

<b>Date:</b>	<b>29 May 2002</b>
<b>Venue:</b>	<b>Committee Room, National Assembly for Wales</b>
<b>Title:</b>	<b>NHS Reform and Health Care Professions Bill – Proposed Draft Order Health and Well Being Strategies (Wales) Regulations</b>

## **Purpose**

1. This paper provides an opportunity for the Health and Social Services Committee to comment on the draft proposed Regulations for Health and Well Being Strategies.

## **Background**

2. The model for Health and Well Being Strategies emerged from 'Improving Health in Wales: A Plan for the NHS with its Partners' which I launched in February 2001. The Plan made a commitment to establish a Strategic Partnership for Health and Well Being within each local authority area which would enable strong direction from the most senior levels in both the NHS and local government. The Strategic Partnership would be responsible for giving direction to, and committing resources, for joint working across the whole range of health and local government services.

3. As part of the NHS Plan Implementation Programme, the Joint Working Task and Finish Group was established which comprised of wide membership from the NHS, local government, voluntary and independent sectors and health professions. The Task Group's terms of reference included the development of a model for Strategic Partnerships for Health and Well Being and discussion in its first 3 meetings largely focused around this. The Joint Working Task and Finish Group provided me with a recommendation of a model for the implementation of Health and Well Being Partnerships.

4. The recommended model formed the basis of parliamentary drafting instructions for clause 22 of the NHS Reform and Healthcare Professions Bill. The clause contains provisions which will place a duty on each newly formed LHB and each local authority to jointly formulate and implement a Health and Well Being Strategy for the area. The Bill recently passed through the Committee, and Report stages of the House of Lords, and Royal Assent is expected in the summer.

## **Content of the Regulations**

5. The regulations cover a wide range of provisions with regard to formulating and implementing a Health and Well Being Strategy for each local authority area. The regulations define the:

- steps which the responsible bodies must take before formulating a strategy
- duty to co-operate with prescribed bodies
- matters which the strategy must address
- publication of the draft strategy and consultation on it
- date for adoption of the strategy, operative period and review
- publication and reporting
- harmonisation of strategies with other prescribed strategies or plans

6. Essentially, the regulations will place a duty on each newly created local health board and each local authority to formulate and implement a Health and Well Being Strategy from 1 April 2003. This will mean that the first Health and Well Being Strategies will be in place by 31<sup>st</sup> March 2004.

7. The draft regulations are likely to be subject to additional minor drafting amendments by the Office of the Counsel General. The final draft which will issue for full consultation from June to August, should not however, greatly differ from the version being discussed at HSSC.

### **Timetable**

8. The main stages which I propose are:

- (i) Draft proposed Regulations to be revised in light of the Committee's views, and will then be subject to an eight week consultation exercise from 28 June until 23 August;
- (ii) Following scrutiny of consultation responses and inclusion of any proposed amendments, the draft Regulations will be submitted to Business Committee on 15 October and Legislative Committee on 17 December;
- (iii) Plenary debate is scheduled for 23 January;
- (iv) Subject to Assembly approval, the Regulations will come into force on 1 April 2003.

### **Action**

9. I would welcome the views of the Health and Social Services Committee on the proposed draft regulations.

**JANE HUTT**  
**Minister for Health and Social services**

**May 2002**

Contact: Lynne Hamilton (Tel: 029 20681388)

NATIONAL ASSEMBLY FOR WALES

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STATUTORY INSTRUMENTS

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***DRAFT FOR CONSULTATION***

**2003 No. (W. )**

**NATIONAL HEALTH  
SERVICE, WALES**

**The Health 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.[ ]) provides, in section 22 of that Act, for a duty to be placed on each Local Health Board and local authority in Wales to formulate and implement a health and well being strategy for the population in the area, and to have regard to the strategy in exercising their functions.

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) The preparatory steps which Local Health Boards and local authorities must take in relation to health and well-being strategies, including the assessment of needs and consultation (regulation 3);
- (b) 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 health and well-being strategies (regulation 4);

(c) the matters which must be addressed in the health and well-being strategy (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) the integration of other existing statutory plans and strategies into health and well-being strategies (regulation 7);

(f) publication of the draft strategy and consultation on it (regulation 8);

(g) the times for adoption, review and duration of the health and well-being strategies (regulation 9);

(h) publication of the strategy after it has been adopted (regulation 10); and

(i) public inspection of and access to the draft and adopted strategy (regulation 11).

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 [ ], National Assembly for Wales, Cathays Park, CF10 3NQ, or via the Assembly's website at [insert web address]. *[Drafting note on consultation draft - the regulatory appraisal has not yet been carried out but will be completed by the time these Regulations are introduced into the legislative process]*

***DRAFT FOR CONSULTATION***

**2003 No. (W. )**

**NATIONAL HEALTH  
SERVICE, WALES**

**The Health and Well-Being  
Strategies (Wales) Regulations  
2003**

*Made* 2003

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

The National Assembly for Wales, in exercise of the powers conferred by section 22(4), (5), (6) and (9) and section 36 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 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) “commissioning functions” means any functions of the responsible bodies or any one of them which relate to the commissioning or purchase of any health and well-being services;

(c) “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;

(d) “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 National Assembly for Wales for the purposes of entering into a commissioning arrangement;

(e) “health and well-being services” means any services provided by an NHS body, any services provided under or in connection with a local authority’s functions under Schedule 1 to the Local Authority Social Services Act 1970(2), and any similar service provided by a voluntary or other organisation;

(f) “local authority” shall have the meaning given in section 22 (9)(a) of the 2002 Act;

(g) “local population” means members of the public in the responsible bodies’ area or areas;

(h) “NHS body” means a Health Authority, Local Health Board, NHS Trust, Strategic Health Authority, Primary Care Trust or Care Trust(3);

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

(j) “responsible bodies” shall have the meaning given in s.22(2) of the 2002 Act;

(k) “secondary care services” means medical or surgical treatment or care which is mainly provided in a hospital;

(l) “strategy” means a health and well-being strategy under s. 22 (1) of the 2002 Act.

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(2) 1970 c.42.

(3) 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).

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

**3.-(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 existing provision of health-related services to the local population, including any provision of health and well-being services to the local population by an organisation which is outside the responsible bodies' area.

(3) In carrying out an assessment under paragraph (1), the responsible bodies 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).

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

**4.** The responsible bodies shall co-operate in formulating or 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; and

(c) 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.

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

**5.-(1)** The responsible bodies shall have regard to the needs assessment carried out under regulation 3(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, including their anticipated needs throughout the operative period;

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

- (d) 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;
- (e) the means of commissioning and delivery of health and well-being services;
- (f) gaps or deficiencies in the provision of health and well-being services to the local population;
- (g) the improvement of the health and well-being of the local population;
- (h) factors affecting the health and well-being of the local population, including in particular social and environmental factors, health promotion and education, health protection, community development and sustainable development, the access of the local population to health and well-being services and inequalities in access to such services;
- (i) risks to the health and well-being of the local population;
- (j) the financial or other resources which will be required to implement the strategy; and
- (k) any directions or guidance given by the National Assembly for Wales pursuant to section 22(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 health and well being of the local population would be best served; and
- (b) whether better value for money and efficiency could be achieved in the commissioning and delivery of secondary care services for which they are or any one of them is responsible,

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 decide not to enter into a commissioning arrangement, they must provide adequate reasons for not doing so, and state those reasons in the strategy.

#### **Integration of other prescribed strategies or plans into health and well being strategies**



7.-(1) In formulating and implementing their strategy, the responsible bodies shall have regard to the following -

- (a) the current children's services plan under paragraph 1A of Schedule 2 of the Children Act 1989<sup>(4)</sup>;
- (b) the current plan for the provision of community care services under section 46 of the National Health Service and Community Care Act 1990<sup>(5)</sup>; and
- (c) the current plan for improving health under section 28 of the Health Act 1999<sup>(6)</sup>.

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

(3) The responsible bodies shall co-ordinate and integrate the plans and strategies listed in subsection (1) above into their strategy and shall publish them as part of their strategy.

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

#### **Publication of the draft strategy and consultation**

8.-(1) The responsible bodies shall publish their strategy in draft no less than [26] weeks before the date upon which it is to be adopted.

(2) The responsible bodies shall consult the following on the draft strategy before adopting it -

- (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 completing the strategy for adoption.

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<sup>(4)</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>(5)</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>(6)</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.

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

**9.**-(1) The first strategy must be formulated and adopted by the responsible bodies on or before 31<sup>st</sup> March 2004.

(2) The operative period shall be five years from 31<sup>st</sup> March 2004.

(3) The strategy shall be reviewed annually by the responsible bodies.

(4) 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**

**10.** The responsible authorities shall publish the strategy no more than 4 weeks after adoption under regulation 9 above.

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

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

(2) 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.

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

(4) 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 other languages, and shall adopt their recommendations unless it is not reasonably practicable to do so.

(5) 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(7)

*D. Elis Thomas*

The Presiding Officer of the National Assembly.

## 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 22(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 22(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 22(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.”.