

**NATIONAL ASSEMBLY FOR WALES**

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**S T A T U T O R Y   I N S T R U M E N T S**

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**2003 No. (W. )**

**NATIONAL HEALTH  
SERVICE, WALES**

**The Health, Social Care and Well-  
being Strategies (Wales)  
Regulations 2003**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The strategy document *Improving Health in Wales, A Plan for the NHS and its Partners*, published by the National Assembly for Wales in February 2001, signalled the intention to promote effective partnership working between the National Health Service and local government.

The National Health Service Reform and Healthcare Professions Act 2002 (2002 c.17) provides, in section 24 of that Act, for a duty to be placed on each Local Health Board and local authority in Wales to formulate and implement a strategy for the health and well being of the population in the area, and to have regard to the strategy in exercising their functions. In these Regulations, such strategies are referred to as “health, social care and well-being strategies”.

Local Health Boards were established in Wales by the Local Health Boards (Establishment) (Wales) Order 2003 (SI 2003/[    ]) and their functions are set out in the Local Health Boards (Functions) (Wales) Regulations 2003 (SI 2003/[    ]).

These Regulations make provision for -

- (a) A duty on Local Health Boards and local authorities to co-operate with NHS Trusts, Community Health Councils, and voluntary and private sector organisations in preparing strategies (regulation 3);
- (b) The preparatory steps which Local Health Boards and local authorities must take in relation to strategies, including the assessment of needs and consultation (regulation 4)

- (c) the matters which must be addressed in strategies (regulation 5);
- (d) commissioning arrangements in respect of secondary care services, to be entered into jointly by Local Health Boards and local authorities with NHS Trusts (regulation 6);
- (e) avoiding duplication of and having regard to other existing statutory plans or strategies (regulations 7 and 8);
- (f) consultation on draft strategies (regulation 9);
- (g) the times for adoption, review and duration of strategies (regulation 10);
- (h) publication of the strategies after they have been adopted (regulation 11); and
- (i) public inspection of and access to the draft and adopted strategies (regulation 12).

A regulatory appraisal has been carried out in respect of these Regulations and placed in the library of the National Assembly for Wales. Copies may be obtained from Social Care Division, National Assembly for Wales, Cathays Park, CF10 3NQ.

**2003 No. (W. )**

**NATIONAL HEALTH  
SERVICE, WALES**

**The Health, Social Care and Well-  
being Strategies (Wales)  
Regulations 2003**

*Made* [ ] February 2003

*Coming into force* 31<sup>st</sup> March 2003

The National Assembly for Wales, in exercise of the powers conferred by section 24(4), (5), (6) and (9), section 38(1) and (7) and section 39(1) and (3) of the National Health Service Reform and Health Care Professions Act 2002 (1), makes the following Regulations -

**Title, application and commencement**

**1.**-(1) These Regulations may be cited as the Health, Social Care and Well-being Strategies (Wales) Regulations 2003.

(2) These Regulations apply to Wales only and shall come into force on 31<sup>st</sup> March 2003.

**Interpretation**

**2.** In these Regulations, the following words and phrases shall have the following meanings -

(a) “the 2002 Act” means the National Health Service Reform and Health Care Professions Act 2002;

(b) “Assembly” means the National Assembly for Wales;

(c) “commissioning functions” means any functions of the responsible bodies or any one of them which relate

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(1) 2002 c.17

to the planning, purchase or monitoring of delivery of any health and well-being services;

(d) “commissioning arrangement” means an arrangement in relation to the commissioning of secondary care services between the responsible bodies in a commissioning arrangement group to exercise their commissioning functions jointly and to co-operate and consult with each other with respect to the exercise of those functions;

(e) “commissioning arrangement group” means the group which includes the responsible bodies and an NHS Trust or Trusts and which is recommended in guidance published from time to time by the Assembly for the purposes of entering into a commissioning arrangement;

(f) “health and well-being services” means any services provided by an NHS body, any services (including social care services) provided under or in connection with a local authority’s functions under Schedule 1 to the Local Authority Social Services Act 1970<sup>(2)</sup>, section 31 of the Health Act 1999<sup>(3)</sup> or regulation 6 of the National Health Service Bodies and Local Authorities Partnership Arrangements (Wales) Regulations 2000<sup>(4)</sup>, and any similar service provided by a voluntary or other organisation;

(g) “local authority” shall have the meaning given in section 24 (9)(a) of the 2002 Act;

(h) “local population” means members of the public who are usually resident or who are present in the responsible bodies’ area or areas;

(i) “NHS body” means a Health Authority, Local Health Board, NHS Trust, Strategic Health Authority, Primary Care Trust or Care Trust<sup>(5)</sup>;

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<sup>(2)</sup> 1970 c.42.

<sup>(3)</sup> 1999 c.8.

<sup>(4)</sup> SI 2000/2993, W.193

<sup>(5)</sup> The NHS bodies referred to derive from the following legislation. Health Authorities for England and Wales were created pursuant to section 8 of the National Health Service Act 1977 (1977 c.49). In Wales, the existing Health Authorities will be abolished with effect from 31<sup>st</sup> March 2003 pursuant to section 27 of the Government of Wales Act 1998 (1998 c.38) - see the Health Authorities (Transfer of Functions and Abolition)(Wales) Order 2003 (SI 2003/[ ], W.[ ]). Local Health Boards are to be established by the National Assembly for Wales under s.16BA of the 1977 Act and will begin operating with effect from 31<sup>st</sup> March 2003 - see the Local Health Boards (Establishment)(Wales) Order 2003 (SI 2003/[ ], W.[ ]). In England, Health Authorities are renamed as Strategic Health Authorities (section 1 of the National Health Service Reform and Healthcare Professions Act 2002 (2002 c[ ]). Local Health Boards are to be established by the National Assembly for Wales under section 16BA of the 1977 Act and will begin operating with effect from 31<sup>st</sup> March 2003. NHS Trusts were created pursuant to section 5 of the National Health Service and Community Care Act 1990 (1990 c.19). Primary Care Trusts may be created in England pursuant to section 16A of the 1977 Act. NHS Trusts and Primary Care Trusts may be designated as Care Trusts pursuant to section 45 of the Health and Social Care Act 2001 (2001 c.15).

(j) “operative period” means the period in respect of which a strategy is formulated.

(k) “responsible bodies” shall have the meaning given in s.24(2) of the 2002 Act;

(l) “secondary care services” means services for or in connection with the prevention, diagnosis or treatment of illness which are mainly provided at or from a hospital (and the words “illness” and “hospital” have the meanings given by section 128(1) of the National Health Service Act 1977(6));

(m) “services” includes any function or activity which is calculated to facilitate, or is conducive or incidental to, the provision of any service referred to in these Regulations;

(n) “strategy” means a health and well-being strategy under s. 24 (1) of the 2002 Act (described in these Regulations as a “health, social care and well-being strategy”) and includes a draft strategy.

### **Duty to co-operate with prescribed bodies**

**3.-(1)** The responsible bodies shall co-operate in formulating and reviewing their strategy with -

(a) The NHS Trust or Trusts providing services to the local population;

(b) The Community Health Council or Councils representing the local population;

(c) The County Voluntary Council or Councils supporting voluntary organisations in the responsible bodies’ area or areas or any part of them, or where there is no such Council, such other body as may be performing functions similar to those performed by such a Council;

(d) The Assembly; and

(e) any private, business, voluntary or other organisation which is concerned with or has an interest in the provision of health and well-being services to the local population.

(2) Before formulating a strategy or taking any action under Regulation 4, the responsible bodies shall in consultation with the persons or bodies listed in paragraph (1) prepare a procedure for co-operation with such persons or bodies.

### **Steps which the responsible bodies must take before formulating a strategy**

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(6) 1977 c.49

4.-(1) Before formulating a strategy, the responsible bodies shall carry out an assessment of the health and well-being needs of the local population.

(2) An assessment under paragraph (1) shall include an assessment of the matters set out in regulation 5(2)(a) to (g) below.

(3) In carrying out an assessment under paragraph (1), the responsible bodies shall co-operate with the persons or bodies listed in regulation 3(1) and shall consult -

(a) The local population; and

(b) Such other persons or organisations as appear to the responsible bodies to be representative of interests likely to be substantially affected by the strategy;

and shall have regard to the results of such consultation in formulating a needs assessment under paragraph (1).

(4) In carrying out an assessment under paragraph (1), the responsible bodies shall comply with any directions and have regard to any guidance given by the Assembly pursuant to section 24(7)(a) or (b) of the 2002 Act.

#### **Matters which the strategy must address**

5.-(1) The responsible bodies shall have regard to the needs assessment carried out under regulation 4(1) above.

(2) The strategy must address -

(a) the state of health and well-being of the local population;

(b) the health and well-being needs of the local population;

(c) the existing provision of health and well-being services to the local population;

(d) gaps or deficiencies in the provision of health and well-being services to the local population;

(e) risks to the health and well-being of the local population;

(f) factors affecting the health and well-being of the local population, including -

(i) social, economic and environmental factors,

(ii) health promotion and education, health protection and nutrition,

(iii) the safety of food (and “food” for the purpose of this regulation has the

meaning given in section 1 of the Food Safety Act 1990)(7),

(iv) community development and regeneration and sustainable development,

(v) inequalities in health and well-being,

(vi) the access of the local population to health and well-being services and inequalities in access to such services,

(vii) the availability of and access of the local population to public and community transport,

(viii) the availability of and access of the local population to education, training and employment, and

(ix) the standard and condition of housing of the local population;

(g) the anticipated health and well-being needs of the local population throughout the operative period;

(h) the improvement of the health and well-being of the local population;

(i) the provision of health and well-being services which will be required throughout the operative period to meet the health and well-being needs of the local population, and the effectiveness and efficiency of such services;

(j) the means of commissioning and delivery of health and well-being services;

(k) the financial or other resources which will be required to implement the strategy; and

(l) any directions or guidance given by the Assembly pursuant to section 24(7)(a) or (b) of the 2002 Act.

### **Commissioning arrangements for secondary care services**

6.-(1) The responsible bodies shall have regard, in formulating their strategy, to -

(a) whether the interests of the local population would be best served; and

(b) whether

(i) improvement in the quality of secondary care services which they provide; and

(ii) better value for money and efficiency in the exercise of their

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(7) 1990 c.16.

commissioning functions in respect of  
secondary care services,

could be achieved by entering into a commissioning arrangement with the other responsible bodies and the NHS Trust or Trusts in their commissioning arrangement group.

(2) If the responsible bodies propose not to enter into a commissioning arrangement, they must -

(a) provide the Assembly with full and detailed reasons for such a proposal, together with details of the alternative arrangements which the responsible bodies propose for the commissioning of secondary care services;

(b) consult the Assembly before deciding not to enter into a commissioning arrangement, and

(c) have regard to the Assembly's response to such consultation in making a decision on whether to enter into a commissioning arrangement.

(3) If the responsible bodies decide not to enter into a commissioning arrangement, they must publish the information set out in paragraph (2)(a) above in their strategy.

**Integration and consideration of other prescribed strategies or plans into health social care and well being strategies**

7.-(1) The plans to which this regulation refers are -

(a) a children's services plan under paragraph 1A of Schedule 2 of the Children Act 1989<sup>(8)</sup>;

(b) a plan for the provision of community care services under section 46 of the National Health Service and Community Care Act 1990<sup>(9)</sup>;and

(c) a plan for improving health under section 28 of the Health Act 1999<sup>(10)</sup>;

(2) In formulating and implementing their strategy, the responsible bodies shall have regard to and shall co-ordinate and integrate the plans listed in paragraph (1) above into their strategy and shall publish them as part of their strategy.

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<sup>(8)</sup> 1989 c.41. Functions of the Secretary of State were transferred to the National Assembly for Wales by The National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999 No.672).

<sup>(9)</sup> 1990 c.19. Functions of the Secretary of State were transferred to the National Assembly for Wales by The National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999 No.672).

<sup>(10)</sup> 1999 c.8. Functions of the Secretary of State were transferred to the National Assembly for Wales by The National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999 No.672), as amended by section 66(4) and (5) of the Health Act 1999.



(3) The responsible bodies shall co-ordinate and integrate the performance of their obligations under the provisions listed in paragraph (1) above with the performance of their obligations in relation to their strategy.

(4) The amendments specified in Schedule 1 to these Regulations are to have effect.

**8.** In formulating and implementing their strategy the responsible bodies shall also have regard to the current strategy for promoting well-being (or community strategy) under section 4 of the Local Government Act 2000(11).

### **Consultation on the draft strategy**

**9.-(1)** The responsible bodies shall consult the following on the draft strategy before adopting it -

- (a) the local population;
- (b) The persons or bodies listed in regulation 3(1);
- (c) other local authorities and Local Health Boards with which the responsible bodies share one or more common boundaries; and
- (d) such other persons or organisations as appear to the responsible bodies to be representative of interests likely to be substantially affected by the strategy;

and shall have regard to the results of such consultation in completing the strategy for adoption.

(2) A minimum of 12 weeks is to be allowed for the period of consultation under paragraph (2).

### **Date for adoption of the strategy, operative period and review**

**10.-(1)** The first strategy must be published in draft on or before 31<sup>st</sup> March 2004.

(2) The first strategy must be formulated and adopted by the responsible bodies on or before 31<sup>st</sup> December 2004.

(3) The operative period of the first strategy shall be three years from 1<sup>st</sup> April 2005.

(4) The operative period of subsequent strategies shall be 5 years from the date on which the operative period of the previous strategy ended.

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**(11)** 2000 c.22. Functions of the Secretary of State under this section are exercisable by the National Assembly for Wales by virtue of section 4(5).

(5) The strategy shall be reviewed annually by the responsible bodies and the responsible bodies shall report annually to the Assembly on such reviews.

(6) By the end of the operative period of a strategy, the responsible bodies must have formulated a new strategy, and must adopt it at the end of the operative period of the previous strategy.

### **Publication of the strategy after adoption**

**11.** The responsible bodies shall publish the strategy no more than 4 weeks after adoption under regulation 10 above and provide the Assembly with a copy.

### **Access to draft and adopted strategies**

**12.-(1)** The responsible bodies shall publish as part of the draft and adopted strategies an executive summary of the contents of the draft or adopted strategy.

(2) Publication of the draft and adopted strategies by the responsible bodies shall include publication in an accessible electronic form.

(3) The responsible bodies shall make copies of the draft and adopted strategies available for public inspection -

- (a) at their offices;
- (b) at public libraries in their area or areas;
- and
- (c) on the internet.

(4) The draft and adopted strategies shall be published in English and Welsh unless it is not reasonably practicable to do so.

(5) The responsible bodies shall consult the Race Equality Council or Councils for their area or areas on publication of the draft and adopted strategies in languages other than English and Welsh, and shall adopt their recommendations unless it is not reasonably practicable to do so.

(6) The responsible bodies shall consult the Disability Rights Commission on publication of the draft and adopted strategies in such forms or media as may make them reasonably accessible to persons with a disability, and shall adopt their recommendations unless it is not reasonably practicable to do so.

Signed on behalf of the National Assembly for Wales  
under section 66(1) of the Government of Wales Act  
1998<sup>(12)</sup>

*D. Elis Thomas*

The Presiding Officer of the National Assembly.

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<sup>(12)</sup> 1998 c.38.

## SCHEDULE 1

### *Amendment of the Children Act 1989*

1. Paragraph 1A of Schedule 2 to the Children Act 1989 (Children's services plans) shall, so far as it applies to Wales, be amended as follows.
2. In sub-paragraph (3)(a) of paragraph 1A, the words "Local Health Board," shall be inserted before the words "Health Authority and Primary Care Trust".
3. After sub-paragraph (4), a new sub-paragraph (5) shall be inserted as follows -

“(5) Local authorities in Wales shall carry out their obligations under this paragraph as part of their duty to prepare a health and well-being strategy pursuant to section 24(1) of the National Health Service Reform and Health Service Professions Act 2002 and shall in particular perform their duty to prepare and publish a plan under sub-paragraph (1)(b) above by preparing and publishing it as part of a health and well-being strategy.”.

### *Amendment of the National Health Service and Community Care Act 1990*

4. Section 46 of the National Health Service and Community Care Act 1999 (Local authority plans for community care services) shall, so far as it applies to Wales, be amended as follows.
5. In subsection (2), paragraph (a), the words "Local Health Board" shall be substituted for the words "Health Authority".
6. After subsection (3), a new subsection (4) shall be inserted as follows -

“(4) Local authorities in Wales shall carry out their obligations under this section as part of their duty to prepare a health and well-being strategy pursuant to section 24(1) of the National Health Service Reform and Health Service Professions Act 2002 and shall in particular perform their duty to prepare and publish a plan under paragraph (a) of subsection (1) above by preparing and publishing it as part of a health and well-being strategy.”.

### *Amendment of the Health Act 1999*

7. Section 28 of the Health Act 1999 (Plans for improving health, etc) shall, so far as it applies to Wales, be amended as follows.

8. In sub-section (1), the words “Local Health Board” shall be substituted for the words “Health Authority”.
9. In sub-section (2), the words “Local Health Board” shall be substituted for the words “Health Authority”.
10. In sub-section (3), the words “Local Health Board” shall be substituted for the words “Health Authority”.
11. In sub-section (4), paragraph (a) is repealed.
12. In sub-section (4), paragraph (b), the words “Local Health Board” shall be substituted for the words “Health Authority”.
13. In sub-section (4), paragraph (c), the words “Local Health Board” shall be substituted for the words “Health Authority”.
14. In sub-section (5), the words “Local Health Board” shall be substituted for the words “Health Authority”.
15. In subsection (6), paragraph (b), the words “Local Health Boards” shall be substituted for the words “Health Authorities, Primary Care Trusts”.
16. In subsection (6), paragraph (g), the words “Local Health Boards” shall be substituted for the words “Health Authorities, Primary Care Trusts”.
17. In subsection (6), paragraph (h), the words “Local Health Boards” shall be substituted for the words “Health Authorities”.
18. In subsection (7), paragraph (a), the words “Local Health Boards” shall be substituted for the words “Health Authorities”.
19. In subsection (7), paragraph (b), the words “Primary Care Trusts,” are repealed.
20. In the first line of subsection (8), the words “Local Health Board” shall be substituted for the words “Health Authority”.
21. In subsection (8), paragraph (a), the words “Local Health Board’s” shall be substituted for the word “Authority’s”.
22. In subsection (8), paragraph (b), the words “Local Health Board’s” shall be substituted for the word “Authority’s”.
23. In subsection (9), the words “Local Health Boards” shall be substituted for the words “Health Authorities, Primary Care Trusts”.
24. After subsection (10), a new subsection (11) shall be inserted as follows -
 

“(11) Local Health Boards shall carry out their obligations under this section as part of their duty to prepare a health and well-being strategy pursuant to section 24(1) of the National Health Service Reform and Health

Service Professions Act 2002 and shall in particular perform their duty to prepare a plan under subsection (1) above by preparing it as part of a health and well-being strategy.”.