service levels.

Once those behind the Establish Arm's Length Delivery of Health and Care Services Project have clarified the allocation of functions between the DHSC and Manx Care, the Transformation Programme will do much more engagement with staff about the transfer. Although the high-level work has been done to inform the legislation, there is still a lot of work underway to determine the detail. This will allow the Transformation Programme to be more specific about the roles that will need to transfer and what that means for staff. The COVID-19 pandemic has placed significant, additional pressure on the health and social care system, and the Transformation Programme will be sensitive to that when planning the engagement.

As we separate the teams that lead health and social care policy from those that lead delivery, there will be some changes to the structures, new governance processes and a need to be more accountable. Most staff that transfer into Manx Care will see no real changes in their duties or current job description as a result of the transfer; however, some additional roles may be created as an outcome of the Pathfinders Projects or the workforce model being put together by the Workforce and Culture Project. Over time and outside of the scope of the Establish Arm's Length Delivery of Health and Care Services Project, Manx

Care may review duties and responsibilities to ensure that the right services are delivered, to the right people, at the right time and in the most affordable way.

However, it was important to be clear at an early stage that it is not the intention to change any terms and conditions as part of the transfer to Manx Care. Terms and conditions do include pensions, and this will be clarified in the final Bill. Any future changes would be managed through normal procedures for changing terms and conditions, such as collective bargaining.

13. Part 3 – Inspections

Part 3 of Schedule 1 provides for regular inspections of Manx Care by independent, external quality regulators.

Question – Do you have any comments on this part of the Bill?

There was a lot of support for the external inspection regime. Feedback indicated that the Bill is not clear enough on the need for the appointed inspectors to be independent and external to Government. The wording of the Bill will be amended accordingly.

A selection of other comments received is below:

- inspections should be made public. inspectors should not only point out areas that fail to comply but also give advise.
- A clear path for complaints and comments from the public needs to introduced, so that the DHSC can decide when inspections are warranted. Issues such as long lead times to see a doctor require a channel for communication to the "new DHSC" acting as a watchdog of medical services on the island.
- External quality assurance audits (CQC [Care Quality Commission] & WMQRS [West Midlands Quality Review Service]) have been contracted in the past… However, many agreed actions have not been achieved for various reasons… What provisions are being put in place to ensure inspection findings and recommendations are addressed?
- 9. Exclusions from publication. This is too wide… Where is the independent appeal process ? Where are the timescales ?
- Inspections should also look for evidence of looking to the future on possible and actual developments in treatments by Manx Care… Relevance of treatment and equipment should be part of a medical audit and outcomes of treatment should have context and not seen in isolation. Part of reporting should include face to face patient surveys and complaints.

The way in which the inspectors carry out inspections and report on them will depend on the manner agreed between the Department and the inspectors appointed. The Implement External Quality Regulation Project of the Transformation Programme will implement appropriate, comprehensive external quality regulation across the full breadth of health and care services on the Island, and will consider which inspectors will be able to make arrangements that are best suited to the Island context and the outcomes to be achieved. It is a requirement that the reports are published to ensure increased transparency and public scrutiny. Manx Care and the DHSC will have to apply the "exclusions from publication" paragraph in a reasonable manner. It is important to note that the exclusions are specifically in relation to protecting the safety of individuals and their data.

Complaints from patients and service users will be made available to the DHSC as part of Manx Care's accountability to the DHSC. As the DHSC remains ultimately responsible for providing services and will continue to have access to health and social care expertise, they will be best placed to determine if additional inspections are required on particular areas of concern. Given the new model and the split of responsibilities, there will be increased

accountability between the DHSC and Manx Care to ensure that the findings of reports are addressed.

14. Schedule 2 – the Mandate

This schedule sets out the minimum requirements of what must be included in the mandate from DHSC to Manx Care.

Question – Do you have any comments on Schedule 2 to the Bill?

One of the themes raised in relation to this part of the Bill was the need for a suitable and comprehensive complaints process with appropriate recourse to independent scrutiny. Work is underway to ensure that the current complaints system remains in place to ensure that any complaints received in relation to Manx Care (and its commissioned service providers) are reviewed and can be subject to independent oversight if not resolved. The Transformation Programme also plans further work on the future enhanced complaints processes.

A selection of other comments received about the mandate, more generally, are shown below:

- Needs detailed one year and 5 year medium and 10 year long term objectives and financial projections.
- Minimum requirements cause systems to fall below the required standards. To avoid falling below minimums, the minimum requirements should be identified and then the requirements set well above the minimums.
- There should be nothing woolly in the mandate, it should be clear and precise, without exception.
- The final document should be the work of as many stakeholders as possible. I accept that decisions will have to be made as every body cannot be pleased with the result, but a good indication of a new ethos would be for the mandate to have an appendix as to why the decisions included in the final document were made.

The needs of patients and service users will be central to informing the mandate, both in terms of standards and services that are required. The Establish Arm's Length Delivery of Health and Care Services Project is working through this in detail and the intention is that the mandate will continue to evolve and increase in sophistication as more data becomes available.

15. Schedule 3 – Transfer of rights and liabilities

This Schedule allows the DHSC to develop a scheme to transfer its rights and liabilities to Manx Care. Under the scheme, Manx Care will acquire all rights, powers, duties and liabilities under or in connection with the contracts transferred. The scheme will also transfer liability for all pre-transfer acts and omissions of, or in relation to, the DHSC in respect of those contracts.

Question – Do you have any comments on Schedule 3 to the Bill?

A selection of the feedback received is shown below:

- Manx Care should acquire all rights, powers, duties and liabilities, not only for staff contracts.
- This will presumably include ongoing… HR issues , investigations and any outstanding personnel matters such as Employment Tribunals etc.
- The DHSC must remain the body holding the rights and liabilities as it… should be the one body responsible to the public and not hide behind this proposed Manx Care.
- What happens to current complaints. Please put it in writing that they will also be transferred over and not "lost" in transit.
- Only that Manx Care will not have the ability to discontinue inappropriate contracts Also how does Manx Care respond in national emergencies like coronavirus
- Will the money for liability for previous acts and omissions go with the transfer of rights?

The Establish Arm's Length Delivery of Health and Care Services Project is working through all relevant contracts to determine the rights and liabilities that will transfer from the DHSC to Manx Care to ensure that the DHSC and Manx Care have the correct rights and liabilities in connection with their respective functions. The DHSC remains accountable for all services and this will be considered when developing the scheme. Current complaints will also be considered in the development of the scheme to ensure that their resolution can continue within any revised complaints process.

It is agreed that Manx Care will not be able to unilaterally break any existing contract transferred to it except through existing termination provisions of that particular contract.

The mandate will include provision to allow the Government and Manx Care to react appropriately and vary the provision of services in the event of unexpected events, such as a pandemic.

16. Other comments

Question - Do you have any other feedback in relation to the Manx Care Bill that you have not provided elsewhere?

There were various other themes raised on this question. These themes, together with other comments raised elsewhere in the consultation, have been grouped below, with examples of each:

Privatisation

- This can be seen as a first step in the eventual privatisation of parts of health and social care system on the Isle of Man. The transformation would have been better as a phased process but it seems the ongoing financial failures and governance ineffectiveness of the DHSC shown in the last 5 years or so has hastened the demand for change based primarily on an argument of economics. In my view these problems can equally be largely attributed to poor judgements, poor choices involving leadership and management changes and a large chunk of arrogance and indifference of the public need. Address this in response
- It appears to allow for greater privatisation

The introduction of Manx Care is not a move towards privatisation of the health and social care service. Manx Care will be a public sector organisation, funded by the Government, as set out within recommendation 2 of the Final Report which received unanimous support from Tynwald. The Bill gives Manx Care a clear function to discharge those DHSC duties/functions that are within the mandate. The Bill does not suggest any changes in the fundamental principles for the health and social care service. The DHSC and Manx Care will continue to work to the seven current core principles of the NHS endorsed by Tynwald, which also apply to social care services on the Island.

The DHSC currently has contracts in place with external providers for services to be provided. The DHSC also has the power within legislation to provide private accommodation and treatment, if it chooses to do so. Manx Care will have a similar power under the Bill, which will be able to be used if the DHSC allows Manx Care to provide private health services and with the proviso that it will not interfere with the other services to be provided under the mandate.

Financials

- seems to be little to address the principles of funding arrangements
- Manx Care will be an autonomous/independent organisation with a discrete budget which will be used to provide/secure those services. Each Department of Government has a budget which it has to work within on an annual basis. This includes the DHSC who has year on year applied for a supplementary vote from Treasury, the last being £8 million. Two of reasons given which are always increased drugs costs and staffing. How will this be any different under Manx Care, will they be in the same position of asking for more money within the financial year, what happens if they go over budget. Should there be penalties?
- Funding for Residential or Nursing Care requires urgent addressing , the conversation has been gone on for years and not resolved. It is appalling and wrong the selling of

family properties for care of their ill family members. After much thought and discussion, I feel that a special charge taken of everybody on NI, should be looked into.

Funding arrangements are not addressed in the Manx Care Bill as they are covered sufficiently by other Acts. As a statutory board, Manx Care will be subject to the Treasury Act 1985 and Audit Act 2006. Further work on funding will be developed by the New Funding Arrangements Project of the Transformation Programme, including the process for any under or overspend by Manx Care. This will support changes in the amount of funding the health and social care system receives and, over time, will inform changes to the funding mechanisms for the system.

National Emergencies/Exceptional Circumstances

- Will Covid-19 affect the plans and timetable for the introduction of Manx Care?
- Manx Care should have provision for extraordinary circumstances and also who has responsibility of ordering and keeping equipment for emergencies.

The Transformation Programme recognises that the COVID-19 situation on Island has placed significant, additional pressures on many Government staff, in particular within the DHSC. With this in mind, the Transformation Programme Team have been working to a revised approach for the Transformation Programme to allow work to continue over the next few months.

The Transformation Programme is focussing on the areas that need limited input from DHSC team members, helping to ensure that our health and care colleagues can focus on the COVID-19 crisis at hand. This approach aims to keep the work moving in an appropriate way; ready for when stakeholders have more time to input on the future of health and social care on the Isle of Man. This will be kept under regular review as the COVID-19 situation progresses.

The establishment of Manx Care is a critical step in making the necessary changes to fulfil the recommendations within Sir Jonathan Michael's Final Report and work has been able to progress to plan despite COVID-19. The DHSC worked with the Transformation Programme on the drafting of the Bill ahead of the public consultation and, as it is high-level legislation and mainly structural in nature, it can progress at this stage without impacting staff delivering services. It is still anticipated that the Manx Care Bill will enter the branches of Tynwald before the summer recess, allowing Manx Care to become operational in April 2021.

Consideration on how the DHSC and Manx Care would work together and the split of responsibilities in the case of national emergencies (including pandemics) is being considered as part of the Establish Arm's Length Delivery of Health and Care Services Project, and will be included in the mandate.

Concerns about whether the creation of Manx Care will result in real change

- DHSC has failed in its delivery of Health & Social Care during the 2015-20 Strategy period, due to a number of reasons, including insufficient and poor quality

management data, increased costs for provision of services, lack of key staff, and lack of leadership and management with instability at the top of management since 2016, which has led to inconsistent decision making and lack of continuity and clear direction.
The objectives for transformation have not yet clearly been established in terms of any operational standards with regard to improving the quality of care for Isle of Man residents.
What are acceptable waiting times, what are acceptable screening /survival rates (do we use UK standards), what are the acceptable costs of care per resident, what are all the acceptable costs to the Isle of Man of its health services etc. How is Manx Care going to succeed in delivering measurable outcomes, how and what are they going to do differently to contain costs, attract and retain staff to provide stability- all of which DHSC have failed to do?

- The IOM health service generally provides a reasonable standard of treatment and care. However, the skills and experience of health professionals vary greatly. Good clinicians, doctors and nurses are the backbone of the health service. Continuity of care is also important, along with training to ensure health professionals are aware of all the latest information etc. If the health service is to consist of the same staff as before, but under a different name, I cannot see how the service is going to improve in the short term. However if Manx Care manages to make changes to address some of the issues affecting staff, then perhaps it will be worth all the time, work and effort that has gone into this project.

It is understandable that people may be sceptical about the ability of the Transformation Programme to deliver real and long-lasting change, given the number of previous reviews that have not resulted in change. As Sir Jonathan Michael stated *"Several reviews of health and social care on the Isle of Man have been undertaken over recent years, identifying deep-seated problems in the way the services were organised and delivered. They made many good recommendations, which appeared to be accepted at the time but were not fully implemented – or, in some cases, not implemented at all. It would be extremely disappointing if the same were to occur with the recommendations in this Report, given that it has become very clear and widely recognised that the current system of health and care on the Island is both clinically and financially unsustainable*".

The Transformation Programme benefits from significant dedicated resource and high-level endorsement, via Tynwald, to create high-quality, integrated, person-centred care.

The creation of Manx Care in 2021 is a first of its kind for our Island – an exciting opportunity to create an arm's length body responsible for the delivery and/or commissioning of health and care services.

Yet Manx Care is only one part of the systemic change that needs to be achieved. Over the next five years, the Transformation Programme will work with the DHSC and other stakeholders, including the public, to complete the 14 projects within the Programme. The outputs of these projects will include developing additional new legislation, integrated pathways of care, funding models and governance frameworks. Everyone will be part of the transformation from front-line care providers to policy makers to patients and service-users;

and putting every person at the centre of their care sits at the heart of the Transformation Programme's approach. This collective approach will embed lasting change.

Whilst the necessary high-level policy decisions have been made to drive forward this first piece of legislation to enable the restructuring needed as a first step in delivering the Final Report's recommendations, the detail of the changes is still being worked up by the projects in the Transformation Programme. The Bill is high-level and gives enabling powers, allowing the detail to be implemented at a later date. The enabling powers also provide for the detailed projects to develop over time, as the Transformation Programme will be a long-term programme, requiring time to effect the enduring transformation needed.

Purpose of the Bill is unclear or undesirable

Three respondents were completely opposed to the idea of establishing an arm's length organisation to deliver health and care services, which was a cornerstone recommendation from Sir Jonathan Michael. Others wanted more information on the benefits of establishing Manx Care. A selection of these comments are shown below:

- It might have been more useful to gather some basic questionnaire data e.g on attitudes to funding model proposed, need for dedicated air ambulance service, demand for mental health provision, integration of health and social care etc and maybe items identifying key trade offs in proposed structure and management etc rather than having folk accessing lots of separate pdfs and having open request for comments only. It is not entirely clear what is being proposed in each instance to be honest and it is also not always clear how it differs operationally and in terms of vision from current model or wider uk models of delivery and management.
- Reading through this, I as a member of the public wanted more information. A lot of what I read seemed to be copy and paste from UK which is failing and no mention of things from Scotland which I found odd. As a result I felt that we'd only be getting a copy and paste not one that really suited us here and was meant for us.
- I am concerned that yet another layer of public service will prove expensive, confusing and still not attract more, good quality doctors to the island, as they remain public servants with a fixed pay structure. Appealing to a mixed system public/private would be far more attractive.
- Statutory Boards do not have a good track record for servicing the community - e.g. the Post Office and the MUA (formerly the MEA). I would prefer to have health and social care to be directly provided by the Government.
- Health care and Social care is very different and was privy seperate in staffing , funding and management. It should be seperate again.
- It just brings in a further level of 'fat cats' management and therefore should not happen.
- It is clear that this bill is for the governments good and not for the good of the public.
- I believe these services should be directly provided by the Government, not at arms-length by another organisation. I therefore recommend that this proposal is shelved.

Manx Care is being established as part of the Transformation Programme delivering Sir Jonathan's 26 recommendations. Recommendation 2 in the Final Report was that: "*The setting of priorities and the development of policy in both health and social care should be separate from the delivery of services. A comprehensive governance and accountability*

framework should be established aligned to agreed standards and underpinned, where necessary, by legislation. A single public sector organisation, perhaps to be known as "Manx Care", should be responsible for the delivery and/or commissioning from other providers of all required health and care services". This has been accepted by Tynwald, which has required this to be implemented by the Transformation Programme.

Throughout the Independent Review, there was a clear focus on engaging with people on the Isle of Man. The Independent Review listened to their views, which were very clear about the sort of health and social care system that people on the Island say they need. It is based on five key aspects:

- High quality, efficient services;
- Best value;
- Delivered as locally as appropriate;
- Timely provision of services, which are both accessible and integrated with other aspects of the system; and
- Sustainable, both financially and clinically.

As the Island's ageing population continues to rise, and people continue to visit and relocate to the Isle of Man, it is clear that the current approach to health and social care means that costs are spiralling. Patients and service users told the Independent Review that their care isn't as seamless or effective as it should be.

The case for change was set out in section 4 of the Final Report, making it clear that incremental improvements are no longer enough. It's time to take action and make the changes needed. This includes putting every person at the centre of their care and creating a health and social care system that the Isle of Man can be proud of. The Transformation Programme is committed to achieving this, but it will take action and contributions from all, including front-line care providers, policy makers and service-users, to create and implement those changes. As mentioned earlier, the establishment of Manx Care is a key building block in achieving the health and care system that we, as an Island, want to see.

Other

A selection of other comments received to the consultation are shown below, and will be addressed by the specific projects within the Transformation Programme:

- The sooner there is integration of social care and health services the better. However funding and staffing will continue to be major problems.
- Does not mention how the primary care contracts Gps, pharmacists are going to be integrated
- I would suggest that the final framework and supporting documents be referred back to the original report writer for comment prior to implementation.

Over recent years we have seen individuals and teams within the health and social care service taking strides forward to achieve greater integration; however, the Final Report outlined that more must be done. The Transformation Programme aims to integrate services around the needs of the individual and a number of projects within the Transformation Programme are designed to work together to increase that integration, including:

- improving care pathways that go right across the system starting with public health and the wellbeing of the population through self-help, community services and into

hospital and specialist services. These will increased the shared accountability for the care of the individual so that providers can work together to deliver an end to end service;

- Primary Care at Scale Project looking at how to achieve enhanced primary care at scale, maximising the benefits of the scale and integrating it as a key part of an integrated health and social care service;
- Data, Information and Knowledge and the Digital Strategy Projects focussed on improving communication through the use of technology and ensuring that everyone has the right information, at the right time to enable effective decision making; and
- Workforce and Culture Project looking at an innovative workforce model and reflecting the new models of care in terms of the increased integration and facilitating multi-disciplinary team approaches and sharing knowledge.

Sir Jonathan Michael remains an advisor to the Transformation Programme and continues to monitor to ensure progress towards the realisation of his recommendations.

17. Next Steps

It is planned that this Bill comes into operation before 1 April 2021, so that Manx Care is established at the start of the new financial year. The following are being considered for inclusion in the Bill as part of the process to finalise it:

- clarification that documents that may or must be published under the Bill can be published online and must be published in a timely manner;
- clarification that the external inspector(s) appointed to review Manx Care must be external to Government;
- clarification in relation to the directions to be given to Manx Care when it is failing to fulfil its functions (particularly around what the DHSC and Council of Ministers can do and when);
- clarification that private care services can be provided by Manx Care but only if the DHSC has determined that they should be provided in this way;
- clarification that the hospital shop and café can continue to be provided by Manx Care; and
- clarification that "terms and conditions" for staff transferring to Manx Care includes pensions.

The Bill will also include several amendments to other legislation ensuring that the implementation of Manx Care does not cause any unintended consequences. Various necessary changes have been identified including:

- the ability for unresolved complaints in relation to Manx Care are able to be subject to independent review;
- the ability for the Health Services Consultative Committee to review services provided by Manx Care under the mandate;
- the requirement for Manx Care to have at least one responsible officer to evaluate the fitness to practise of registered medical practitioners;
- Manx Care will be subject to registration and inspection under the Regulation of Care Act 2013;
- allowance for the medical practitioner on the Advisory Body on the Misuse of Drugs to come from Manx Care;
- Manx Care should be included as a body subject to the Freedom of Information Act 2015;
- changes to the Access to Health Records and Reports Act 1993 to capture circumstances where Manx Care may be the holder of records under that Act and ensure clarity;
- the Chief Executive Officer of Manx Care should be added to the list of people ineligible for jury service under the Jury Act 1980; and
- the Road Traffic Act 1985 allows the Department of Infrastructure to maintain a database of driving license details that can be accessed by the DHSC so that the Department can access information on whether a license holder has expressed a request that their body, or any specified part of their body, be used after their death for therapeutic purposes or for purposes of medical education or research. This database will need to be accessed by Manx Care.

The expectation is that the finalised Bill will enter the House of Keys before the end of this parliamentary session.

The Transformation Programme is working towards Manx Care running in "shadow form" ahead of it being formally established in April 2021. This is to allow for any operational issues arising from the establishment of the new organisation to be worked through and resolved. This is vital to ensuring business continuity of the health and care service, which is a critical service.

The Transformation Programme will also draft a second Bill which will focus on national health and care service reform. It will seek to modernise the current health and social care legislation in line with recommendation 8 of the Final Report, which states that "*legislation should be introduced…in order to form a modern, comprehensive legislative framework. This legislation should address weaknesses or gaps in the current system as well as enabling the implementation of the recommendations contained in [the] Report*". Work is underway on the policies needed to inform this National Health and Social Care Service Bill and a separate consultation will follow in due course.