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Dear Colleagues

CIRCULAR OSS-1-2026 ARRANGEMENTS IN RESPECT OF DISCHARGE OF SOCIAL CARE AND CHILDREN FUNCTIONS

Following discussion and agreement with the SPPG and the HSCT Executive Directors of Social Work group, Circular, OSS 01/2026 “Arrangements in Respect of Discharge of Social Care and Children Functions” has been finalised for issue with immediate effect.

The purpose of this Circular is to address key issues of responsibility, governance and assurance in the context of the delivery of social care services.

The Circular sets out the processes and considerations, governance and accountability arrangements when making formal decisions around complex tasks undertaken by social workers and social care workers.

I have included a copy of the finalised Circular for your awareness.

Yours sincerely



MICHAEL BURNS

Acting Chief Social Work Officer
Department of Health

Enc

TAB A

CIRCULAR OSS 1/2026: ARRANGEMENTS IN RESPECT OF DISCHARGE OF SOCIAL CARE AND CHILDREN STATUTORY FUNCTIONS

1. INTRODUCTION

1.1 The Health and Social Care Act (NI) 2022 ("the 2022 Act") dissolved the Health and Social Care Board ("HSCB"). As a result, the power of the HSCB to delegate certain statutory functions held by it to Health and Social Care Trusts (HSCTs) ceased to exist. The statutory functions of the HSCB in relation to children's and adult social care are therefore no longer delegated, but rather directly assigned to HSCTs. Reporting duties to the Department do however remain, as outlined below.

1.2 Arrangements for professional oversight of statutory functions are designed to ensure that functions are discharged in accordance with the law and to relevant professional standards.

There should be an unbroken line of professional accountability from an individual social worker through to the Chief Social Work Officer (CSWO). This means that the CSWO, the Director of the Social Work, Mental Health and Disability Directorate (SWMHDD) in SPPG and HSCT Executive Directors of Social Work are responsible for ensuring that they have the necessary systems in place in their organisations to ensure professional oversight of the delivery of statutory functions.

ARRANGEMENTS PRIOR TO THE 2022 ACT

1.3 Prior to the enactment of the 2022 Act, the discharge of certain functions of the HSCB was delegated to and exercised by HSCTs on behalf of the HSCB under the Health and Personal Social Services (Northern Ireland) Order 1994 ("the 1994 HPSS Order"). Delegation was by way of an instrument in writing under seal ("an authorisation"). Authorisations required the approval of the Department of Health ("the Department").

1.4 The 1994 HPSS Order also required each HSCT to submit to the HSCB for approval a scheme for the exercise by the HSCT of specified functions. Schemes, known as "Schemes for the Delegation of Statutory Functions (DSFs)" were developed by HSCTs in co-operation with the HSCB, which subsequently approved each scheme and submitted it to the Department for approval. As part of the approval process, the Department's role was to ensure that proper provision had been made for the exercise of the specified functions

to be delegated to HSCTs and that the HSCB had appropriate arrangements in place to assure that HSCTs were exercising those functions effectively. A review of the arrangement for the delegation of statutory functions undertaken in 2011/12 recommended that HSCB agree one single uniform template Scheme for DSFs with each of the five HSCTs to ensure that there was regional consistency in the Schemes approved.

1.5 The HSCB could, with the approval of the Department, revoke an authorisation to a HSCT to exercise specified functions in circumstances where this was considered necessary.

1.6 The requirement for an unbroken line of assurance and professional oversight of the discharge of DSFs from HSCTs to the HSCB and ultimately to the Department came into place in 1994. Arrangements for professional oversight were designed to ensure that DSFs were discharged in accordance with the law and to relevant professional standards within a system of delegation.

1.7 The Chief Social Work Officer (CSWO) in the Department, the previous Director of Social Care and Children's Directorate in the HSCB (the HSCB Director) and the Executive Director for Social Work (EDSW) in each of the HSCTs all held responsibilities for the effective operation of professional oversight of DSFs.

1.8 Professional oversight arrangements were an integral part of the overall system of checks and balances for HSCTs, the HSCB and the Department of Health.

Professional oversight involved:

- Approval of schemes for the delegation of statutory functions;
- Being assured that delegated statutory functions were appropriately discharged;
- Performance management;
- Strategic oversight;
- Quality assurance;
- Continuous improvement;
- Reporting

ARRANGEMENTS AFTER THE 2022 ACT

1.9 Upon the dissolution of the HSCB, its functions in relation to social care and children became the responsibility of the Department. The Strategic Planning and Performance Group ("SPPG") within the Department has responsibility for performance management, commissioning, strategic planning and leading and supporting a number of multi-agency partnerships and networks to deliver service improvement. The Social Work, Mental Health & Disability Directorate

(SWMHDD) within SPPG has the above responsibilities in relation to social care and children functions.

1.10 The Department is responsible for planning, commissioning, improving and overseeing the delivery of effective, high quality and safe health and social care services for everyone in Northern Ireland within available resources.

The Department plans and designs a range of health and social care services that deliver high quality and safe outcomes for patients and service users, are good value for the taxpayer, and comply with statutory duties.

The Director of SWMHDD is responsible for the management of the SWMHDD and performance management of HSCTs in respect of statutory functions and is accountable to the Chief Operating Officer of the SPPG who in turn is responsible to the Department's Permanent Secretary, and on to the Minister.

The Director of SWMHDD works in partnership with the Department's Social Care and Public Health Policy Group (SCPHPG) and the Office of Social Services (OSS) and reports to the Chief Operating Secretary regarding matters of performance, professional advice, guidance and insights in relation to the provision of the full range of social care and children's functions and services to children and families.

1.11 The 2022 Act amended the Health and Personal Social Services (NI) Order 1991 ("the 1991 HPSS Order") and the 1994 HPSS Order in relation to arrangements for social care and children statutory functions.

2. PURPOSE OF THIS CIRCULAR

2.1. This circular outlines the roles and responsibilities of; -

- the Chief Social Work Officer (CSWO);
- Director of the SW, Mental Health & Disability Directorate (SWMHDD) within SPPG;
- the HSCT Executive Directors of Social Work (EDSWs) and the Social Care and Public Health Policy Group (SCPHPG).

as they relate to the management and professional oversight of social care and children's functions exercised by HSCTs.

3. LEGISLATIVE FRAMEWORK (AS IT RELATES TO SOCIAL CARE AND CHILDREN FUNCTIONS)

3.1 SOCIAL CARE AND CHILDREN'S FUNCTIONS

3.1.1 Article 10A of the 1991 HPPS Order (as inserted by the 2022 Act) defines "social care and children functions" for the purposes of Article 10 of, and Schedule 3, to that Order.

3.1.2 In accordance with the definition provided in Article 10A, "social care and children functions" means the following functions (so far as they are exercisable by HSC Trusts under the provisions conferring them) —

a. functions under sections 35 and 96 of the Children and Young Persons Act (Northern Ireland) 1968;
b. functions under Articles 15, 36, 37, 38, 39, 99, 101 and 101A of, and Schedule 6 to, the Health and Personal Social Services (Northern Ireland) Order 1972;
c. functions under sections 1(2), 2 and 12(1) of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978;
d. functions under the Mental Health (Northern Ireland) Order 1986;
e. functions under the Adoption (Northern Ireland) Order 1987;
f. functions under sections 4 to 9 of the Disabled Persons (Northern Ireland) Act 1989;
g. functions under the Children (Northern Ireland) Order 1995;
h. the function of making or submitting pre-sentence reports within the meaning of Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996 or Article 4(1) of the Criminal Justice (Northern Ireland) Order 2008;
i. functions under the Carers and Direct Payments Act (Northern Ireland) 2002;
j. functions under the Mental Capacity Act (Northern Ireland) 2016.

These functions are further defined in associated secondary legislation and guidance.

3.1.3 Article 10A of the 1991 HPSS Order also empowers the Department, by regulations, to amend the list of social care and children's functions set out in paragraph (1) of that Article.

3.1.4 Article 10B of the 1991 HPSS Order (as inserted by the 2022 Act) empowers the Department to make delegation directions[1] to provide for specified functions of the Department to be exercisable, in relation to the operational area of a specified HSCT, by that HSCT on behalf of the Department.

[1] As of September 2026, no delegations directions have been made by the Department.

3.1.5 Article 10B (4) provides that a delegation direction may contain such transitional provisions as the Department thinks appropriate.

3.1.6 Article 10B (5) states that a HSCT is entitled to enforce any rights acquired in the exercise of any delegated functions and is liable in respect of any liabilities incurred (including any liabilities in tort) in the exercise of any delegated functions, in all respects as if it were acting as a principal; and all proceedings for the enforcement of such rights or liabilities are to be brought by or against the HSCT in its own name.

3.1.7 Paragraph 6 of Schedule 3 to the 1991 HPSS Order clarifies the duties, powers and status of the Department and HSCTs. It provides that the Department may give directions of a general or specific nature to an HSCT as to the carrying out by that Trust of any of its functions (at para 6(2)) and that the Department may give guidance to an HSCT as to the carrying out by that Trust of any of its functions (at para 6(3)).

3.1.8 It also (at para 6(5)) provides that the Department must consult the HSCT concerned before giving any directions under paragraph 6(2).

3.1.9 Paragraph 6A of Schedule 3 to the 1991 HPSS Order provides that an HSCT must record such information with respect to the exercise of its functions as the Department may direct and that that information must be recorded in such form, and retained for such period, as the Department may direct.

3.1.10 Paragraph 7(1) of Schedule 3 to the 1991 HPSS Order requires each HSCT to prepare and send to the Department, for each financial year, an annual report in such form as may be determined by the Department.

3.1.11 Paragraph 22A of Schedule 3 to the 1991 HPSS Order empowers the Department to issue directions that specified social care and children functions may be exercised by other organisations (the Department, another HSCT or specified person or body) on behalf of the Department.

3.1.12 The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (the 2003 Order) also places a statutory duty of quality upon health and social care organisations and requires the Department to develop standards against which the quality of services can be measured.

4. STATEMENT OF PRINCIPLES

4.1 Arrangements for the management and professional oversight of social care and children's functions exercised by HSCTs should be based on a commitment to:

(i) co-operation in the interests of improving and safeguarding the social wellbeing of children, families, adults and communities;
(ii) evidence-informed decision-making;
(iii) the provision of quality services and securing improved outcomes for service users;
(iv) regional consistency and fairness in availability, quality and effectiveness of services;
(v) continuous improvement based on learning from the professional oversight processes;
(vi) timely reporting, prompt responses and early resolution of issues;
(vii) efficiency, proportionality and effectiveness; and
(viii) robust and effective governance.

5. ROLES AND RESPONSIBILITIES (AS THEY RELATE TO SOCIAL CARE AND CHILDREN STATUTORY FUNCTIONS)

5.1 THE ROLE AND RESPONSIBILITIES OF THE DEPARTMENT

5.1.1 The Department has the following roles/responsibilities:

- The establishment and review of the legislative and policy frameworks within which adult and children's social care services operate;
- The issue of guidance and the development of standards to help ensure the quality and effectiveness of adult and children's social care services;
- Commissioning of adult and children's social care services;
- Performance management of the delivery of adult and children's social care services by HSCTs, including compliance with statutory functions;
- The provision of funding to HSCTs

5.1.2 There are three parts of the Department relevant to the exercise of social care and children's statutory functions. They are:

1) The Social Care and Public Health Policy Group (SCPHPG);
2) The Office of Social Services (OSS);
3) The Social Work, Mental Health & Disability Directorate of the Strategic Planning and Performance Group (SWMHDD/SPPG).

5.2 THE SOCIAL CARE AND PUBLIC HEALTH POLICY GROUP (SCPHPG)

5.2.1 **SCPHPG** has four policy Directorates as follows:

- *Family and Children's Policy*
  - Family Support
  - Child Protection
  - Adoption (Domestic and Inter-country, including the exercise of the Department's Central Authority Role)
  - Looked after Children and After Care
  - Regulation of Childcare
  - Domestic and Sexual Abuse Strategy
  - People Seeking International Protection
  - Reform of Children's Social Care
  - The Department's Voluntary and Community Sector Core Grant Scheme
  - Sponsorship of the Safeguarding Board for Northern Ireland
  - Sponsorship of the Children's Court Guardian Agency

- *Disability & Older People's Policy*
  - Learning Disability
  - Elderly & Community Care
  - Physical and Sensory Disability
  - Gender Identity and Transgender Issues
  - Adult Safeguarding
  - Muckamore Abbey Hospital
  - Residential and Nursing Care Homes
  - Autism
  - Children with a Disability
  - Reform of Adult Social Care

- *Mental Health Policy*
  - Adult Mental Health
  - Mental Capacity
  - Mental Health Strategy
  - Child and Adolescent Mental Health
  - Criminal Justice Healthcare.
  - Homelessness

- *Population Health Policy*
  - Health Development
  - Health Improvement
  - Infected Blood

- Vaccination (including COVID vaccination and immunisations)
- Population Screening Programmes

5.3 OFFICE OF SOCIAL SERVICES AND THE CHIEF SOCIAL WORKER

5.3.1 The Office of Social Services (OSS) is a professional social work group, led by the Chief Social Work Officer (CSWO), within the Department of Health.

OSS provides professional social work advice to the Health Minister, the Permanent Secretary, policy directorates, arm's length bodies of the Department, other government departments and their arm's length bodies, statutory, private, community and voluntary agencies providing social care and children's services.

The CSWO provides the Permanent Secretary, the Departmental Board and the Minister for Health with the key findings of the approved end year overview report from the SWMHDD and his/her assessment of compliance and risks associated with the delivery of statutory functions.

5.3.2 OSS works with others to ensure that social work and social care services are responsive to the needs of people living and working in Northern Ireland and are of the highest possible standard within the resources available.

5.3.3 OSS and the CSWO are also responsible for:

- The promotion of high quality, efficient and effective social work and social care services;
- The professional oversight of the exercise of social care and children functions by HSCTs;
- Policy on training, qualifications and staff development for the social work and social care workforces;
- Policy on the regulation and registration of the social work and social care workforce;
- The sponsorship of the Northern Ireland Social Care Council (NISCC);
- Social work and social care workforce policy and strategy in conjunction with DoH Workforce Policy Unit;
- The management of the social work student incentive scheme;
- The development of social work and social care professional and quality standards;

- Endorsement of HSC Trusts' applications for admission of children under 13 years of age to secure accommodation[2];
- Professional input into the discharge of the Department's Central Authority Role in relation to inter-country adoption; and
- The CSWO is also responsible for making final decisions on complex/controversial professional social work practice matters which have not been resolved elsewhere.

5.4 THE DIRECTOR OF THE SOCIAL WORK MENTAL HEALTH & DISABILITY DIRECTORATE (SWMHDD)

5.4.1 Originally, Directors of Social Services were appointed to the Board of the Health and Social Services Boards established by the enactment and implementation of the Health and Personal Social Services (Northern Ireland) Order 1972.

The Director of SWMHDD is required to be to be a professionally qualified social worker and a registrant with the Northern Ireland Social Care Council (NISCC).

S/he works collaboratively with the CSWO/OSS and both are responsible for providing strong professional leadership and strategic direction for social work and social care within an integrated HSC system.

5.4.2 The SWMHDD is responsible for:-

- Commissioning social care and children's services;
- Performance management of social care and children's services;
- Strategic planning of social care and children's services;
- Oversight of HSCTs in relation to the exercise of social care and children's statutory functions;
- the approval, in consultation with the CSWO, of HSCTs' schemes for the exercise of social care and children's statutory functions;
- The design and issue of a single regional reporting template in relation to the exercise by HSCTs of social care and children's statutory functions;
- The provision of assessments to the CSWO of the HSCTs' performance in relation to social care and children's statutory functions;
- The provision of feedback to HSCTs regarding their performance in respect of social care and children's statutory functions and the agreement of action plans to address non-compliance and/or areas of concern, ensuring the resolution of

[2] In compliance with Article 44 of the Children (Northern Ireland) Order 1995, [Volume 4 of the Children (NI) Order 1995 Regulations and Guidance] and The Children (Secure Accommodation) Regulations (Northern Ireland) 1996 (SR 1996 No.487).

any performance issues in respect of a HSCT's discharge of social care and children functions;

- The production of an annual action plan for each HSCT identifying improvements required in relation to a HSCT's performance in respect of social care and children's statutory functions, an agreed timescale for agreed actions and arrangements for review and assurance that improvements have been achieved and maintained; and
- The provision of an end year report to the CSWO detailing the overview, analysis and professional assessment of HSCTs' performance in respect of social care and children's functions, including good practice and performance gaps. The report details the following:

    - level of compliance with law, policy, procedures, guidance, professional standards and agreed targets;
    - outcomes of in-year audit, learning achieved and improvement activity;
    - emerging pressures and/or concerns; and
    - regional comparison and trends.

5.4.3 The SWMHDD also provides, either separately, or as an integral part of its end year overview report:

- Data on the configuration of the social work workforce in all programmes of care across HSCTs;
- An update on the qualification profile of the social work workforce in HSCTs, including numbers of relevant qualifications achieved in-year against any Departmental targets;
- The volume and range of learning and development activity, including spend against any Departmental commissioning priorities.

5.4.4 Where a significant issue is identified in the process of compiling end year reports which has not been previously reported during the year, SWMHDD will alert the CSWO/OSS immediately in advance of submission of the end year report.

5.5 HEALTH AND SOCIAL CARE TRUSTS (HSCTs)

5.5.1 HSCTs, as separate legal entities, are responsible in law for the discharge of statutory social care and children's functions. Those functions are set out at Paragraph 3.1.2 above.

As noted above, since the enactment of the 2022 Act, statutory social care and children's functions have been directly conferred on HSCTs; they are no longer delegated.

5.5.2 The CEO and all Directors of HSCTs - executive and non-executive - have a duty to ensure that the management and other arrangements in place, within available resources, are appropriate for the delivery of high quality, well managed, efficient and effective services and that there is compliance with statutory social care and children's functions.

5.5.3 Overall responsibility for the performance of HSCTs in respect of the exercise of statutory social care and children's functions rests fully with the organisation's Chief Executive Officer (CEO) who acts as the organisation's Accounting Officer.

5.5.4 The CEO is required to account for the HSCT's performance as part of the formal assurance and accountability processes between the Department and the HSCTs.

5.6 END YEAR REPORTING

5.6.1 End year reports provide an opportunity for both the HSCTs and the Department to take stock of performance, reflect upon learning achieved throughout the year and plan for the future.

5.6.2 Each HSCT is required to submit an annual end year report, approved by its Board, on how it has exercised its statutory social care and children's functions to the SWMHDD no later than end of May each year.

End year reports should facilitate strategic decision making about actions required to further improve services and outcomes for service users.

5.6.3 The HSCT end year report should include an analysis of data and performance to assist the HSCT Board and the Department in their respective governance, accountability and strategic planning roles to identify the HSCT's:-

- Compliance with the law and agreed standards and targets;
- Performance gaps and/or areas of concerns, including non-compliance with statutory social care and children's functions;
- Controls and mitigations HSCTs have in place to address non-compliance;
- Effectiveness of HSCTs' monitoring and reporting arrangements;
- Outcomes of in-year audit, reflection on learning achieved and improvement activity;
- Outcomes for service users;
- New or emerging trends or pressures that may cause HSCTs to be non-compliant.

Serious or longstanding non-compliance with statutory functions should be escalated to the Board of the HSCT and considered for inclusion on the HSCT's Risk Register.

Where there are serious difficulties with compliance, these should be reported promptly to SPPG.

5.7 SUBMISSION OF SCHEMES FOR EXERCISE OF SOCIAL CARE AND CHILDREN FUNCTIONS

5.7.1 Paragraph 6B of Schedule 3 to the 1991 HPSS Order requires HSC Trusts to submit to the Department a scheme for the exercise by the Trust of its statutory social care and children's functions.

A scheme is the written statement by the HSCT CEO undertaking to fulfil all statutory social care and children's functions.

5.7.2 The Department may approve a scheme submitted to it by an HSCT either without modifications or with such modifications as may be agreed with the HSC Trust.

5.7.3 A HSCT must give effect to any scheme approved by the Department.

5.7.4 A HSCT may at any time, and must if so requested by the Department, submit a new scheme to the Department.

5.7.6 The Department may, by direction, require a HSCT to submit to the Department a scheme for the exercise by the Trust on behalf of the Department any such functions which are, or are proposed to become, exercisable by the Trust by virtue of a delegation direction under Article 10B of the 1991 HPSS Order. The Department may approve a scheme submitted to it by an HSCT for the purpose outlined immediately above, either without modifications or with such modifications as may be agreed with the Trust.

5.8 HSC TRUST EXECUTIVE DIRECTORS OF SOCIAL WORK

5.8.1 The HSCT Executive Directors of Social Work (EDSWs) are the officers with responsibility for professional oversight of the discharge of statutory social care and children's functions.

HSCT EDSWs are persons who hold a recognised qualification in social work[3] and are required to participate in and share corporate responsibility for the work of the HSCT.

[3] Regulation 4 (1) (d) of the Health and Social Services Trusts (Membership and Procedures) Regulation (Northern Ireland) 1994 (S.R. 1994 No.63) provides that a recognised qualification in social work is required for a person to be appointed as an executive director in a HSCT specified in that regulation.

Where the Executive Director of Social Work is not also the Director of Children Services, that Director must also be a qualified social worker registered with the NISCC.

Each EDSW will:

- Be a qualified social worker registered with NISCC;
- Participate in and share the corporate responsibility for the work of the Trust;
- Fulfil a functional role as a second line manager responsible directly to the Chief Executive of the Trust; and
- Provide professional social work leadership throughout the Trust.

The responsibilities of HSCT Executive Directors were originally detailed in the Management Executive (Provider Development Directorate), (METL 2/94) Department of Health and Personal Social Services, Northern Ireland "HSS Trusts - Role of Executive Directors with Professional Qualifications and are updated within this Circular, as set out below.

5.8.2 The EDSW will play a full role in the general management of the Trust, including sharing in corporate responsibility for policy-making, decision-taking and the development of the Trust's aims and objectives.

HSCT EDSWs are responsible for ensuring approved schemes for statutory social care and children's functions are properly implemented and managed within all programmes of care.

This includes ensuring:

- That social care and children statutory functions are complied with in accordance with the law and the approved scheme for the exercise of statutory functions to agreed professional standards.
- The provision of professional advice, analysis and support to the CEO and HSCT Board on all matters relating to statutory social care and children functions, including strategic direction, compliance with primary and secondary legislation and Departmental Guidance, early notification of risks, resource pressures and legal challenges and proposed actions to address these;
- Advising the Trust on staffing levels which are sufficient to ensure the delivery of social care and children functions for which the Trust is responsible;
- Advising and assisting the Trust in determining its expenditure on personal social services;
- That professional standards are maintained in the provision of social care and children functions within the general guidance issued by the Department and within the terms of contracts with relevant providers.;

- That legal and professional responsibilities are assigned and necessary systems and procedures are in place;
- That all staff responsible for the discharge of social care and children functions have access to relevant training, professional support and supervision;
- The maintenance and operation of an efficient data collection system and provision of data, analysis and reports to SWMHDD/DoH as required;
- The implementation of actions, including relevant audit recommendations and improvement plans agreed with the SWMHDD, to improve the safety, quality and effectiveness of services;
- That the Accounting Officer, the HSCT Board and SWMHDD are informed, at agreed intervals, on HSCT's performance in respect of social care and children functions, including early notification of risks, resource pressures, legal challenges and proposed actions to address these;
- That recommendations are made to the HSCT Board in relation to professional and disciplinary matters affecting social services staff;
- That timely action is taken to address and/or prevent the escalation of any identified issues;
- The provision of strong professional leadership for social work and social care across the full range of social care and children functions and services provided by or commissioned within his/her HSCT for children and adults in the statutory, voluntary and private sectors; and
- Liaison with any other Operational Directors who have responsibility and accountability for the delivery of statutory social care and children's functions to seek assurances that these are being fulfilled to the required standard.

HSCT EDSWs will be supported in their responsibilities by a Social Care Governance Officer (HSCT Governance lead) who will report directly to the EDSW in relation to the HSCT's compliance with statutory social care and children's functions, and related governance issues.

Each HSCT Social Care Governance Officer is required to be a qualified social worker registered with NISCC.

5.8.3 The HSCT Governance lead will be supported by an identified senior social work lead in each programme of care who is responsible for reporting to and informing the HSCT governance lead in relation to their respective area's compliance with social care and children functions, delegation directions and related governance issues. HSCT governance leads and identified social work leads are required to be professionally qualified social workers registered with NISCC.