

2009 No. 3097 (W.270)

**NATIONAL HEALTH
SERVICE, WALES**

**The Welsh Health Specialised
Services Committee (Wales)
Regulations 2009**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the constitution and membership of the Welsh Health Specialised Services Committee (“the joint committee”) including its procedures and administrative arrangements. The Welsh Health Specialised Services Committee (Wales) Directions 2009 which were made on 1 October 2009 provide that the seven Local Health Boards in Wales will work jointly to exercise functions relating to the planning and securing of specialised and tertiary services and for the purpose of jointly exercising those functions, the Local Health Boards will establish the joint committee as soon as practicable after 1 October 2009.

Part 2 of these Regulations makes provision for -

- (a) the composition and membership of the joint committee (regulation 3);
- (b) the appointment of the chair, officer members, vice-chair and non-officer members to the joint committee (regulation 4);
- (c) eligibility requirements for members of the joint committee (regulation 5 and Schedule 2); and
- (d) tenure of office, termination of appointment and suspension of members of the joint committee (regulations 6 to 11).

Part 3 contains provisions in relation to the meetings and proceedings of the joint committee including the powers of the vice-chair (regulations 12 and 13).

A regulatory impact assessment has been prepared in connection with these Regulations. A copy can be

obtained from the Welsh Assembly Government,
Cathays Park, Cardiff, CF10 3NQ.

2009 No. 3097 (W. 270)

**NATIONAL HEALTH
SERVICE, WALES**

**The Welsh Health Specialised
Services Committee (Wales)
Regulations 2009**

Made 25 November 2009

Laid before the National Assembly for Wales
26 November 2009

Coming into force 17 December 2009

The Welsh Ministers in exercise of the powers conferred on them by sections 11, 12(3), 13(2)(c) and (4)(c) and 203(9) and (10) of and paragraph 4 of Schedule 2 to the National Health Service (Wales) Act 2006⁽¹⁾ make the following Regulations:

PART 1

Introduction

Title and commencement

1. The title of these Regulations is the Welsh Health Specialised Services Committee (Wales) Regulations 2009 and they come into force on 17 December 2009.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the National Health Service (Wales) Act 2006;

“associate member” (“*aelod cyswllt*”) means a person who holds any office set out in regulation 3(3);

“chief executives” (*“prif weithredwyr”*) means the chief executive of each Local Health Board;

“existing non-officer members of a Local Health Board” (*“aelodau presennol o Fwrdd Iechyd Lleol nad ydynt yn swyddogion”*) means the non-officer members of a Local Health Board who have been appointed pursuant to the Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009⁽¹⁾;

“host Local Health Board” (*“Bwrdd Iechyd Lleol cynhaliol”*) means Cwm Taf Local Health Board;

“health service body” (*“corff gwasanaeth iechyd”*) means a Special Health Authority, Strategic Health Authority, Local Health Board, NHS Trust, NHS Foundation Trust or Primary Care Trust;

“Local Health Board” (*“Bwrdd Iechyd Lleol”*) means a Local Health Board established in accordance with section 11(2) of the Act⁽²⁾;

“non-officer member” (*“aelod nad yw’n swyddog”*) means a member of the joint committee who holds any office set out in regulation 3(1)(c);

“officer member” (*“swyddog-aelod”*) means a member of the joint committee who holds any office set out in regulation 3(2); and

“the joint committee” (*“y cyd-bwyllgor”*) means the Welsh Health Specialised Services Committee established pursuant to the Welsh Health Specialised Services Committee (Wales) Directions 2009 made on 1 October 2009.

PART 2

Membership of the joint committee

Membership of the joint committee

3.—(1) The members of the joint committee consist of the chief executives together with—

- (a) a chair;
- (b) a vice-chair appointed by the joint committee from existing non-officer members of a Local Health Board;

(1) S.I. 2009/779 (W.67).

(2) Powys Teaching Local Health Board was established under the Local Health Boards (Establishment) (Wales) Order 2003 (S.I. 2003/148 (W.18)). Abertawe Bro Morgannwg University Local Health Board, Aneurin Bevan Local Health Board, Betsi Cadwaladr University Local Health Board, Cardiff and Vale University Local Health Board, Cwm Taf Local Health Board and Hywel Dda Local Health Board were established under the Local Health Boards (Establishment and Dissolution) (Wales) Order 2009 (S.I. 2009/778 (W.66)).

- (c) two non-officer members appointed by the joint committee from existing non-officer members of a Local Health Board; and
- (d) officer members employed by the host Local Health Board.

(2) The officer members consist of—

- (a) a director of specialised and tertiary services;
- (b) a medical director of specialised and tertiary services;
- (c) a finance director of specialised and tertiary services; and
- (d) a nurse director of specialised and tertiary services.

(3) In addition there will be three associate members who will be the Chief Executives of Velindre National Health Service Trust, the Welsh Ambulance Services National Health Service Trust and the Public Health Wales National Health Service Trust.

Appointment of the chair, vice-chair, non-officer members and officer members

4.—(1) The chair is appointed by the Welsh Ministers.

(2) The vice-chair and non-officer members are appointed by the joint committee.

(3) The officer members are appointed by the joint committee.

(4) Appointments made in accordance with paragraph (1) must be in accordance with the provisions in Schedule 1 to these Regulations.

(5) Where the joint committee appoints the vice-chair and non-officer members in accordance with paragraph (2) and the officer members in accordance with paragraph (3) the appointments must be subject to standing orders relating to the joint committee.

(6) Where a chair is appointed in accordance with paragraph (1) regard must be had to the need to encourage diversity in the range of persons who may be appointed.

Eligibility requirements for members of the joint committee

5.—(1) Any person must fulfil the requirements for eligibility in Part 1 of Schedule 2 to these Regulations before that person may be appointed as a chair of the joint committee and must continue to fulfil the requirements while that person holds office.

(2) Subject to paragraph (3) any person must fulfil the requirements for eligibility in Part 1 of Schedule 2 to these Regulations before that person may be appointed as an officer member of the joint committee

and must continue to fulfil the requirements while that person holds office.

(3) In addition to fulfilling the requirements for eligibility in Part 1 of Schedule 2 to these Regulations, an officer member who is a medical director of specialised and tertiary services or a nurse director of specialised and tertiary services of the joint committee must also fulfil the relevant requirements for eligibility in Part 2 of Schedule 2 to these Regulations.

(4) Any person appointed pursuant to regulation 4(2) to be a vice-chair or non-officer member or who is an associate member or chief executive of the joint committee may only hold office on the joint committee provided that person continues to hold office as appropriate as an existing non-officer member of a Local Health Board or as a Chief Executive of a NHS Trust in Wales or Local Health Board.

Tenure of office of chair

6.—(1) This regulation applies to any person who is appointed as chair of the joint committee.

(2) Subject to these Regulations, a chair holds and vacates office in accordance with the terms of that person's appointment.

(3) A chair may be appointed for a period of no longer than four years.

(4) Subject to paragraph (5) a chair may on the expiration of his or her term of office be re-appointed in accordance with regulation 4(1).

(5) A person may not hold office as a chair for the joint committee for a total period of more than eight years.

Tenure of office of vice-chair and non-officer members

7.—(1) This regulation applies to any person who is appointed as vice-chair or as a non-officer member of the joint committee.

(2) A vice-chair and non-officer member may be appointed for a period of no longer than two years.

(3) Subject to regulation 5(4) and paragraph (4) a vice-chair or non-officer member may on the expiration of his or her term of office on the joint committee be re-appointed in accordance with regulation 4(2).

(4) A person may not hold office as a vice-chair or non-officer member of the joint committee for a total period of more than four years.

Termination of appointment of chair

8.—(1) The Welsh Ministers may immediately remove a chair from office if they determine that —

- (a) it is not in the interests of the health service in Wales; or
- (b) it is not conducive to the good management of the joint committee,

for that chair to continue to hold office.

(2) If it comes to the notice of the Welsh Ministers that a chair appointed has become ineligible under Part 1 of Schedule 2 to these Regulations, the Welsh Ministers may remove that chair from office.

(3) A chair appointed must immediately notify the joint committee if that chair becomes ineligible under Part 1 of Schedule 2 to these Regulations.

(4) If a chair appointed has failed to attend any meeting of the joint committee for a period of six months or more, the Welsh Ministers may remove that chair from office unless they are satisfied that —

- (a) the absence was due to a reasonable cause; and
- (b) the chair will be able to attend such meetings within such period as the Welsh Ministers consider reasonable.

(5) A chair may at any time resign his or her office by notice in writing to the Welsh Ministers and each Local Health Board but subject to the terms of that chair's appointment.

Suspension of chair

9.—(1) Before making a decision to remove a chair from office under regulation 8, the Welsh Ministers may suspend the tenure of office of that chair for such period as they consider reasonable.

(2) Where a chair is suspended in accordance with paragraph (1), the Welsh Ministers must immediately notify that chair and each Local Health Board in writing, stating the reasons for his or her suspension.

(3) A chair whose tenure of office is suspended under paragraph (1) may not perform the functions of chair.

Termination of appointment of officer members

10.—(1) The chair, vice-chair, non-officer members and chief executives may immediately remove an officer member from office —

- (a) if they are of the opinion that it is not in the interests of the joint committee that a person who is an officer member should continue to hold office as a member; or

- (b) having been notified by officer members in accordance with paragraph (2), they are of the opinion that it is not in the interests of the joint committee that a person who is an officer member should continue to hold office.

(2) If all of the officer members (other than an officer member who is the subject of a notification under this paragraph) are of the opinion that a person who is an officer member should not continue to hold office as a member, they may notify the joint committee.

(3) Where the chair, vice-chair, non-officer members and chief executives remove a person from office in accordance with paragraph (1) or, having been notified by the officer members in accordance with paragraph (2), determine that a person should not continue to hold office, they must immediately notify each Local Health Board and the Welsh Ministers in writing, stating the reasons for their decision.

(4) Where a person has been appointed to be an officer member, if it comes to the notice of the chair, vice-chair, any of the non-officer members or chief executives that the person—

- (a) has become ineligible for appointment under Part 1 and where applicable Part 2 of Schedule 2 to these Regulations; or
- (b) was at the time of their appointment ineligible for appointment under Part 1 and where applicable Part 2 of Schedule 2 to these Regulations,

he or she must immediately notify the joint committee and the chair must immediately notify that officer member, each Local Health Board and the Welsh Ministers in writing of such ineligibility.

(5) An officer member must immediately notify the joint committee if that member becomes ineligible under Part 1 and where applicable Part 2 of Schedule 2 to these Regulations.

(6) Where notice has been given in accordance with paragraph (4), the chair, vice-chair, non-officer members and chief executives must remove that person from office and that person ceases to act as an officer member.

(7) If it appears to the chair, vice-chair, non-officer members and chief executives that an officer member has failed to comply with regulation 17 of the Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009 (disability of members on account of pecuniary interest) they may remove that person from office and that person ceases to act as an officer member.

(8) Where an officer member has been removed from office in accordance with paragraphs (6) and (7)

the chair must immediately notify each Local Health Board and the Welsh Ministers.

(9) If a person who is an officer member has failed to attend any meeting of the joint committee for a period of six months or more, the chair, vice-chair, non-officer members and chief executives may remove that person from office unless they are satisfied that —

- (a) the absence was due to a reasonable cause; and
- (b) the person will be able to attend such meetings within such period as the chair, vice-chair, non-officer members and chief executives consider reasonable.

Suspension of officer members

11.—(1) Before deciding whether to remove a person from office in accordance with regulation 10 the chair, vice-chair, non-officer members and chief executives may, if they consider it appropriate to do so, suspend the tenure of office of an officer member for such period as they consider reasonable.

(2) Where an officer member is suspended in accordance with paragraph (1), the chair, vice-chair, non-officer members and chief executives must immediately notify that member, each Local Health Board and the Welsh Ministers in writing, stating the reasons for his or her suspension.

(3) An officer member whose tenure of office is suspended may not perform the functions of any member of the joint committee.

PART 3

Meetings and proceedings of the joint committee

Meetings and proceedings

12.—(1) Each Local Health Board must agree standing orders for the regulation of the meetings and proceedings of the joint committee.

(2) The meetings and proceedings of the joint committee must be conducted in accordance with standing orders relating to the joint committee.

(3) Associate members may not vote in any meetings or proceedings of the joint committee.

Powers of vice-chair

13. Where the chair of the joint committee—

- (a) has died;
- (b) has ceased to hold office; or

(c) is unable to perform the duties of chair owing to illness, absence or any other cause, the vice-chair may act as chair until a new chair is appointed or the existing chair resumes the duties of chair, as the case may be.

Edwina Hart

Minister for Health and Social Services, one of the Welsh Ministers.

25 November 2009

SCHEDULE 1
PROCEDURES FOR APPOINTMENT
OF CHAIR

Regulation 4(1) and (4)

1. This Schedule applies to the appointment of the chair of the joint committee.

2. The Welsh Ministers must ensure that appropriate arrangements are in place for the appointment of the chair and that those arrangements take into account —

- (a) the principles from time to time laid down by the Commissioner for Public Appointments for Ministerial Appointments to Public Bodies;
- (b) the requirement that the appointment be open and transparent;
- (c) the requirement of fair and open competition in the appointment; and
- (d) the need to ensure that successful candidates meet the eligibility requirements set out in Part 1 of Schedule 2 to these Regulations.

SCHEDULE 2

ELIGIBILITY REQUIREMENTS

Regulation 5(1),(2) and (3)

Part 1

Eligibility requirements for chair and officer
members

General requirements

1.—(1) This Part of this Schedule applies in relation to the eligibility for appointment of a person as the chair and officer member of the joint committee.

(2) Subject to paragraphs (4), (5), (6) and (8), a person is not eligible for appointment as a chair or officer member if that person—

- (a) has within the preceding five years been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has received a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;
- (b) is the subject of a bankruptcy restrictions order or an interim order or has made a composition or arrangement with creditors;
- (c) has been dismissed, other than by reason of redundancy, from any paid employment with a health service body; or
- (d) has had his or her membership as chair, member or director of a health service body terminated, other than by reason of redundancy, voluntary resignation, reorganisation of the health service body, or expiry of the period of office for which that person was appointed.

(3) For the purposes of paragraph (2)(a) the date of conviction is deemed to be the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its not being prosecuted.

(4) For the purposes of paragraph (2)(c), a person is not to be treated as having been in paid employment by reason only of having held the position of member, associate member or director of a health service body.

(5) Where a person is ineligible by reason of paragraph (2)(b)—

- (a) if the bankruptcy is annulled on the ground that the person ought not to have been adjudged bankrupt or on the ground that the person's debts have been paid in full, that person becomes eligible for appointment as a chair or officer member on the date of the annulment;
- (b) if the person is discharged from bankruptcy, that person becomes eligible for appointment as a chair or officer member on the date of the discharge;
- (c) if, having made a composition or arrangement with creditors, the person's debts are paid in full, that person becomes eligible for appointment as a chair or officer member on the date upon which such debts are paid in full; and
- (d) having made a composition or arrangement with creditors, that person becomes eligible for appointment as a chair or officer member on the expiry of five years from the date on which the terms of the deed of composition or arrangement were fulfilled.

(6) Subject to paragraph (7), where a person is ineligible by reason of paragraph (2)(c), that person may, after the expiry of two years from the date of dismissal, apply in writing to the Welsh Ministers to remove the ineligibility, and the Welsh Ministers may direct that the ineligibility ceases.

(7) Where the Welsh Ministers refuse an application to remove an ineligibility, no further application may be made by that person until the expiry of two years beginning with the date of the application and this paragraph applies to any subsequent application.

(8) Where a person is ineligible by reason of paragraph (2)(d), that person becomes eligible for appointment as a chair or officer member on the expiry of two years from the date of termination of membership or such longer period as may have been specified by the body which terminated the membership, but the Welsh Ministers may, on application being made in writing to them by that person, reduce the period of ineligibility.

Part 2

Eligibility requirements for specific categories of officer members

Medical Director of Specialised and Tertiary Services

2. To be eligible for appointment as the medical director in regulation 3(2)(b), a person must be listed in the General Medical Council General Practitioner Register(1) or Specialist Register(2).

Nurse Director of Specialised and Tertiary Services

3. To be eligible for appointment as the nurse director in regulation 3(2)(d), a person must be included on the register maintained by the Nursing and Midwifery Council(3).

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- (1) The General Practitioner Register is maintained by the General Medical Council under article 10 of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (S.I. 2003/1250).
- (2) The Specialist Register is maintained by the General Medical Council under article 13 of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (S.I. 2003/1250).
- (3) The Nursing and Midwifery Council maintains a register in accordance with Article 5 of the Nursing and Midwifery Council Order 2002 (S.I. 2002/253).