

Explanatory Memorandum to the Public Health Wales National Health Service Trust (Membership and Procedure) Regulations 2009

This Explanatory Memorandum has been prepared by the Department for Public Health & Health Professions, and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Description

These Regulations make provision for the constitution and membership of Public Health Wales NHS Trust, including its procedures and administrative arrangements.

Matters of special interest to the Subordinate Legislation Committee

None.

Legislative Background

Paragraph 4 of Schedule 2 to the National Health Service (Wales) Act 2006 (the 2006 Act) empowers Welsh Ministers by regulations to make provision in relation to the membership and procedure of NHS Trusts and section 203 of the 2006 Act allows for provision to be made for specific Trusts.

This instrument follows the negative resolution procedure.

Purpose and intended effect of the legislation

The Regulations, which formed part of the *Unification of Public Health Services in Wales* Consultation Paper, provide for the membership of the Public Health Wales Board.

Part 2 of the Regulations provides for the membership of the Public Health Wales Board, the appointment and eligibility requirements of members, the term of office of non-executive directors and the termination and suspension of executive directors and non-executive directors.

The membership of the Public Health Wales Board will consist of six (6) Non-Executive Directors (excluding the Chair) and five (5) Executive Directors:

Non-Executive Directors

The Non-Executive Directors will include:

- a person nominated by a University in Wales with teaching or research specialism in public health;

- a person nominated by a Local Authority or Local Authorities in Wales (the Welsh Ministers may determine the nominating Local Authority or Local Authorities);
- a person who is an employee or member of a voluntary sector organisation in Wales;
- a person who is an officer of a trade union or other employee representative body representing Trust staff.

Executive Directors

The Executive Directors will include:

- Chief Officer;
- Chief Finance Officer;
- Three other directors appointed by the Trust.

The appointment of the Chair and Non-Executive Directors will be public appointments, and therefore must take into account the principles laid down by the Commissioner for Public Appointments and in the Welsh Minister's Code of Practice for Ministerial Appointments to Public Bodies.

All public appointments referred to above (including the Chair) will be for a period of up to four years, and for not more than a term of eight years.

Part 3 of the Regulations provides for the proceedings and administrative arrangements of the Public Health Wales Board, including the appointment of committees and sub-committees, meetings and proceedings.

Part 4 sets out transitional arrangements as between the date of the establishment of the Trust and the date on which it becomes operational.

Implementation

It is intended these Regulations come into force on 1 August 2009, in order to set out the constitution, membership and procedural framework for the Trust upon its establishment. This will allow Public Health Wales to operate in shadow form from that date, and to be fully operational from 1 October 2009.

Consultation

The Consultation process has been described in detail in the Regulatory Impact Assessment below.

Regulatory Impact Assessment

In the 2003 restructuring of the NHS, the Welsh Assembly Government created the National Public Health Service within Velindre NHS Trust, to provide local delivery of public health services supported by the resources of a national service. The Wales Centre for Health was established in 2005 to

provide a focus for information, training and research in public health. In 2006, the Welsh Assembly Government, in recognition that these changes had been successful noted that there were still some issues of overlap and governance within public health and commissioned a review by the NHS Public Health Resource Unit based at Oxford.

The resulting *Review of Public Health Function of National Health Organisations and Units* recommended that there should be progress towards a unified public health service in Wales. The then Minister for Health and Social Services agreed the recommendation to work towards the creation of a unified public health system (UPHS) for Wales to deliver public health services and that the public health system should be the responsibility of a single board and statutory organisation within the NHS.

A Project Board, chaired by the Chief Medical Officer, was established with members drawn from the Chairs and senior officers of Wales Centre for Health (WCfH) and Velindre NHS Trust (the current host of the National Public Health Service), together with representatives of key stakeholders including the Welsh Local Government Association and the Trade Unions. The project canvassed the views of staff in the organisations affected by the proposal (excluding staff from the Welsh Blood Service) to form a unified public health service.

This project considered a number of structural options for the unified service and recommended that the Unified Public Health Organisation (UPHO) be established as an NHS Trust.

As part of the wider NHS Reform Programme a Unified Public Health Organisation Project was established to take forward this work. In developing the proposals for the unified organisation consideration was given to a suitable model for the Board. The model would have to comply with the statutory provisions for boards and board membership, as set out in the 2006 Act, which empowers Welsh Ministers to make provision in regulations about the appointment of chair, vice-chair and other directors, conditions for appointment, tenure of office, circumstances for removal, and the maximum and minimum number of members.

Costs

It is anticipated that the costs of restructuring will be primarily the recruitment costs of appointing the Chair, Chief Executive and Non-Executive Directors and amounts to no more than £100,000. These costs are being accommodated from within the NHS Public Appointments Unit, NHS Reform Programme and the Department for Public Health and Health Professions.

It is anticipated that no additional funding will be required for the corporate and programme costs of Public Health Wales and there are savings from the abolition of the WCfH.

Consultation

Consultation on the Regulations

The Regulations were subject to a twelve week consultation period, between the 30th January 2009 and the 24th April 2009.

The *Unification of Public Health Services in Wales* Consultation Paper, which included the draft Regulations, was circulated to a comprehensive list of stakeholders and was published on the Welsh Assembly Government website and on the HOWIS website. Hard copies of the Consultation Paper were available on request.

Consultation Responses

One hundred and twenty five (125) responses were received during the consultation period. All responses are available on the Welsh Assembly Government website at:

<http://wales.gov.uk/consultations/closedconsultations/healthsocialcare/unification/?lang=en>

Changes to the Draft Regulations

- The roles of the three Executive Directors (in addition to the Chief Officer and Chief Finance Officer) will not be defined;
- Changes to notice periods for Board meetings from 3 to 10 days;
- Changes to the period of absence from Board meetings which will trigger the termination of a person's office from 3 months to 6 months;
- The addition of Schedule 1 to refer to matters such as transparency and open and fair competition, which the Welsh Ministers will take into account in appointing Non-Executive Directors and the Chair – this is in line with the LHB provisions;
- Inclusion of nomination requirement for the university and local authority Non-Executive Directors.

Post implementation review

The effect of the Regulations will be monitored as part of the Benefits Realisation Framework, and also as part of the next OGC Review, which is planned for September 2009.

Summary

It is considered that the NHS Trust Board model provided in these Regulations is the most effective model for Public Health Wales.