

## **Explanatory Memorandum to the Health and Social Care (Quality and Engagement) (Wales) Act 2020 (Consequential, Supplementary and Incidental Amendments and Revocations) (Secondary Legislation) Regulations 2023**

This Explanatory Memorandum has been prepared by the Department for Health and Social Services and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Health and Social Care (Quality and Engagement) (Wales) Act 2020 (Consequential, Supplementary and Incidental Amendments and Revocations) (Secondary Legislation) Regulations 2023.

Eluned Morgan MS  
Minister for Health and Social Services  
10 March 2023

## **PART 1**

### **1) Description**

This Explanatory Memorandum relates to Health and Social Care (Quality and Engagement) (Wales) Act 2020 (Consequential, Supplementary and Incidental Amendments and Revocations) (Secondary Legislation) Regulations 2023. The Regulations are made under section 28 of the Health and Social Care (Quality and Engagement) (Wales) Act 2020 (“the 2020 Act”). The 2020 Act established the Citizen Voice Body for Health and Social Care, Wales (“the Body”). The Body’s general objective, in exercising its functions, is to represent the interests of the public in respect of health and social services. The 2020 Act also provides for the abolition of the Community Health Councils.

These Regulations make consequential, supplementary and incidental amendments to, and provide for the revocation of, secondary legislation to reflect the establishment of the Body and the commencement of its substantive functions, and the abolition of the Community Health Councils provided for in the 2020 Act.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

None.

### **3. Legislative background**

These Regulations are made under section 28 of the 2020 Act. This section enables the Welsh Ministers to make regulations to provide for any consequential, supplementary or incidental provision, or any transitional, transitory or saving provisions if the Welsh Ministers consider it necessary or appropriate for the purposes of the 2020 Act. The Regulations are being made under the negative resolution procedure, as provided for under section 25(4) of the 2020 Act. The majority of the provisions in this Regulations come into force on 1 April 2023 to coincide with the date upon which the Citizen Voice Body for Health and Social Care, Wales will become fully operational, and the Community Health Councils will be abolished. The remainder of the provisions in these Regulations will come into force on 1 July 2023, which is the date upon which relevant bodies must have regard to the code of practice on access to premises published by the Welsh Ministers under section 19 of the 2020 Act. The code of practice on access concerns (a) requests made by the Citizen Voice Body for access to premises for the purpose of seeking the views of individuals in respect of health services or social services, and (b) where access to those premises has been agreed, engagement with individuals at those premises for that purpose.

#### **4. Purpose and intended effect of the legislation**

The Regulations make the necessary consequential amendments to secondary legislation to reflect the establishment of the Citizen Voice Body for Health and Social Care, Wales and the abolition of Community Health Councils. A brief summary of the effect of the amendments is provided below under the title of each regulation.

##### **The National Health Service (General Ophthalmic Services) Regulations 1986**

The Regulations are amended to insert a requirement on a contractor (which is defined as a person who provides general ophthalmic services and whose name is included in the ophthalmic list) to have regard to the code of practice on access to premises as part of the terms of service. This will have the effect of replacing requirements on providers of general ophthalmic services in relation to access by Community Health Councils which currently apply by virtue of the Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010, and will cease to have effect when those Regulations are revoked.

##### **The National Health Service (Service Committees and Tribunal) Regulations 1992**

The Regulations are amended to insert references to the Citizen Voice Body in regulations concerning the service of documents and the constitution of discipline committees. The broad effect of these amendments is to secure that relevant provisions apply to the Citizen Voice Body, once it is fully operational, in the same way as they currently do to Community Health Councils.

##### **The National Health Service (General Medical Services Contracts) (Wales) Regulations 2004**

The Regulations are amended to omit a definition of 'CHC' (which is a reference to the Community Health Councils) and to omit a paragraph concerning entry and inspection by members of Community Health Councils, as the latter powers will cease to exist upon the abolition of those bodies. Provisions in relation to access by the Citizen Voice Body are instead being addressed by a code of practice on access to premises published by the Welsh Ministers under section 19 of the 2020 Act and issued as guidance under paragraph 123 of Schedule 6 of the 2004 Regulations, to which contractors to a general medical services contract will be required to have regard.

##### **The NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG) Regulations 2005**

The Regulations are amended to insert reference to the Citizen Voice Body in the definition of 'health service body'. The broad effect of this amendment is to secure that relevant provisions apply to the Citizen Voice Body, once it is established, in the same way as they currently do to Community Health Councils.

## **The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Regulations 2005**

The Regulations are amended to insert reference to the Citizen Voice Body in the definition of 'health service body'. The broad effect of this amendment is to secure that relevant provisions apply to the Citizen Voice Body, once it is established, in the same way as they currently do to Community Health Councils.

## **The National Health Service (General Dental Services Contracts) (Wales) Regulations 2006 and the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006**

The Regulations are amended to omit the provisions relating to Community Health Councils (with regard to requiring contractors to produce information and to entry and inspection) to reflect the abolition of the Community Health Councils and the revocation of the Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010.

Provisions in relation to access by the Citizen Voice Body are instead being addressed by a code of practice on access to premises published by the Welsh Ministers under section 19 of the 2020 Act and issued as guidance under paragraph 84 of Schedule 3 of the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006 and paragraph 82 of Schedule 3 of the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006, to which contractors to a general dental services contract and a personal dental services contract respectively will be required to have regard.

## **The National Health Service (Pharmaceutical Services) (Wales) Regulations 2020**

The Regulations are amended to omit a definition of Community Health Councils and insert a definition of, and references to, the Citizen Voice Body. The broad effect of these amendments is to secure that relevant provisions apply to the Citizen Voice Body, once it is established and fully operational, in the same way as they currently do to Community Health Councils. In addition, the Regulations are amended to omit provisions relating to the entry and inspection of premises, which will fall away upon revocation of the Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010, and to insert a requirement on NHS pharmacists, NHS appliance contractors and doctors who provide certain pharmaceutical services, as part of their respective terms of service, to have regard to the code of practice on access to premises published by the Welsh Ministers under section 19 of the 2020 Act. Furthermore, amendments are also made to the requirements of a patient and public involvement programme as part of clinical governance components to omit reference to a requirement that the NHS pharmacist and the NHS appliance contractor co-operates appropriately with a Community Health Council visit and take appropriate action following the outcome of such visits. This is replaced with a provision that the patient and public involvement programme should include a requirement that the NHS pharmacist and the NHS appliance

contractor (as appropriate) has regard to the code of practice on access published by the Welsh Ministers under section 19 of the 2020 Act.

## **Revocations**

The Regulations also revoke a number of Regulations and other Instruments, principally concerned with Community Health Councils such as the Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010 which concerns the constitution, membership, functions and procedures of Community Health Councils.

## **5. Consultation**

No consultation has been undertaken specifically on these Regulations, which principally make technical provision so as to ensure that the objectives of the 2020 Act can be properly fulfilled and to further ensure that the 2020 Act works in harmony with existing legislation. Consultation has already been undertaken on policy embodied in the 2020 Act, and also on the proposed code of practice on access to premises (which specifically refers to primary care providers being subject to it) and therefore it was not considered necessary or proportionate to undertake further consultation.

## **6. Regulatory Impact Assessment (RIA)**

A regulatory impact assessment has not been prepared in respect of these Regulations, as they make consequential and technical amendments to existing legislation, and do not impose or reduce costs for business, charities or voluntary bodies or the public sector. This is in line with the policy set out in the Welsh Ministers' Code of Practice for carrying out Regulatory Impact Assessments for subordinate legislation.