

MINUTES

Date: Wednesday, 29 May 2002

Time: 9.00am to 12.30pm

Venue: Committee Room 3, National Assembly for Wales

Attendance: **Members of Health & Social Services Committee**

Kirsty Williams (**Chair**) Brecon and Radnorshire

Geraint Davies Rhondda

Jocelyn Davies South Wales East

Brian Gibbons Aberavon

Jane Hutt (Minister) Vale of Glamorgan

Ann Jones Vale of Clwyd

Dai Lloyd South Wales West

Val Lloyd Swansea East

David Melding South Wales Central

**Members of the House of
Commons Select
Committee on Welsh
Affairs**

Martyn Jones MP

Julie Morgan MP

Adam Price MP

Roger Williams MP

Officials In Attendance

Dr Ruth Hall	Chief Medical Officer
Lynne Hamilton	NHS Structural Change Programme
Tim Kirby	NHS Performance Management Division
Simon McCann	Office of the Counsel General
Mike Ponton	Health and Well-Being Strategy Planning Team
Helen Thomas	Social Policy Department

Secretariat:

Jane Westlake	Committee Clerk
Claire Morris	Deputy Committee Clerk

Item 1: Apologies and Substitutions

1.1 Apologies were received from Lynne Neagle and Rod Richards. Val Lloyd substituted for Lynne Neagle.

1.2 Members were reminded of the requirement, under Standing Order 4.5, to declare any interests before taking part in proceedings. The following declarations were made:

- Geraint Davies, pharmacist and member of Rhondda Cynon Taff County Borough Council;
- Brian Gibbons, registered medical practitioner;
- Dai Lloyd, general practitioner and member of the Council of the City and County of Swansea;
- Val Lloyd, member of the Council of the City and County of Swansea, registered nurse and nurse teacher.

Item 2: NHS Reform and Health Care Professions Bill - *proposed* draft Order Health and Well Being Strategies (Wales) Regulations Papers: HSS-12-02(p.1) and HSS-12-02(p.1a)

2.1 In accordance with the procedure previously agreed by the Committee for handling legislation,

amendments to the *proposed* draft Order had been circulated in advance of the meeting and can be found in paper HSS-12-02(p.1a). There was some discussion of the agreed process and it was agreed that it would be reviewed in the light of experience.

2.2 The Minister said that Health and Well Being Strategies were an essential component of the implementation of the NHS Plan for Wales and underpinned the Assembly's commitment to partnership working between local government the NHS and their partners. On Royal Assent, clause 22 of the NHS Reform and Health Professions Bill would give the Assembly powers to make regulations in respect of the duty placed on each local authority and Local Health Board (LHB) jointly to formulate and implement a Health and Well Being Strategy for the population of the local authority area. The proposed draft regulations set the detailed framework within which local authorities and LHBs would work with NHS Trusts, Community Health Councils, the voluntary sector, the independent sector and a range of other local partners to jointly formulate and implement a Health and Well Being Strategy. The first strategies should be in place by 1 April 2004.

2.3 Guidance to accompany the regulations would be issued later in the year, and much of the detail on implementing Health and Well Being Strategies would be covered within the guidance framework. The guidance would issue prior to the regulations coming into force, to ensure that local authorities and LHBs were adequately prepared in advance of formulating and implementing their Health and Well Being Strategy. The regulations and guidance framework would be supported by an organisational development and training programme which would deal with issues such as partnership working, team building and culture change. The regulations also placed a duty on the LHB and the local authority to consider entering into a 'commissioning arrangement' with the NHS Trust or Trusts for the commissioning of secondary care services for the local population. Consultation on possible groupings of LHBs for these arrangements had taken place and a report would be provided to the committee on this in due course.

Amendment 1 – proposed by David Melding, AM

Paragraph 4 - Duty to co-operate with prescribed bodies

Add new sub paragraph:

"(c) The County Voluntary Council supporting voluntary organisations in the area; and"

Re-number existing sub paragraph "(c)" as "(d)".

Response from Minister

The amendment was supported in principle, given the critical role of County Voluntary Councils, but it was premature to specify them prior to wider consultation taking place. Other key voluntary organisations might also feel that they should be named. Naming organisations would be more

appropriately addressed in the guidance rather than the regulations.

Main Points of Discussion

- County Voluntary Councils were supported by the Assembly and naming them in the regulations would demonstrate the Assembly's commitment to engaging the voluntary sector in policy development.
- Guidance would be prepared by the Welsh Assembly Government and as such members of other parties would have no influence over it.
- The amendment did not replace the existing sub paragraph (c) so the inclusion of County Voluntary Councils was not to the detriment of other voluntary organisations.

The Minister confirmed that local authorities and local health boards would be required to demonstrate that they had engaged with any organisation, profit making or voluntary, who could demonstrate an interest in health and well being in the community.

Conclusion

The amendment was accepted. The Minister said that she agreed to consult on it, but felt that it was important that it should not be prescriptive or exclude other voluntary organisations.

Amendment 2 - David Melding, AM

Paragraph 7(1) - Integration of other prescribed strategies or plans into health and well being strategies.

Add new sub paragraph:

"(d) the National Carers' Strategy and any plan for its local implementation that has been produced by one of the responsible bodies."

Response from Minister

The underlying principle of the amendment was accepted, but concern was expressed that the local Carers' Strategies were not statutory plans, but plans prepared under the terms and conditions of the Carers' Special Grant Report. It was felt this would be more appropriately addressed in the guidance rather than the regulations.

Main Point of Discussion

- Concern was expressed that if specific plans or strategies were named in the regulations they would have to be amended every time a new strategy was developed.

Conclusion

Following assurance from the Minister that specific reference would be made in the Health and Well Being Strategy Planning Guidance of the need to plan for carers and carers' services in the context of the National Carers' Strategy, the amendment was withdrawn.

Amendment 3 - David Melding, AM

Paragraph 8 - Publication of the draft strategy and consultation

Delete sub paragraph (2) and replace it with:

"(2)(a) the responsible bodies shall consult persons or organisations as appear to be the responsible bodies to be representative of interests likely to be substantially affected by the strategy, and

(b) the responsible bodies shall refer the draft strategy to the Community Health Council for consultation with the local population;

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

Response from Minister

The amendment was rejected because under paragraph 4 of the regulation Community Health Councils would be fully engaged in the formulation and review of the strategy.

Conclusion

The amendment was not supported. It was therefore withdrawn.

2.4 The Minister stressed the importance of social care and the need to ensure that the regulations fully expressed the social care dimension of planning and priority setting for health and well being

2.5 Brian Gibbons asked whether the regulations placed equal statutory duty on local authorities and local health boards. Peter Jones, Counsel to Assembly Committees, would look into the issue and provide a response.

Action

- Party spokespersons to review the process for handling draft legislation.

- Peter Jones to provide clarification on the statutory duty placed on local authorities and local health boards.

Item 3: Draft NHS (Wales) Bill

Papers: HSS-12-02(p.2) and HSS-12-02(p.2a)

3.1 The Chair welcomed members of the Welsh Affairs Committee.

3.2 In accordance with the procedure previously agreed by the Committee for handling legislation, amendments to the draft Bill had been circulated in advance of the meeting and can be found in paper HSS-12-02(p.2a).

3.3 The Minister outlined the key policy points of the Bill:

- a broad framework for detailed Welsh solutions
- Strengthening the independent voice of patients through keeping CHCs
- Giving statutory basis to the Wales Centre for Health and Health Professions Wales to replace the Welsh Board and embrace a wider range of health professions.

She also said that whilst a number of the proposed amendments were not opposed in principle, their effect of putting more detail into the broad powers worked against the Assembly's interests and constrained its freedom to legislate. If such matters were left to secondary legislation, the Assembly would have greater freedom and flexibility to adapt the legislation to meet changing requirements, and would afford Assembly Members greater opportunity to scrutinise and influence the legislation that was made.

3.4 Martyn Jones, MP, said that members of the Welsh Affairs Committee (WAC) were keen to work with the Assembly in progressing the Bill. Throughout June, WAC would be seeking written evidence from any interested party as well as targeting 68 specific bodies, such as professional groups, trade unions and university colleges. They would also be taking oral evidence from health professions, community health councils, NHS bodies, public bodies and government bodies. A report of their conclusions would be published on 8 July, before going to the Welsh Grand Committee for consideration.

Amendment 1 - proposed by Plaid Cymru - the Party of Wales

Amend the long title of the Bill as follows:

In the final line delete the words "and for connected purposes" and replace with:

"and for other purposes associated with the NHS, including making provision for health

audit; and health promotion in Wales; including the prevention of tobacco use in appropriate buildings used by the public; and permissive powers to allow free personal care for the elderly; and for connected purposes."

Response from Minister

The amendment was not accepted. Primary legislation had been sought to enable the establishment of a broad framework to implement 'Improving Health in Wales - A plan for the NHS with its Partners'. The amendment would widen the scope to such an extent that the Bill would not be introduced. On the specific points of the amendment:

- Health Professions Wales would be concerned with quality assurance issues;
- The Assembly did not have the necessary powers to ban smoking in public places;
- The Assembly had agreed in plenary that free personal care for the elderly was an issue to be pursued at UK level, not embarked on unilaterally.

Main Points of Discussion

- Smoking was the single biggest cause of ill health in Wales and stopping it would have a significant impact on the health of people in Wales.
- Health and audit were both devolved to Wales so health audit should also be.
- The Assembly should have a clear policy on free personal care. It should not be allowed to get lost in Westminster.

The committee voted on Amendment 1

For 4, Abstain 0, Against 5

The following Members voted for

Geraint Davies
Jocelyn Davies
Dai Lloyd
David Melding

The following Members voted against

Brian Gibbons
Jane Hutt
Ann Jones
Val Lloyd
Kirsty Williams

Conclusion

The amendment was defeated.

Amendment 2 - proposed by Plaid Cymru - the Party of Wales

Clause 1 (1) Community Health Councils.

In the new section 20A (3) add (line 14):

"(c) that Community Health Councils in Wales be co-terminous with Local Health Boards."

Response from Minister

The amendment was rejected on the basis that Community Health Councils (CHC) had already been through considerable re-organisation and uncertainty and the current number in many respects conformed to local health board boundaries.

Main Points of Discussion

- The amendment sought to strengthen the independence of CHCs, and as there were 22 local authorities and local health boards it made sense to have 22 CHCs.
- Some Members felt that the amendment would preclude the Assembly from deciding what the configuration of CHCs should be, and any future changes would require further primary legislation.

The committee voted on Amendment 2:

Amendment 2: For 4, Abstain 0, Against 5

The following Members voted for

Geraint Davies
Jocelyn Davies
Dai Lloyd
David Melding

The following Members voted against

Brian Gibbons
Jane Hutt
Ann Jones
Val Lloyd
Kirsty Williams

Conclusion

The amendment was defeated.

Amendment 3 - proposed by Brian Gibbons, AM

Clause 2 (3) Wales Centre for Health. Line 7 amend "chairman" to "chair".

Amendment 8 - proposed by Ann Jones, AM

Schedule 1. In the new Schedule 7A to the National Health Service Act 1977:

Paragraph 2(a) amend "*chairman*" to "*chairperson*".

Response from Minister

Both amendments were accepted. Whilst the differences between drafting policy in the Assembly and Westminster were recognised, the Assembly was committed to the use of gender neutral terminology. Discussions would be held with Parliamentary Counsel to try and address this issue.

Amendment 4 - proposed by Ann Jones, AM

Clause 3 (1) Functions of the Centre. After line 19 add:

"(e) undertake research into the causes of health inequalities among the population of Wales and provide information on, and evaluate the impact of, public health initiatives on reducing such inequalities."

Response from Minister

This was a helpful amendment as the Assembly should be tackling inequalities and promoting research but it was felt it would be more appropriate to use the regulations arising out of the Bill to make powers for this purpose.

Conclusion

Following assurance from the Minister that this would be a key element of the secondary legislation arising out of the Bill, the amendment was withdrawn.

Amendment 5 - proposed by Brian Gibbons, AM

Clause 3 (2) Functions of the Centre. This clause states to whom information may be given but does not outline how investigation may be requested. There should be some mechanism whereby legitimate community groups, e.g. trade unions, etc., might request the Wales Health Centre to look into some matter.

Response from Minister

The question of access to the Wales Health Centre was more appropriate for the regulations arising out of the Bill, and would be included in the secondary legislation process.

Conclusion

The amendment was withdrawn.

Amendment 6 - proposed by Brian Gibbons, AM

Clause 4 (5) Health Professions Wales. The definition of a health care professional is vague but presumably there is a precedent for these words.

Response from Minister

The definition had been obtained from the NHS Reform and Health Care Professions Bill. An information note would be made available to members to clarify the issue.

Main Points of Discussion

- Health Professions Wales was not a regulatory body. It would support the Health Professions Council in the provision of continual professional development. The functions of Health Professions Wales might be a matter the Assembly would want to address in the regulations arising out of the Bill.

Conclusion

The amendment was withdrawn.

Amendment 7 - proposed by Plaid Cymru - the Party of Wales

Schedule 1. In the new Schedule 7A to the National Health Service Act 1977:

After paragraph 1(a) insert:

"secure advocacy services: and"

Response from Minister

The amendment was rejected on the basis that it was already covered in paragraph 2(g) of Schedule 7. CHCs would be required to provide independent advocacy services for patients and methods for doing so were already being piloted. A broad framework would be needed which addressed the need for local

variations. This would be more appropriately addressed in the regulations arising out of the Bill.

Main Points of Discussion

- It was not felt that giving statutory powers to CHCs would preclude advocacy services being developed in other settings.
- Clarification was sought on whether the activities listed in s19A of the National Health Service Act 1977 could only be provided by CHCs.

The committee voted on Amendment 7

For 4, Abstain 0, Against 5

The following Members voted for

Geraint Davies
Jocelyn Davies
Dai Lloyd
David Melding

The following Members voted against

Brian Gibbons
Jane Hutt
Ann Jones
Val Lloyd
Kirsty Williams

Conclusion

The amendment was defeated.

Action

- Clarification to be provided whether the activities listed in Schedule 19A of the National Health Service Act 1977 could only be provided by CHCs.

Amendment 9 - proposed by Brian Gibbons, AM

Schedule 1. In the new Schedule 7A to the National Health Service Act 1977:

Paras 2(e) and 2(f) - Why are there no proposals to give powers to trusts? (It was noted that there was a typing error in the wording of the amendment in paper HSS-12-02(p2a). The wording should have read: "Why were there no proposals to give advice to trusts?")

Response from Minister

The Minister accepted that there should be reference to trusts.

Amendment 10 - proposed by Brian Gibbons, AM

Schedule 1. In the new Schedule 7A to the National Health Service Act 1977:

Paras 2(g) - is there any more detail on advocacy services?

The issues had been covered under discussion of Amendment 7

Amendment 11 - proposed by David Melding, AM

Schedule 1. *In the new Schedule 7A to the National Health Service Act 1977:*

Immediately after paragraph 2(g) there should be inserted:

"(h) the provision of a patient support service for National Health Service patients."

Response from Minister

The amendment was rejected as it was not appropriate to the Bill. Plans were already in place for patient support services. Pilots were currently being run to determine the most appropriate provider of patient support services and until they were concluded it would be premature to lodge it with CHCs.

Main Points of Discussion

Simon McCann, Office of the Counsel General, confirmed that it would be possible to insert the provision of patient support services at a later date, if the results of the pilot proved that CHCs were the most appropriate provider.

Conclusion

The amendment was not supported therefore it was withdrawn.

Amendment 12 - proposed by Brian Gibbons, AM

Schedule 1. In the new Schedule 7A to the National Health Service Act 1977:

Paragraph 3 (1) (h) - are these references to local pharmacy schemes?

Response from Minister

It was confirmed that this was a reference to local pharmacy services.

Conclusion

Amendment withdrawn.

Amendment 13 - proposed by David Melding, AM

Schedule 1. *In the new Schedule 7A to the National Health Service Act 1977:*

Paragraph 4 - in the first line (line 25 on page 6), insert "(1)" before "The" and the word "shall" shall be substituted for the word "may".

Response from Minister

The amendment was rejected on the basis that the proposed wording was over-prescriptive. It was felt that this issue would be better addressed in the regulations arising out of the Bill.

Conclusion

The amendment was not supported therefore it was withdrawn.

Amendment 14 - proposed by David Melding, AM

Schedule 1.

In the new Schedule 7A to the National Health Service Act 1977:

Paragraph 4(1)(a)(i) (line 27 on page 6), the words "support and" shall be inserted before the word "advise".

Response from Minister

The amendment was accepted.

Amendment 15 - proposed by David Melding, AM

Schedule 1.

In the new Schedule 7A to the National Health Service Act 1977:

Paragraph 4(1)(b) (line 32 on page 6), the words "the membership" shall be deleted.

Response from Minister

The amendment was rejected. It might be appropriate for the Assembly to consider the composition and membership of such a body and the current wording provided flexibility to do so.

Main Points of Discussion

The purpose of the amendment was to make the new all-Wales body as independent as possible and remove the power of appointment from the Assembly. It would also assure CHCs that they would elect the chair to this body.

The committee voted on Amendment 15

For 1, Abstain 0, Against 8

The following Members voted for

David Melding

The following Members voted against

Geraint Davies

Jocelyn Davies

Brian Gibbons

Jane Hutt

Ann Jones

Dai Lloyd

Val Lloyd

Kirsty Williams

Conclusion

The amendment was defeated.

Amendment 16 - proposed by David Melding, AM

Schedule 1.

In the new Schedule 7A to the National Health Service Act 1977:

Paragraph 4(1)(b) immediately after this paragraph there shall be inserted the following paragraphs:

"(2) Any body established under this paragraph shall -

(a) in each calendar year prepare a report outlining the views of National Health Service patients in Wales which report shall as soon as possible after the end of the calendar year be laid before the Assembly;

(b) consider the implications of any change to a National Health Scheme of which it is notified under paragraph 5(b) of this Schedule.

(3) The membership of any body established under this paragraph shall comprise the chairpersons of each Community Health Council in Wales and the chairperson of that body shall be elected by its members."

Response from Minister

The amendment was rejected on the basis that it was too detailed and would be better addressed in the regulations arising out of the Bill.

Main Points of Discussion

- It was agreed that the amendment raised an important principle regarding reporting arrangements and was suggested that this be addressed through secondary legislation.

Conclusion

The amendment was not supported therefore it was withdrawn.

Amendment 17 - David Melding AM

Schedule 1. In the new Schedule 7A to the National Health Service Act 1977:

Paragraph 5 – immediately after this paragraph insert:

"5. Before a substantial change is made to a local National Health Service Scheme in relation to the district of a Council, that Council –

(a) shall consult with such members of the public who may be affected by the change; and

(b) shall ensure that a body established under paragraph 4 of this Schedule is notified of any such change."

Response from Minister

The amendment was accepted in principle but a revised form of words would need to be drafted.

Conclusion

David Melding was content for the Minister to suggest an appropriate form of words.

Action

- Paper to note with revised wording.

3.5 The Chair confirmed that time would be built into the Committee's programme for consideration of the secondary legislation arising out of the Bill. She thanked members of the Welsh Affairs Committee for their attendance and looked forward to the publication of the Bill in its final form.

Item 4: Minutes of 15 May 2002

Paper: HSS-11-02(min)

4.1 The minutes of 15 May were agreed.

Item 5: Matters Arising

5.1 It was noted that the paper to note on epilepsy related deaths had not been included in the schedule of outstanding actions.

Item 6: Statement on the launch of the National Service Framework for Adult Mental Health services

6.1 The Minister made a statement on the National Service Framework for Adult Mental Health services. A copy is attached at Annex A.

6.2 In response to the statement, members made the following points:

- Accessing services, particularly in an emergency, was a problem particularly in the Valleys area.
- Greater capacity in terms of staff and resources was required.
- Greater provision for primary care was needed, as 90% of adult mental health services were provided in the primary care sector.

Statement on the National Public Health Service

6.3 The Minister made a statement on the National Public Health Service. A copy is attached at Annex B.

6.4 The Minister announced that Velindre NHS Trust would be the host Trust for management. Staff would be based throughout Wales not just in Cardiff.

6.5 Dr Ruth Hall said that the National Public Health Service (NPHS) would bring together the resources previously located in health authorities and the Public Health Laboratory Service and would be NHS based. Discussions were ongoing with staff regarding their transfer to NPHS and also how membership of NPHS could serve them in terms of providing a focus for professional development and engaging with other health professionals. She also confirmed that it would be possible for an Executive Director of Public Health to be a member of more than one Local Health Board. The Wales Centre for Health recognised that public health practice was carried out in a number of bodies, not just the NHS, and provided an independent body to support and draw together those widely dispersed professional efforts. It would also provide advice and a focus for much wider public interest in the development of health and public health.

6.4 The Chair asked that any future statements be made available to members in hard copy.

7. Any Other Business

7.1 A response to Brian Gibbons' question on 23 January on benefits payable to staff under suspension would be chased.

7.2 Val Lloyd reminded Members that they had been invited to attend the meeting of the Environment, Planning and Transport Committee that afternoon, when they would be discussing the relationship between planning applications and health impact assessments.

Annex A

Statement on the launch of the National Service Framework for Adult Mental Health services

I am pleased to inform the committee of the launch of the National Service Framework for Adult Mental Health services.

This Framework focuses on adults of working age, and covers health promotion and social inclusion, the needs of service users and carers, access to services and provision of comprehensive assessment and treatment.

It underpins the principles established in our All Wales Strategy for Adult Mental Health services, and is a guide for everyone involved in the planning, commissioning and delivery of the service. Its overall

aims are to drive up quality and tackle variations in access to care, as well as to ensure that service users and carers are fully involved at all stages and in all aspects of their care programme.

In summary, the National Service Framework and the All Wales Strategy includes the following specific aims: -

- To educate the public about the effective treatments of mental illness, to develop positive attitudes, reduce stigma and ensure that good mental health promotion is at the heart of our approach to services.
- To provide equitable access to mental health services for all the people of Wales, irrespective of where they live, their age, gender, sexuality, disability, race, ethnicity or their social, cultural and religious backgrounds.
- To ensure close co-operation between social services, local health boards and the voluntary and private sectors in order to commission effective, comprehensive and co-ordinated mental health services.
- To assess the medical, psychological and social needs of service users and carers at an appropriate time, and with reviews at regular intervals, and to provide effective and high quality care based on the best evidence.
- To provide mental health services in settings that are fit for purpose providing dignity and privacy.
- To ensure good communication and co-ordination between different parts of the mental health service in order to provide efficient, responsive and seamless care.
- To recruit and retain highly trained staff of all disciplines who are confident of their skills and have high morale.

Taken together, the National Service Framework and the Adult Mental Health Strategy form the template by which services will be assessed, monitored and judged. They are working documents, and I intend to see that the guidance in them is fully implemented across Wales.

To ensure this happens, an Implementation Group has been established, with representation from all sectors, which is working closely with officials to oversee implementation, and to report regularly to me on progress. All services are expected to co-operate fully with this Group to ensure that the four guiding principles of Equity, Empowerment, Effectiveness and Efficiency are applied.

Mental health is one of the top three health priorities for the Assembly Government, and that priority should be reflected in the attention that services devote to implementation of this National Service Framework.

Annex B

Statement on the National Public Health Service

When I made a statement to Plenary in November concerning our NHS restructuring, I explained that we would be establishing a National Public Health Service within NHS Wales to provide this specialist function to Local Health Boards.

In considering the placement of this new organisation I have wanted to consider the full range of potential options through an open, transparent and robust process. All NHS Trusts in Wales were invited to express interest in becoming the host organisation for the new national service, which will operate throughout Wales and have staff located throughout Wales.

Four Trusts who wished to pursue their interest made formal presentations to an independent expert panel under the Chairmanship of Paul Hocking from the Centre for Health Leadership in Wales. The suitability of each Trust to host this particular service was evaluated according to a set of criteria agreed in advance. The firm recommendation from the panel was that Velindre NHS Trust scored highest in their assessments and should be invited to host the National Public Health Service.

Velindre NHS Trust has a strong track record in managing and delivering high quality national services in Wales; these services include Breast Test Wales, Cervical Screening Wales, The Welsh Cancer Intelligence and Surveillance Unit, The Welsh Blood Service and Health Solutions Wales. There are many synergies between the services already being delivered by the Trust and the Public Health Service.

I have decided that the National Public Health Service for Wales, which will be established on 1st April 2003 and will bring together resources currently located in the five Health Authorities and in PHLS (Wales) – my written statement refers to this - into a single body, and that this will be managed by Velindre NHS Trust. In taking their new role forward, I shall be emphasising to the Trust that geographical placement of staff and offices should reflect the role that the new Service will have throughout Wales.