

SL(6)454 – The National Health Service Joint Commissioning Committee (Wales) Regulations 2024

Background and Purpose

The National Health Service Joint Commissioning Committee (Wales) Regulations 2024 (“these Regulations”) make provision for the constitution and membership of the NHS Wales Joint Commissioning Committee (“the joint committee”) including its procedures and administrative arrangements.

The joint committee will supersede the Welsh Health Specialised Services Committee and the Emergency Ambulance Services Committee.

The National Health Service Joint Commissioning Committee (Wales) Directions 2024, which were made on 6 February 2024, provide that the Local Health Boards in Wales will work jointly to exercise functions relating to the planning and securing of certain services. For the purpose of jointly exercising those functions, the Local Health Boards will establish the joint committee to be operational on 1 April 2024.

Part 2 of these Regulations makes provision for—

- (a) the composition and membership of the joint committee (regulation 3),
- (b) the appointment of the chair and non-officer members to the joint committee (regulation 4 and Schedule 1),
- (c) eligibility requirements for members of the joint committee (regulation 5 and Schedule 2),
- (d) tenure of office, termination of appointment and suspension of members of the joint committee (regulations 6 to 9), and
- (e) the appointment and powers of the vice-chair of the joint committee (regulations 10 to 12).

Part 3 of these Regulations makes provision for standing orders concerning the regulation of meetings and proceedings of the joint committee.

Part 4 of these Regulations revokes two sets of Regulations.

These Regulations come into force on 1 April 2024.

Procedure

Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd



is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following 6 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In regulation 2, the term “non-officer member” has been defined for these Regulations. However, the same term has been defined differently in paragraph 4(6) of Schedule 2 to these Regulations, for the purposes of paragraph 4(5)(a) of that Schedule. Therefore, the definition of “non-officer member” in regulation 2 should explain to the reader that it does not apply to paragraph 4(5)(a) of Schedule 2.

2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In regulation 2, in the definition of “health service body”, a number of bodies are listed but their meaning has not been defined for these Regulations other than “Local Health Board”. The bodies listed without a defined meaning are NHS England, the National Institute of Health and Care Excellence, the Health Research Authority, Special Health Authority, NHS Trust and NHS Foundation Trust.

3. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In Schedule 2, in paragraph 2, in sub-paragraph (2), the opening words state “For the purposes of this sub-paragraph...”. However, the intention appears to be to define the meaning of the date of conviction for sub-paragraph (1) in paragraph 2 of Schedule 2. Therefore, it should state “For the purposes of sub-paragraph (1) ...” so that the meaning of date of conviction applies to sub-paragraph (1) of paragraph 2 in Schedule 2 (see paragraph 6(2) of Schedule 2 to these Regulations for a correctly drafted example).

4. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In Schedule 2, in paragraphs 4(5)(a) and (d), and 5(b), the term “Integrated Care Board” has been used but its meaning has not been defined for the purposes of those paragraphs in that Schedule.

5. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In Schedule 2, in paragraph 6(1)(a), it refers to “a Local Health Board established under section 11 of the Act”. However, the term “Local Health Board” has already been defined as meaning



“a Local Health Board in Wales established in accordance with section 11(2) of the Act” in regulation 2 of these Regulations. Therefore, the additional words in paragraph 6(1) of Schedule 2 are unnecessary, but also differ slightly from the definition found in regulation 2.

6. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In paragraph 6(1)(b) and (c) of Schedule 2, the terms “NHS trust” and “Special Health Authority” are given a meaning for that paragraph as having been established under sections 18 and 22 respectively of the National Health Service (Wales) Act 2006 (“the Act”). However, these terms are also used elsewhere in these Regulations but have not been defined in regulation 2. Therefore, they have not been given a meaning for the other provisions of these Regulations.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

7. Standing Order 21.3 (ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

In regulation 2, in the definition of “the joint committee”, the National Health Service Joint Commissioning Committee (Wales) Directions 2024 are referenced but do not appear to have been published on the Welsh Government’s website. The unavailability of these Directions may inhibit the public’s access to relevant law in this field. In addition, there should be a footnote with the “WG” number for these Directions.

Welsh Government response

A Welsh Government response is required in relation to the reporting points.

Legal Advisers

Legislation, Justice and Constitution Committee

26 February 2024

