

## Explanatory Memorandum

This Explanatory Memorandum has been prepared by the Department for Health and Social Services of the Welsh Government 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 Health Education and Improvement Wales (Transfer of Staff, Property, Liabilities) (Wales) Order 2018 and I am satisfied that the benefits outweigh any costs.

*Vaughan Gething*  
Cabinet Secretary for Health and Social Services  
7 September 2018

**Description**

The Order transfers the functions relating to the commissioning of education and training of health professionals from Velindre NHS Trust to Health Education and Improvement Wales Special Health Authority.

**Matters of special interest to the Constitutional and Legislative Affairs Committee**  
None.

**Legislative background**

This Order is made under sections 22(1) and (4) and 203(2),(9) and (10) of the National Health Service (Wales) Act 2006.

The Order is subject to annulment by the Assembly (the negative procedure).

**Purpose & intended effect of the legislation**

In October 2017, the National Assembly established a new Special Health Authority (Health Education and Improvement Wales) through the Health Education and Improvement Wales (Establishment and Constitution) Order 2017.

On 1 October 2018, Health Education and Improvement Wales will assume new functions in relation to the education and training of health professionals and in relation to the development of the health workforce in Wales. These functions are currently carried out by Velindre NHS Trust and Cardiff University on behalf of the Welsh Government.

This order transfers the Staff, Property, Liabilities in relation to these functions currently carried out by Velindre NHS Trust, through its Directorate 'Workforce, Education and Development Services' (WEDS). A separate commercial agreement will set out the transfer of such items in relation to Cardiff University.

Article 2 of the Order relates to the transfer of staff.

Article 3 of the Order relates to the transfer of property and liabilities

Article 4 of the Order relates to the transfer of data, records and information.

The Schedule the Order details the specific property and liabilities captured under the Order.

**Consultation**

Although no specific consultation has been undertaken in relation to this order as a whole, the Welsh Government has consulted widely throughout the development and establishment of HEIW. The transfer of staff has also been subject to a formal consultation process with affected staff and their trade unions under the provisions relating to TUPE and as required by section 22(7) of the NHS (Wales) Act 2006.

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

### **Options**

#### **Option 1: make the legislation**

This legislation will transfer staff, property and liabilities between one part of NHS Wales, the Shared Services Partnership and HEIW.

#### **Option 2: do nothing**

Without this legislation the transfer of the matters contained in the order would not happen.

### **Costs and benefits**

#### **Option 1: make the legislation**

There are no costs associated with this option for the business, voluntary sector, local government and others.

Costs relating to the establishment of HEIW were set out in the Explanatory Memorandum relating to the Health Education and Improvement Wales (Establishment and Constitution) Order 2017 and the Health Education and Improvement Wales Regulations 2017.

The costs to the Welsh Government directly resulting from this Order relate to transitional costs for legal advice and staff time to prepare the required documentation. This is estimated at no more than £25,000. This cost is non-recurring and will be met from existing Welsh Government budgets.

#### **Option 2: do nothing**

The new organisation established to carry out the functions (HEIW) would not be able to do so as intended given that the contracts and staff relating to the functions would

remain with Velindre NHS Trust. This is not considered an efficient or desirable position and would potentially lead to confusion and potential duplication.

## **Consultation**

No public consultation has been carried out in relation to the policy underpinning the Order or on the draft Order, as the Order will not have a direct impact on the public, private or voluntary sectors. A formal consultation has taken place with the staff affected by the transfer and their trade union representative as required by section 22(7) of the NHS (Wales) Act 2006.

## **Competition Assessment**

No competition assessment has been undertaken as this Order will not affect business, charities or the voluntary sector.

## **Post implementation review**

The arrangements will be reviewed as part of the review of the Programme to establish HEIW scheduled for the end of 2019.