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**Tuarascáil maidir leis an nGrinnscrúdú Réamhrechtach ar Scéim
Ghinearálta an Bhille um Shábháilteacht Othar**

Samhain 2018

JOINT COMMITTEE ON HEALTH

**Report on Pre-Legislative Scrutiny of the General Scheme of the
Patient Safety Bill**

November 2018

[32H024]

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Chair's Foreword



Dr. Michael Harty T.D.
(Rural Independent Technical
Group)

Healthcare is a dynamic and progressive discipline with continuous technological advancement bringing benefit to areas such as medicine and patient care. However, the traditional value of trust remains steadfast and its significance continues to be at the centre of the health service.

The value of trust is observed in the relationship between patient and health care staff and its positive effects on patient outcomes cannot be under-estimated.

I would like to acknowledge the work done by the many dedicated staff who provide excellent service to patients. It is critical that healthcare staff have trust in the institutions in which they work and in the structures within which those institutions operate.

Recent events, such as the failure in cervical cancer screening programmes, have strained public confidence in healthcare services. In many of these incidents, the absence of trust is evident and they derive from a systematic failure to adequately report and communicate incidents of patient safety. Many incidents also relate to a failure in governance measures. It is essential that mechanisms are in place within the healthcare sector which respond to such incidents and help strengthen trust in healthcare.

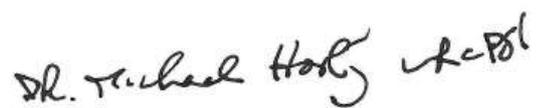
The role of legislators is to provide a system to enhance and sustain patient safety standards. Establishing such a process will take time and great effort from all stakeholders. There has been much debate on the recent difficulties in the healthcare sector but such deliberation is futile unless we address these matters sensibly and establish effective systems that tackle these problems. The Patient Safety Bill is a significant step in this process.

A number of thematic problems have been reiterated during debates on healthcare. Such topics include the ability to disclose patient safety incidents and adequate regulation of private and public hospitals.

This Bill covers a number of patient safety priorities including: (i) mandatory open disclosure of serious, reportable patient safety incidents, (ii) the notification of reportable incidents to the regulator, (iii) the use of clinical audit to improve patient care and outcomes, and (iv) the extension of the Health Information and Quality Authority's remit to private hospitals.

The Bill is designed to bring our health service in line with international best practices of governance and transparency. It will also attempt to re-establish the values of trust that are fundamental to our health services.

The Joint Oireachtas Committee on Health welcomes the opportunity to conduct pre-legislative scrutiny of the General Scheme of the Patient Safety Bill. I wish to thank all witnesses who participated in this scrutiny and those who have worked on the Bill. The Committee supports the aims and objectives of this Bill and recommends that the issues highlighted in this report are acted upon by Government.



Dr. Michael Harty, T.D.
Chair
Joint Committee on Health
28 November 2018

Executive Summary

The General Scheme of the Patient Safety Bill (hereinafter referred to as the Bill) sets out the legislative framework for a number of patient safety issues, such as: (i) mandatory disclosure of serious, patient safety incidents, (ii) the notification of serious patient incidents to the Authority, (iii) clinical audit and (iv) the extension of the Health Information and Quality Authority's (HIQA) remit to include private health providers.

The Bill incorporates the patient safety elements of the previously drafted Health Information and Patient Safety Bill (HIPS)¹ which introduced a requirement for external notification of patient safety incidents to the appropriate Authority and to the State Claims Agency.

The HIPS Bill also included components for the development of better information systems and the encouragement of health research. The Committee undertook scrutiny of the patient safety elements in January 2016² and recommended that the components of the Bill were broken up. The Patient Safety Bill now integrates the initial patient safety elements of the HIPS Bill.

The Patient Safety Bill also sets out provisions for the notification of serious patient safety incidents to the patient concerned. Examples of serious patient safety incidents include, but are not limited to, wrong site surgery, patient death or serious disability associated with a medication error, and serious errors that emerge in screening programmes.

In addition, the Bill empowers the Minister for Health to issue guidelines with respect to clinical audit and extends the remit of HIQA to private hospitals on top of the Authority's existing statutory powers.

The Joint Oireachtas Committee on Health conducted pre-legislative scrutiny of the Patient Safety Bill on 26 September 2018. The meeting was attended by officials from the Department of Health.

The Committee is supportive of the provisions that aim to establish an effective governance model for the health service. However, the Committee recommends that further consideration be given to the items listed under Section 3 of this report.

¹ <https://health.gov.ie/wp-content/uploads/2015/11/Revised-General-Scheme-HIPS-Bill.pdf>

² Due to time restrictions in the run up to the impending dissolution of the 31st Dáil, the Committee only dealt with Parts 6 and 7 of the General Scheme, namely 'patient safety incidents' and 'clinical audits' respectively. The Committee undertook PLS of the remaining parts of the HIPS Bill on 14 December 2016.

A number of these recommendations relate to the implementation of the Bill's provisions. These include further examination of the resources required for the effective implementation of the Bill, further analysis of the funding required and the effective planning of databases used to record patient safety incidents. The Committee also recommends the development of guidelines to ensure that the relevant authority responds appropriately when notified of a patient safety incident.

Recommendations

1. The Committee recommends that further consideration be given to the provisions contained in Head 25 of the Bill. The Committee notes that the current provisions do not provide effective powers for the Minister to initiate investigations into patient safety incidents by the Authority and that further examination is required.
2. The Committee recommends that there should be adequate assessment of the resources required for the effective implementation of the Bill. Such consideration should include staff and training, implementation planning and pathways for managing information.
3. The Committee recommends that a cost analysis should be undertaken to ascertain the isolated cost for the implementation of the Bill's provisions. The Committee considers that such an analysis is vital to ensure that sufficient funding is allocated to the implementation of the Bill's provisions.
4. The Committee recommends that the Health Service Executive notify the Department of Health of all serious patient incidents. The Committee acknowledges that the Department does not have the power to compel investigations but is of the opinion that the Department should be cognisant of any ongoing serious patient incidents.
5. The Committee recommends that a process is established to ensure that management in hospitals and other designated services are accountable in the same manner as the medical profession.
6. The Committee recommends that further consideration is given to Head 9 (4) which sets out that serious incidents are to be reported to an agency within seven days. The Committee has concerns that the provision leaves scope for a serious patient incident to recur within the seven day time-limit and before the incident has been reported to the Authority.
7. The Committee recommends that the Bill include a rigid definition on what constitutes a "reportable incident." The Committee also recommends that such a list should be reviewed regularly and updated accordingly.
8. The Committee recommends that a standard operating procedure be established to set out clear guidelines as to which agency is required to act upon notifications when necessary. The Committee has concerns that when several agencies are notified of an incident, there may be ambiguity as to which Authority should act upon the notification. The Committee is of the opinion that a standard operating procedure is

required to clarify such scenarios.

9. The Committee recommends that a single database be used by the authorised bodies which would record all reportable patient safety incidents.

1. Introduction

1.1 Pre-Legislative Scrutiny (PLS) of the General Scheme

The General Scheme of the Patient Safety Bill was approved by Government on 5 July 2018.

On 10 July 2018, the Minister of Health, Mr Simon Harris TD, wrote to the Joint Committee on Health, referring the Bill for pre-legislative scrutiny.

The Joint Oireachtas Committee on Health conducted pre-legislative scrutiny of the General Scheme of the Bill on 26 September 2018. The meeting was attended by officials from the Department of Health.

1.2 Why legislate

The General Scheme of the Patient Safety Bill proposes to improve patient care through a number of provisions. These include:

- i. mandatory open disclosure of serious patient safety incidents,
- ii. the notification of reportable incidents to the Regulator,
- iii. the use of clinical audit to improve patient care and outcomes,
- iv. the extension of the Health Information and Quality Authority (HIQA) remit to private hospitals.

1.3 Background to Legislation

The Patient Safety Bill is a part of an overall strategy to establish strong safety standards in all healthcare facilities and to establish governance and regulation in all such facilities. There have been a number of significant precedents which supplement the Patient Safety Bill:

- **Establishment of the National Patient Safety Office**

The Department of Health established the National Patient Safety Office in December 2016 to provide leadership with regard to patient safety policy and legislation. The NPSO established the patient safety pathway to manage complaints and patient safety notifications.

- **Sláintecare Report**

The Oireachtas Committee on the Future of Healthcare published the Sláintecare Report in May 2017³. The report advocated for greater focus on clinical governance and recommended, inter alia, “legislate for national standards in clinical governance, national and local accountability structures”.

- **The Patient Safety (Licensing) Bill**

The Patient Safety (Licensing) Bill sets out to regulate hospitals and designated services through a system of licensing. The Health Information and Quality Authority will be given responsibility for authorising licensing. The Patient Safety Bill will give HIQA the power to regulate private hospitals and all designated services.

- **Recommendations of the Scoping Inquiry into the Cervical Check Screening Programme**

The Scoping Inquiry into the Cervical Check Screening Programme was initiated to establish the facts surrounding the Cervical Check screening programme. The Inquiry highlighted major deficiencies in the HSE’s open disclosure policy and recommended that the disclosure policy and guidelines should be revised as a matter of urgency.

The 50 recommendations from the Scoping Inquiry are currently being reviewed by the HSE and the Department of Health. However, a number of the recommendations overlap with the provisions of the Patient Safety Bill.

³ <https://webarchive.oireachtas.ie/parliament/media/committees/futureofhealthcare/oireachtas-committee-on-the-future-of-healthcare-slaintecare-report-300517.pdf>

2. Summary of the General Scheme

The General Scheme of the Patient Safety Bill comprises six parts.

Part 1 covers preliminary matters and sets out the short title, definitions, regulations and expenses.

Part 2 of the Patient Safety Bill⁴ provides for the mandatory disclosure of serious patient safety incidents to the patient concerned, or the relevant person where appropriate. This provision will apply to both public and private health providers.

In addition, Part 2 provides for the mandatory external notification of serious patient incidents to the appropriate body. It also sets out the requirement for the Health Information and Quality Authority (HIQA) and the Mental Health Commission to develop standards on notification of patient safety incidents.

Part 2 also provides for the Minister for Health to prescribe a list of reportable incidents which are required to be notified by public providers to the relevant reporting authority (HIQA, the Chief Inspector of Social Service, the Mental Health Commission and the State Claims Agency) and by private providers to the Mental Health Commission and the State Claims Agency.

Furthermore, Part 2 lays out provision for legal protection in relation to reportable event notification of records in order to restrict third party Freedom of Information access and information from being used in civil proceedings as evidence of liability. This stipulation is intended to encourage patient safety notifications.

Part 3 of the General Scheme of the Bill provides for the Minister to issue guidelines on clinical audit. Where the clinical audit is carried out in accordance with the Minister's guidance and aggregate results are published, any record created solely for the purposes of the clinical audit will not be admissible as evidence in civil proceedings and the Freedom of Information Act 2004 will not apply to that record.

However, officials from the Department confirmed that any injured individual who wishes to take a case to seek redress may still do so.

Part 4 of the Bill amends a number of provisions in the Health Act 2007 by extending the powers and responsibilities that HIQA currently exercises in relation to public hospitals to

⁴ Part 2, Head 5

private hospitals as well. This will allow HIQA to set standards for the operation of private hospitals, to monitor compliance with those standards and to undertake inspections and investigations as required.

Part 5 makes it an offence where a health provider fails to make a mandatory open disclosure or fails to notify a reportable incident to the external authority. Providers who are guilty of an offence will be subject to penalties as outlined in the Health Act of 2007.

Part 6 provides for miscellaneous provisions to be included.

3. Key Issues

3.1 Minister's Powers

Officials from the Department of Health informed the Committee that further amending legislation may be required with regard to the Minister's powers as set out under Head 25 of the Bill. Head 25 provides for the amendment of Section 9 of the Health Act 2007 which provides for the Minister to initiate an investigation into a patient safety incident.

This is following a recent High Court ruling⁵, which overruled the Minister's decision to require HIQA to undertake a section 9(2) investigation.

The officials stated that the Minister's current powers are ineffective and further amendments or additional powers will be required should he wish to initiate an investigation. The Department confirmed that this matter is currently under review.

1. The Committee recommends that further consideration be given to the provisions contained in Head 25 of the Bill. The Committee notes that the current provisions do not provide effective powers for the Minister to initiate investigations into patient safety incidents by the Authority and that further examination is required.

3.2 Resources

The Committee expressed concern as to whether sufficient resources would be available to ensure the effective implementation of the Bill. Such resources include:

i. Staff and Training

Officials from the Department informed the Committee that 47 additional posts have been sanctioned, or will be sanctioned by the end of the year. There has also been an increase of approximately €3.4million to the 2018 budget. The 2019 allocation has yet to be revealed.

⁵ National Maternity Hospital v The Minister for Health [2018] IEHC 565

The Committee advised that health service staff and management will also require additional training so that there is clear understanding of the process of recording patient safety incidents and on the notification of such incidents to patients and the relevant authority.

ii. Implementation Planning

The Committee expressed the importance of an effective implementation plan to ensure that organisations across the health service will be resourced to deal with the new provisions of the Bill.

The Committee emphasised that such planning will include additional resources and staff time as well as electronic and technical requirements.

iii. Pathways for managing information

The Patient Safety Pathway is an existing multi-agency approach which sets out to improve standards and monitor complaints. The Department intends to utilise this pathway in the implementation of the Bill's provisions.

However, the Committee notes that the considerable scale of the provisions and such a pathway will need to be adequately assessed to ensure it is fit to meet the additional legislative provisions.

2. The Committee recommends that there should be adequate assessment of the resources required for the effective implementation of the Bill. Such consideration should include staff and training, implementation planning and pathways for managing information.

3.3 Cost

The Committee notes that the total isolated cost for the implementation of the Bill's provisions is yet to be determined. The Committee believes that a cost analysis is vital to ensure that sufficient funding can be allocated to the implementation.

3. The Committee recommends that a cost analysis should be undertaken to ascertain the isolated cost for the implementation of the Bill's provisions. The Committee considers that such an analysis is vital to ensure that sufficient funding is allocated to the implementation of the Bill's provisions.

3.4 Department Notification

The General Scheme of the Bill lists the agencies that the Health Service Executive must notify of serious patient incidents⁶. These include the State Claims Agency, the Health Information and Quality Authority (HIQA), the Chief Inspector of Social Services and the Mental Health Commission. The Committee recommends that the Department of Health is also notified of such incidents. The Committee acknowledges that the Department does not have powers to compel action as a result of such notifications. However, the Committee considers that it is imperative that the Department are cognisant of such matters.

4. The Committee recommends that the Health Service Executive notify the Department of Health of all serious patient incidents. The Committee acknowledges that the Department does not have the power to compel investigations but is of the opinion that the Department should be cognisant of any ongoing serious patient incidents.

⁶ Head 9(7)

3.5 Accountability

The Committee notes that the Bill addresses accountability for medical practitioners and nursing staff but does not provide any process for the accountability of hospital or health management. The Committee believes that any governance measures should apply to both medical practitioners and management staff.

During its scrutiny of the Bill, the Committee made reference to the Scoping Inquiry into the cervical cancer screening programme which details situations in which individuals operate without a clear job description⁷. It also raised concerns that staff performance is rarely appraised.⁸ The consequence of such situations is the lack of a standardised approach to procedures, ineffective governance and poor accountability standards within the health service.

The Patient Safety Bill emphasises accountability and auditing of the health service providers. However, the Committee recommends that accountability must cover all staff in the health service.

5. The Committee recommends that a process is established to ensure that management in hospitals and other designated services are subject to accountability in the same manner as the medical profession.

⁷ Scally, D.G., Sept 2018. *Scoping Inquiry into the Cervical Cancer Screening Programme*, Section 5.5.3

⁸ Section 5.5.5.

3.6 Notification of Reportable Incidents

Head 9(4) of the Bill states that:

“The Executive shall notify the Agency of a reportable incident as soon as the body becomes aware of the incident and, in any event, not later than 7 days after becoming aware”.

The Committee notes that such a time period may lead to an incident not being reported immediately and an error may be repeated before an Authority is notified.

The Committee recognises that such a time period is a maximum time-limit and some items will be reported immediately. However, the Committee has concerns that this provision may leave an opportunity for an error to be repeated and requests further consideration to Head 9(4).

6. The Committee recommends that further consideration is given to Head 9 (4) which sets out that serious incident are to be reported to an agency within seven days. The Committee has concerns that the provision leaves scope for a serious patient incident to re-occur within the seven day time-limit and before the incident has been reported to the Authority.

3.7 Definition of ‘Reportable Incidents’

The Committee requests that the Bill includes a rigid definition on what constitutes a “reportable incident”. Officials from the Department informed the Committee that they are aware of the significance of this definition. They also told the Committee that there will be a list of incidents which constitute reportable incidents and such a list will be subject to change when required.

7. The Committee recommends that the Bill include a rigid definition on what constitutes a “reportable incident.” The Committee also recommends that such a list should be reviewed regularly and updated accordingly.

3.8 Responsibility

Head 9 states that a serious patient incident must be notified to one of four authority agencies; HIQA, the Chief Inspector of Social Services in the case of residential services, the Mental Health Commission in the case of mental health services, and the State Claims Agency.

The Committee notes that some incidents may be reported to a number of agencies and as such, it is possible that the same information may be shared between a numbers of agencies.

The Committee has concerns that such a situation may lead to a misunderstanding which results in notifications not being acted upon in a timely manner. The Committee recommends that there should be clear guidelines that set out the responsibility of each agency when such information is shared between them.

8. The Committee recommends that a standard operating procedure be established to set out clear guidelines as to which agency is required to act upon notifications when necessary. The Committee has concerns that when several agencies are notified of an incident, there may be ambiguity as to which Authority should act upon the notification. The Committee is of the opinion that a standard operating procedure is required to clarify such scenarios.

3.9 Database of Reportable Incidents

The Bill provides that serious patient safety incidents must be reported to one of four agencies. Such incidents will be recorded by the notified agency.

The Committee recommends that a single database should record all incidents and that each agency has access to this database. The Committee has concerns that if each agency had a different database, it would lead to inconsistencies and possible errors.

Officials from the Department confirmed that this matter was considered during the drafting of the Bill and that they were working towards a single database being used by the various agencies. The officials confirmed that a reporting system was currently in place but it requires further enhancement to allow several agencies work with it.

9. The Committee recommends that a single database be used by the authorised bodies which would record all reportable patient safety incidents.

4. Appendices

Appendix 1: Membership of the Joint Committee on Health

Deputies:

- Stephen Donnelly (Fianna Fáil)
- Bernard Durkan (Fine Gael)
- Dr Michael Harty [Chairman] (Rural Independent Technical Group)
- Alan Kelly (Labour)
- Kate O'Connell (Fine Gael)
- Margaret Murphy O'Mahony (Fianna Fáil)
- Louise O'Reilly (Sinn Féin)

Senators:

- Colm Burke (Fine Gael)
- John Dolan (Civil Engagement Technical Group)
- Rónán Mullen (Independent)
- Dr Keith Swanick (Fianna Fáil)

Appendix 2: Stakeholders and Transcripts

The Joint Committee on Health held a hearing on 26 September 2018 to engage with relevant stakeholders to discuss the General Scheme of the Patients Safety Bill. The table below identifies all stakeholders who made presentations to the Committee.

- Dr Tony Holohan, Chief Medical Officer, Department of Health
- Mr David Adams, Head of Patient Safety and Advocacy Officer, Department of Health
- Ms Elizabeth Adams, Patient Safety and Advocacy Officer, Department of Health

The transcript of the meeting of 26 September 2018 is available [online](#).⁹

⁹ https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_health/2018-09-26/debate/mul@/main.pdf

Appendix 3 – Terms of Reference of Committee

A) Functions of the Committee [derived from Standing Orders – DSO 84A and SSO 70A]

(1) The Committee shall consider and report to the relevant House(s) on-

- (a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and
- (b) European Union matters within the remit of the relevant Department or Departments.

(2) The Select Committee appointed by Dáil Éireann is joined with a Select Committee appointed by Seanad Éireann (to form a Joint Committee) for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.

(3) Without prejudice to the generality of paragraph (1), the Select Committee shall consider, in respect of the relevant Department or Departments, such—

- (a) Bills,
- (b) proposals contained in any motion, including any motion within the meaning of DSO 187,
- (c) Estimates for Public Services, and
- (d) other matters

as shall be referred to the Select Committee by the Dáil, and

- (e) Annual Output Statements including performance, efficiency and effectiveness in the use of public moneys, and
- (f) such Value for Money and Policy Reviews as the Select Committee may select.

(4) Without prejudice to the generality of paragraph (1), the Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:

- (a) matters of policy and governance for which the Minister is officially responsible,
- (b) public affairs administered by the Department,
- (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
- (d) Government policy and governance in respect of bodies under the aegis of the Department,

- (e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
- (f) the general scheme or draft heads of any Bill
- (g) any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,
- (h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
- (i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
- (j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and
- (k) such other matters as may be referred to it by the Dáil from time to time.

(5) Without prejudice to the generality of paragraph (1), the Joint Committee shall consider, in respect of the relevant Department or Departments—

- (a) EU draft legislative acts standing referred to the Committee under DSO 114 and SSO 107, including the compliance of such acts with the principle of subsidiarity,
- (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
- (c) non-legislative documents published by any EU institution in relation to EU policy matters, and
- (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.

(6) Where the Select Committee appointed by Dáil Éireann has been joined with a Select Committee appointed by Seanad Éireann, the Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.

(7) The following may attend meetings of the Joint Committee, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:

- (a) members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
- (b) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
- (c) at the invitation of the Committee, other members of the European Parliament.

(8) The Joint Committee may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department or Departments, consider—

- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
- (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of DSO 111F apply where the Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.

B) Powers of the Committee [derived from Standing Orders – DSO 85, 114 and 116 and SSO 71, 107 and 109]

The Joint Committee has:-

- (1) power to take oral and written evidence and to print and publish from time to time minutes of such evidence taken in public before the Committee together with such related documents as the Committee thinks fit;
- (2) power to invite and accept oral presentations and written submissions from interested persons or bodies;
- (3) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil and to the Seanad;
- (4) power to draft recommendations for legislative change and for new legislation;
- (4A) power to examine any statutory instrument, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009, and to recommend, where it considers that such action is warranted, whether the instrument should be annulled or amended;

- (4B) for the purposes of paragraph (4A), power to require any Government Department or instrument-making authority concerned to submit a Memorandum to the Committee explaining any statutory instrument under consideration or to attend a meeting of the Committee for the purpose of explaining any such statutory instrument: Provided that such Department or authority may decline to attend for stated reasons given in writing to the Committee, which may report thereon to the Dáil;
- (5) power to require that a member of the Government or Minister of State shall attend before the Committee to discuss policy for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Committee, which may report thereon to the Dáil and Seanad: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Committee to enable him or her to discuss such policy;
- (6) power to require that a member of the Government or Minister of State shall attend before the Committee to discuss proposed primary or secondary legislation (prior to such legislation being published) for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Committee, which may report thereon to the Dáil and Seanad: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Committee to enable him or her to discuss such proposed legislation;
- (6A) power to require that a member of the Government or Minister of State shall attend before the Committee and provide, in private session if so requested by the member of the Government or Minister of State, oral briefings in advance of meetings of the relevant EU Council of Ministers to enable the Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;
- (6B) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Committee to discuss his or her strategic priorities for the role;
- (6C) power to require that a member of the Government or Minister of State who is officially responsible for the implementation of an Act shall attend before a Committee in relation to the consideration of a report under DSO 164A and SSO 157A;
- (7) subject to any constraints otherwise prescribed by law, power to require that principal office-holders in bodies in the State which are partly or wholly funded by the State or which are established or appointed by members of the Government or by the Oireachtas shall attend meetings of the Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Committee, which may report thereon to the relevant House(s);

- (8) power to engage, subject to the consent of the Houses of the Oireachtas Commission, the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and
- (9) power to undertake travel, subject to—
 - (a) such recommendations as may be made by the Working Group of Committee Chairmen under DSO 108(4)(a) and SSO 104(2) (a); and
 - (b) the consent of the Houses of the Oireachtas Commission, and normal accounting *procedures*.

In accordance with Articles 6 and 8 of Protocol No. 2 to the Treaty on European Union and the Treaty on the Functioning of the European Union (Protocol on the Application of the Principles of Subsidiarity and Proportionality) as applied by sections 7(3) and 7(4) of the European Union Act 2009, the Committee has the power-

- (a) to consider whether any act of an institution of the European Union infringes the principle of subsidiarity [DSO 116; SSO 109]; and
- (b) to form a reasoned opinion that a draft legislative act (within the meaning of Article 3 of the said Protocol) does not comply with the principle of subsidiarity [DSO 114 and SSO 107].

C: Scope and context of activities of the Committee

In addition to the powers and functions that are given to Committees when they are established, all Oireachtas Committees must operate within the scope and context of activities in Dáil Standing Order 84 and Seanad Standing Order 70 as set out below.

- A Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;
- Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the relevant House(s).
- A Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to DSO 186 and/or the Comptroller and Auditor General (Amendment) Act 1993;
- A Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under DSO 111A(1); and
- A Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
 - (i) a member of the Government or a Minister of State, or
 - (ii) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle, whose decision shall be final.