

**Date:** Wednesday 23 October 2002

**Venue:** Committee Rooms 3 & 4, National Assembly for Wales

**Title:** Draft NHS (Wales) Bill – Issues arising out of the Health and Social Services Committee (HSSC) meeting of 29 May 2002

### **Purpose**

1. To provide the information requested by the Committee following its consideration of the draft NHS (Wales) Bill at the meeting of 29 May 2002 (HSS-12-02).

### **Summary**

2. The Committee is asked to note that:

- It is the Assembly's intention that independent advocacy services will be provided by Community Health Councils (CHCs) in Wales. This does not preclude the possibility of CHCs calling on other bodies to provide some specialist advocacy services to patients.
- The issue of consultation raised in David Melding's Amendment 17 to the draft NHS (Wales) Bill is one more properly set out in Regulations rather than on the face of the Bill.

### **Timing**

3. The Committee has requested this paper for this meeting.

### **Background**

4. At the HSSC meeting on 29 May the Committee considered the draft NHS (Wales) Bill. Two issues were raised which resulted in the Committee requesting further information.

i) The Committee sought clarification on whether the activities listed in Schedule 19A of the National Health Service Act 1977 (i.e. advocacy services) could only be provided by Community Health Councils (CHCs).

ii) Amendment 17, tabled by David Melding:

*Schedule 1. In the new Schedule 7A to the National 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."*

The Committee agreed the amendment in principle but asked that a revised form of words be drafted and circulated to members.

## **Consideration**

*Advocacy Services:*

5. Section 19A of the National Health Service Act 1977 was inserted by section 12 of the Health and Social Care Act 2001, but has not yet been brought into effect. It places a duty on the Secretary of State to arrange to meet all reasonable requirements to provide independent advocacy services for people wishing to complain against the NHS. This duty devolves to the Assembly in respect of Wales. The intention is that CHCs shall provide these services in Wales. Therefore Schedule 1, paragraph 2(g) to the draft NHS (Wales) Bill provides the Assembly with the power, by Regulation, to make provision for complaints advocacy services to be provided by CHCs. There is no power to place that duty on any other body.

6. The intention is to bring Section 12 of the Health and Social Care Act 2001 into effect in Wales in parallel with Regulations placing the duty to provide complaints advocacy services on CHCs (subject to the passage of the NHS (Wales) Bill into law).

7. It is recognised however that CHCs will may not be able to provide the whole range of specialist advocacy service from within their own resources. CHCs or federations of CHCs may therefore facilitate the provision of some services to patients, calling on specialist services from the voluntary or other sectors where necessary to assist CHCs in meeting their obligations. If necessary, this can be addressed in the proposed Regulations.

*Amendment 17*

8. In the light of earlier discussion at the HSSC meeting of 29 May David Melding had offered to

withdraw this amendment, but the Minister undertook to consider whether a revised form of wording would meet his concerns.

9. The Minister for Health and Social Services considered the extent to which detail of this sort should be specified in the Bill in preparation for her appearance before the Welsh Affairs Select Committee on 25 June. That Committee raised the issue of consultation and, in the light of the further consideration she had given the issue, the Minister expressed the opinion that detailed arrangements as to how consultation should be carried out would be a matter to be more properly set out in Regulations rather than on the face of the Bill.

10. This general conclusion would apply to Mr Melding's proposed amendment. The extent of the detail that would be necessary to make its purpose and scope sufficiently clear would be far more appropriate to be included in Regulations. Moreover, because proposed Regulations are published in draft for consultation the Assembly will be able to take account of the views expressed by stakeholders before making a final decision on the Regulations.

11. The Minister wrote to the Chair of the HSSC on 12 July in order to clarify these issues.

### **Compliance**

12. There are no compliance issues.

### **Cross-cutting themes**

13. There are no cross-cutting themes.

### **Action for HSSC**

14. The Committee is asked to note this paper.

**Jane Hutt**

**Minister for Health and Social Services**

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