

Explanatory Memorandum to the Public Health Wales National Health Service Trust (Membership and Procedure) (Amendment) Regulations 2016.

This Explanatory Memorandum has been prepared by the Public Health Division as part of the Department of Health and Social Services (DHSS), Health and Social Services Group and is laid before the National Assembly for Wales 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 Public Health Wales National Health Service Trust (Membership and Procedure) (Amendment) Regulations 2016.

Mark Drakeford AM
Minister for Health and Social Services
2 February 2016

1. Description

These Regulations amend the Public Health Wales National Health Service Trust (Membership and Procedure) Regulations 2009 (“the 2009 Regulations”) by broadening the eligibility criteria for the Non-Executive Director members of the Public Health Wales NHS Trust Board.

2. Matters of special interest to the Constitutional Affairs Committee

None.

3. Legislative background

The Regulations will be made pursuant to powers under sections 18(4), 203(9) and (10) of and paragraph 4 of Schedule 3 to the National Health Service (Wales) Act 2006.

These Regulations will follow the negative resolution procedure.

4. Purpose & intended effect of the legislation

These Regulations amend the 2009 Regulations by broadening the eligibility criteria for the Non-Executive Director roles. The amendments aim to ensure open and fair competition to recruit the Trust Board’s Local Authority, University and Voluntary Sector Non-Executive Directors and by widening the scope of applicants who are able to apply for the posts, it will help to ensure the most appropriate people are appointed to the Trust’s Board.

Local Authority Non-Executive Director

The 2009 Regulations currently provide that the Local Authority Non-Executive Director must be a person nominated by a local authority or local authorities in Wales.

Informal feedback received from stakeholders has indicated that the current eligibility criteria for the Local Authority Non-Executive Director post is limiting potential candidates, potentially providing a barrier to recruitment and lacking the transparency of an open and fair competition.

These Regulations amend the 2009 Regulations by removing the requirement for the Local Authority Non-Executive Director to be nominated. It will remain a requirement that the person must have experience of local authorities in Wales. The strong links between local government and public health make it important to have Welsh local government representation on the Public Health Wales Board.

University Non-Executive Director

The 2009 Regulations currently provide that the University Non-Executive Director must have teaching or research specialism in public health and be nominated by a university in Wales.

The same arguments about transparency and open and fair competition apply to the University Non-Executive Director post.

In addition, it is felt that the requirement for the post holder to have a teaching or research specialism in public health is no longer needed due to the development of the organisation over the last 6 years, specifically the broader view on population health now embedded throughout the organisation. It is also considered that the post doesn't need to be restricted to those working at universities within Wales.

These Regulations remove the requirements for the University Non-Executive Director to be nominated and to have teaching or research specialism in public health; instead all that will be required is for the person to hold a health-related post in a university.

Voluntary Sector Non-Executive Director

The 2009 Regulations currently provide that the Voluntary Sector Non-Executive Director must be an employee or a member of a voluntary sector organisation in Wales. It is considered the post does not need to be restricted to those within Wales, however some experience of such organisations in Wales is necessary. These Regulations therefore remove this requirement and all that will be required is for the person to be an employee or member of a voluntary sector organisation with experience of such organisations in Wales.

5. Consultation

These Regulations were subject to a six week consultation period between 1 December 2015 and 11 January 2016.

The consultation was circulated to a comprehensive list of stakeholders and was published on the Welsh Government website. Hard copies of the consultation were available on request.

Nine responses were received during the consultation period. The great majority of the responses expressed support for the proposals, however there were concerns expressed in relation to the Voluntary Sector Non-Executive Director. It was felt the individual needs to have an understanding of the landscape of the third sector, as well as broader public services, in Wales, which remain unique and evolving. Therefore the amendment includes a requirement that the voluntary sector non-executive director has experience of voluntary sector organisations in Wales.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment has not been undertaken due to the minor nature of the changes proposed. A Regulatory Impact Assessment was undertaken for the 2009 Regulations.