
WELSH STATUTORY INSTRUMENTS

2024 No. 135 (W. 29)

NATIONAL HEALTH SERVICE, WALES

**The National Health Service Joint Commissioning
Committee (Wales) Regulations 2024**

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| <i>Made</i> | - - - - | <i>7 February 2024</i> |
| <i>Laid before Senedd Cymru</i> | | <i>9 February 2024</i> |
| <i>Coming into force</i> | - - | <i>1 April 2024</i> |

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 11(6), 203(9) and (10) of, and paragraphs 4(1)(d) to (f), 4(2) and paragraph 5 of Schedule 2 to, the National Health Service (Wales) Act 2006⁽¹⁾.

PART 1

Introduction

Title and coming into force

1.—(1) The title of these Regulations is the National Health Service Joint Commissioning Committee (Wales) Regulations 2024.

(2) These Regulations come into force on 1 April 2024.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the National Health Service (Wales) Act 2006;

“associate member” (“*aelod cyswllt*”) means the chief commissioner employed by the host Local Health Board;

“chair” (“*cadeirydd*”) means the chairperson of the joint committee;

“chief officer” (“*prif swyddog*”) means a chief executive of a Local Health Board;

“health service body” (“*corff gwasanaeth iechyd*”) means NHS England, the National Institute of Health and Care Excellence, the Health Research Authority, any Special Health Authority, any Local Health Board, any NHS Trust or any NHS Foundation Trust;

“host Local Health Board” (“*Bwrdd Iechyd Lleol cynhalio*”) means Cwm Taf Morgannwg University Local Health Board⁽²⁾;

“the joint committee” (“*y cyd-bwyllgor*”) means the NHS Wales Joint Commissioning Committee established pursuant to the National Health Service Joint Commissioning Committee (Wales) Directions 2024 made on 6 February 2024;

“Local Health Board” (“*Bwrdd Iechyd Lleol*”) means a Local Health Board in Wales established in accordance with section 11(2) of the Act⁽³⁾;

“member” (“*aelod*”) means a member or the associate member of the joint committee as set out in regulation 3 of these Regulations;

“nominated representative” (“*cynrychiolydd enwebedig*”) means an officer member nominated by the chief officers of a Local Health Board. Officer member in this context means any office set out in regulation 3(2) of the Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009⁽⁴⁾;

“non-officer member” (“*aelod nad yw’n swyddog*”) means a member of the joint committee appointed in accordance with regulation 4 of these Regulations who is not the chair.

PART 2

Membership of the joint committee

Membership of the joint committee

3.—(1) The joint committee is to consist of—

- (a) the chief officers or their nominated representatives,
- (b) a chair, and
- (c) not more than five non-officer members.

(2) In addition there will be an associate member who may not vote in any meetings or proceedings of the joint committee.

Appointment of the chair and non-officer members

4.—(1) The chair and non-officer members are appointed by the Welsh Ministers.

(2) Appointments made in accordance with paragraph (1) must be in accordance with the provisions in Schedule 1 to these Regulations.

(2) Cwm Taf Morgannwg University Local Health Board was established under the Local Health Boards (Establishment and Dissolution) (Wales) Order 2009 (S.I. 2009/778 (W. 66)) as amended by S.I. 2019/349 (W. 83).

(3) Powys Teaching Local Health Board was established under the Local Health Boards (Establishment) (Wales) Order 2003 (S.I. 2003/148 (W. 18)). Aneurin Bevan University Local Health Board, Betsi Cadwaladr University Local Health Board, Cardiff and Vale University Local Health Board, Cwm Taf Morgannwg University Local Health Board, Hywel Dda University Local Health Board and Swansea Bay University Local Health Board were established under the Local Health Boards (Establishment and Dissolution) (Wales) Order 2009 (S.I. 2009/778 (W. 66)) as amended by S.I. 2019/349 (W. 83).

(4) S.I. 2009/779 (W. 67).

Eligibility requirements for members of the joint committee

5.—(1) A person must fulfil the requirements for eligibility in Schedule 2 to these Regulations before that person may be appointed as a chair or non-officer member of the joint committee and must continue to fulfil those requirements while that person holds office.

(2) A chief officer may only be a member of the joint committee under regulation 3(1)(a) of these Regulations if that person continues to hold office as a chief executive of a Local Health Board.

(3) A nominated representative of a chief officer may only hold office on the joint committee provided they continue to hold office as an officer member, as set out in regulation 3(2) of the Local Health Board (Constitution, Membership and Procedures) (Wales) Regulations 2009, of the nominating chief officer's Local Health Board.

(4) The associate member may only be a member of the joint committee under regulation 3(2) of these Regulations if that person continues to hold office as the chief commissioner employed by the host Local Health Board.

(5) Members must immediately notify the joint committee if they become ineligible under this regulation.

Tenure of office of chair

6.—(1) This regulation applies to any person who is appointed as chair of the joint committee in accordance with regulation 4.

(2) Subject to these Regulations, a chair holds and vacates office in accordance with the terms of that person's appointment.

(3) A chair may be appointed for a period of no longer than four years.

(4) Subject to paragraph (5) a chair may on the expiration of his or her term of office be re-appointed in accordance with regulation 4.

(5) A person may not hold office as a chair of the joint committee for a total period of more than eight years.

Tenure of office of non-officer members

7.—(1) This regulation applies to any person who is appointed as a non-officer member of the joint committee in accordance with regulation 4.

(2) Subject to these Regulations, a non-officer member holds and vacates office in accordance with the terms of that person's appointment.

(3) A non-officer member may be appointed for a period of no longer than four years.

(4) Subject to paragraph (5) a non-officer member may on the expiration of his or her term of office on the joint committee be re-appointed in accordance with regulation 4.

(5) A person may not hold office as a non-officer member of the joint committee for a total period of more than eight years.

Termination of appointment of chair and non-officer members

8.—(1) The Welsh Ministers must, unless there are exceptional reasons, immediately remove a chair or non-officer member from the joint committee if they determine that—

- (a) it is not in the interests of the health service in Wales, or
- (b) it is not conducive to the good management of the joint committee, for that chair or non-officer member to continue to hold office.

(2) If it comes to the notice of the Welsh Ministers that a chair or non-officer member has become ineligible under Schedule 2 to these Regulations, the Welsh Ministers must, unless there are exceptional reasons, remove them from office.

(3) A chair or non-officer member must immediately notify the Welsh Ministers and the joint committee if they become ineligible under Schedule 2 to these Regulations.

(4) If a chair or non-officer member has failed to attend any meeting of the joint committee for a period of six months or more, the Welsh Ministers may remove that member from office unless they are satisfied that—

- (a) the absence was due to a reasonable cause, and
- (b) the chair or non-officer member will be able to attend future meetings within such period as the Welsh Ministers consider reasonable.

(5) A chair or non-officer member may at any time resign their office by notice in writing to the Welsh Ministers, but subject to the terms of that chair or non-officer member's appointment. The chair or non-officer member must also notify the joint committee of their resignation.

Suspension of members and associate member

9.—(1) Before making a determination to remove a chair or non-officer member from office under regulation 8, the Welsh Ministers may suspend the tenure of office of that chair or non-officer member for such period as they consider reasonable.

(2) Where a chair or non-officer member is suspended in accordance with paragraph (1), the Welsh Ministers must immediately notify that person and the joint committee in writing, stating the reasons for his or her suspension.

(3) A chair or non-officer member whose tenure of office is suspended under paragraph (1) may not perform the functions of membership of the joint committee during the period of suspension.

(4) A chief officer who is suspended from their position as a chief executive officer of a Local Health Board may not perform the functions of membership of the joint committee during the period of suspension.

(5) An associate member who is suspended from their position as chief commissioner by the host Local Health Board may not perform the functions of associate membership of the joint committee during the period of suspension.

Appointment of vice-chair

10.—(1) The members of the joint committee may appoint one of the non-officer members, other than the chair, to be vice-chair for such period, not exceeding the remainder of that person's term as a member, as they may specify on the appointment.

(2) A member appointed under paragraph (1) may at any time resign from the office of vice-chair by giving notice in writing to the chair or, if the office of chair is vacant, to the members.

(3) This regulation is subject to regulation 11.

Appointment of vice-chair where chair is suspended

11.—(1) This regulation applies where the chair is suspended under regulation 9.

(2) If a vice-chair has been appointed under regulation 10(1), that appointment ceases to have effect.

(3) The Welsh Ministers may re-appoint the person mentioned in paragraph (2) or appoint another non-officer member to be vice-chair.

(4) The appointment of a vice-chair under paragraph (3) must be for a period not exceeding the shorter of—

- (a) the period for which the chair is suspended, or
- (b) the remainder of the non-officer member's term of appointment as a member.

(5) When the period for which a member is appointed as vice-chair expires, the Welsh Ministers may re-appoint the member as vice-chair or appoint another non-officer member as vice-chair.

(6) A person appointed under paragraph (3) or (5) may, at any time, resign from the office of vice-chair by giving notice in writing to the Welsh Ministers.

(7) The Welsh Ministers may terminate a person's appointment as vice-chair under paragraph (3) or (5) if the Welsh Ministers think that it would be in the best interests of the joint committee for another non-officer member to be vice-chair.

(8) If—

- (a) a person resigns from the office of vice-chair under paragraph (6), or
 - (b) the Welsh Ministers terminate a person's appointment as vice-chair under paragraph (7),
- the Welsh Ministers may appoint another non-officer member as vice-chair under paragraph (3).

Powers of the vice-chair

12.—(1) This regulation applies if—

- (a) the chair is suspended under regulation 9 and a non-officer member is appointed to be vice-chair under regulation 11, or
- (b) a non-officer member is appointed to be vice-chair under regulation 10 and—
 - (i) the office of chair is vacant for any reason, or
 - (ii) the chair is unable to perform the duties of chair owing to illness, absence or any other cause.

(2) Where this regulation applies the vice-chair is to act as chair until a new chair is appointed or the existing chair resumes the chair's duties (as the case may be).

PART 3

Meetings and proceedings of the joint committee

Meetings and proceedings

13.—(1) Subject to any directions given by the Welsh Ministers, each Local Health Board must agree standing orders for the regulation of the meetings and proceedings of the joint committee.

(2) The meetings and proceedings of the joint committee must be conducted in accordance with standing orders relating to the joint committee.

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PART 4

Revocations

14.—(1) The Welsh Health Specialised Services Committee (Wales) Regulations 2009⁽⁵⁾ are revoked.

(2) The Emergency Ambulance Services Committee (Wales) Regulations 2014⁽⁶⁾ are revoked.

Eluned Morgan
Minister for Health and Social Services, one of
the Welsh Ministers

7 February 2024

⁽⁵⁾ S.I. 2009/3097 (W. 270).
⁽⁶⁾ S.I. 2014/566 (W. 67).

SCHEDULES

SCHEDULE 1

Regulation 4

PROCEDURES FOR APPOINTMENT OF CHAIR AND NON-OFFICER MEMBERS

1. This Schedule applies to the appointment of the chair and non-officer members of the joint committee.
2. The Welsh Ministers must ensure that appropriate arrangements are in place for the appointment of the chair and non-officer members and that those arrangements take into account—
 - (a) the principles from time to time laid down by the Commissioner for Public Appointments concerning ministerial appointments to public bodies,
 - (b) the requirement that the appointment be open and transparent,
 - (c) the requirement of fair and open competition in the appointment,
 - (d) the need to encourage diversity in the range of persons who may be appointed, and
 - (e) the need to ensure that successful candidates meet the eligibility requirements set out in Schedule 2 to these Regulations.

SCHEDULE 2

Regulation 5(1)

ELIGIBILITY REQUIREMENTS

1. A person is not eligible for appointment as a chair or non-officer member if any one or more of the matters set out at paragraphs 2 to 6 apply.

Criminal conviction

2.—(1) The person has within the preceding five years been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has received a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.

(2) For the purposes of this paragraph, the date of conviction is deemed to be the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its not being prosecuted.

Bankruptcy

3.—(1) The person is subject to a bankruptcy restrictions order, an interim bankruptcy restrictions order or has a composition or an arrangement with creditors.

(2) Where a person is disqualified under sub-paragraph (1)—

- (a) if the bankruptcy is annulled on the ground that the person ought not to have been adjudged bankrupt or on the ground that the person's debts have been paid in full, that person becomes eligible for appointment as a chair or non-officer member on the date of the annulment,

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- (b) if the person is discharged from bankruptcy, that person becomes eligible for appointment as a chair or non-officer member on the date of the discharge,
- (c) if, having made a composition or arrangement with creditors, the person's debts are paid in full, that person becomes eligible for appointment as a chair or non-officer member on the date upon which such debts are paid in full, and
- (d) if, having made a composition or arrangement with creditors, a period of five years has expired from the date on which the terms of the composition or arrangement were fulfilled, that person becomes eligible for appointment as a chair or non-officer member.

Dismissal from health service body

4.—(1) The person has been dismissed as a member, otherwise than by reason of redundancy, or non-renewal of a fixed term contract, from paid employment with a health service body.

(2) A person who is disqualified under sub-paragraph (1) may, after the expiry of two years from the date of dismissal, apply in writing to the Welsh Ministers to have that disqualification removed.

(3) Where the Welsh Ministers have directed that a disqualification is to be removed under sub-paragraph (2), the person is no longer disqualified for the purpose of this Schedule.

(4) If the Welsh Ministers refuse a person's application under sub-paragraph (2), no further application may be made by the person before the expiry of the period of two years beginning with the date of the person's last application.

(5) For the purpose of this paragraph, a person is not to be treated as having been in paid employment by reason only of having been—

- (a) in the case of a health service body which is not an NHS Trust or an NHS Foundation Trust (other than an Integrated Care Board), the chair, vice-chair or a non-officer member of the body,
- (b) in the case of an NHS Trust, the chair, vice-chair or a non-executive director of the trust,
- (c) in the case of an NHS Foundation Trust, the chair, a governor or a non-executive director of the trust, or
- (d) in the case of an Integrated Care Board, the chair or a non-executive director of the board.

(6) In sub-paragraph (5)(a), "non-officer member" means a member of a health service body who is not employed by the body.

Termination of membership of health service body

5.—(1) The person has—

- (a) had his or her membership as chair, vice-chair, member or director of a health service body terminated, other than by reason of redundancy, voluntary resignation, reorganisation of the health service body, or expiry of the period of office for which that person was appointed, or
- (b) been removed from office as the chair or a member of an Integrated Care Board.

(2) If a person is disqualified under sub-paragraph (1) the disqualification ceases to have effect on the expiry of two years beginning on the date of the termination of the term of appointment or such longer period as may have been specified by the body that terminated the person's membership.

(3) The Welsh Ministers may reduce the period of disqualification mentioned in sub-paragraph (2) on the application of the disqualified person.

(4) When the period of disqualification under sub-paragraph (2) comes to an end, the person is no longer disqualified for the purpose of this Schedule.

Employment with an NHS body in Wales

6.—(1) The person is, or has been within the 12 months prior to appointment, in the paid employment of—

- (a) a Local Health Board established under section 11 of the Act,
- (b) an NHS trust established under section 18 of the Act, or
- (c) a Special Health Authority in relation to Wales established by the Welsh Ministers under section 22 of the Act.

(2) For the purposes of subparagraph (1), a person is not to be treated as having been in paid employment by reason of having held the position of chair, vice-chair or non-officer member of a Local Health Board; a chair, vice-chair or non-executive director of an NHS trust; or a chair, vice-chair or non-officer member of a Special Health Authority.

(3) A person ceases to be eligible to be a non-officer member if following that person's appointment as a non-officer member they take up paid employment with any of the bodies listed in sub-paragraph (1) other than in the circumstances specified in sub-paragraph (2).

EXPLANATORY NOTE

(This note is not part of the Regulations)

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 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.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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