

Health & Social Services Committee

HSS(2)-11-06-P3 Ann C

Standing Order 29 Secondary Legislation – Summary of Consultation

1. The consultation period began on 28th April 2006 and ended on 26th May 2006.
2. Key stakeholders are NHS Trusts in Wales, Powys Local Health Board and the Community Health Councils. A copy of the draft Directions was therefore sent to the Chief Executive of each trust, Powys LHB and the Director of the Board of Community Health Councils.
3. Within the consultation timescale seven responses were received.

These were in the main supportive and acknowledged the public concern in this matter.

Many of the issues raised appear to have resulted from individuals making assumptions about the interpretation of the Directions. In the vast majority of instances the assumptions made were not in line with the actual Government intentions of the Directions.

Interpretation of legislation is a known and understandable issue. The initial and continuing intention is that an explanatory Welsh Health Circular detailing the expectations and examples of implementation practice will be published to accompany the Directions.

No drafting alterations to the Directions are planned as a result of the consultation exercise.

The items raised by the consultation together with brief responses / explanations are shown in Annex A.

Summary of issues raised in the Public Consultation.

Details on Interpretation and Implementation are not suitable for inclusion in the Directions, but will be addressed in a Welsh Health Circular.

| Issues raised during consultation | Response - explanation |
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| <p>Role of Non Executive and Executive Directors</p> <p>The proposed Directions gave or implied that Executive / operational powers were being given to Non Executive Directors (NEDs).</p> | <p>This is a matter of interpretation.</p> <p>The following were raised as possible areas for concern:</p> <p>Chief Executives accountability – this will not be affected by Directions</p> <p>Executive Directors responsibilities – these will not be affected by Directions</p> <p>Trust complaints process – these will be unchanged as a result of the Directions.</p> <p>The intention of the ‘patient’s champion’ in the Directions is to provide increased communication on these issues to CHCs, patients and the public.</p> |
| <p>Resources/Finance</p> <p>One respondent felt there were financial implications as this proposal would increase the workload of NEDs and should attract increased remuneration. They also felt this proposal would result in the need for greater secretarial support.</p> | <p>This expectation arose from an assumption that operational responsibility was being transferred to a NED. It has never been the intention to transfer any operational responsibility to a NED.</p> |
| <p>Risk Management Standards</p> <p>There were concerns that the proposal conflicted with the current Welsh Risk Management Standards on Infection Prevention and Control and Cleanliness and the requirements for nominated Executive Directors.</p> | <p>There is no conflict. The WRMS in question require that each Trust has a ‘Nominated Executive Director’ responsible for each area (eg Cleaning). This relates to operational responsibility and must therefore be an Executive Director.</p> <p>The Directions relate to increased communications with the public, patients, CHCs. There is no intention that the NEDs should have any responsibility for operational activity. The word ‘responsible’ is not included in the Directions to ensure that no such conflict arises.</p> |

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| <p>Increased vulnerability</p> <p>The identification of a Non-Executive Director in this way makes them more vulnerable to individual criticism, litigation and/or criminal prosecution.</p> | <p>This resulted from the assumption that the Directions moved operational responsibilities to a NED. This is not the intention and no such responsibility is mentioned within the Directions.</p> |
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Note: NED – to include non-officer member for Powys Local Health Board.