



# Health and Social Care (Quality and Engagement) (Wales) Act 2020

2020 asc 1

An Act of the National Assembly for Wales to make provision for a duty to secure improvement in the quality of health services provided under or by virtue of the National Health Service (Wales) Act 2006; for a duty of candour in respect of health services provided by or for NHS bodies; for the Citizen Voice Body for Health and Social Care, Wales; about the constitution of NHS trusts; and for connected purposes. [1 June 2020]

**Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:**

## PART 1

### OVERVIEW

#### 1 Overview of this Act

In this Act—

- (a) Part 2 imposes requirements in respect of improvement in the quality of health services;
- (b) Part 3 makes provision for and about a duty of candour in respect of health services;
- (c) Part 4 establishes, and makes provision about the functions of, the Citizen Voice Body for Health and Social Care, Wales;
- (d) Part 5 makes provision about the constitution of NHS trusts; for minor and consequential amendments to other legislation; and contains supplementary provision about this Act (including about the procedure for making regulations under the Act).

## PART 2

### IMPROVEMENT IN HEALTH SERVICES

#### 2 Quality in the provision of health services

- (1) The 2006 Act is amended as follows.
- (2) In Part 1 (promotion and provision of the health service in Wales), after section 1 (Welsh Ministers' duty to promote health services) insert—

##### **“1A Welsh Ministers’ duty to secure quality in health services**

- (1) The Welsh Ministers must exercise their functions in relation to the health service with a view to securing improvement in the quality of health services.
  - (2) For the purposes of this section—
    - “health services” means any services provided or secured in accordance with this Act;
    - “quality” includes, but is not limited to, quality in terms of—
      - (a) the effectiveness of health services,
      - (b) the safety of health services, and
      - (c) the experience of individuals to whom health services are provided.
  - (3) The Welsh Ministers must publish an annual report on the steps they have taken to comply with the duty in subsection (1).
  - (4) The report must include an assessment of the extent of any improvement in outcomes achieved by virtue of those steps.
  - (5) The Welsh Ministers must lay a copy of the report before the National Assembly for Wales.”
- (3) In Chapter 1 of Part 2 (health service bodies: Local Health Boards), after section 12 (functions of Local Health Boards) insert—

##### **“12A Local Health Boards’ duty to secure quality in health services**

- (1) Each Local Health Board must exercise its functions with a view to securing improvement in the quality of health services.
- (2) For the purposes of this section—
  - “health services” means any services provided or secured in accordance with this Act;
  - “quality” includes, but is not limited to, quality in terms of—
    - (a) the effectiveness of health services,
    - (b) the safety of health services, and
    - (c) the experience of individuals to whom health services are provided.
- (3) Each Local Health Board must publish an annual report on the steps it has taken to comply with the duty in subsection (1).

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- (4) The report must include an assessment of the extent of any improvement in outcomes achieved by virtue of those steps.
  - (5) The Welsh Ministers must issue guidance to Local Health Boards in relation to the requirements imposed by subsections (1) and (3).
  - (6) The guidance must, in particular, include guidance about—
    - (a) the evidence to be used in support of an assessment required by this section, and
    - (b) the conduct of such an assessment.
  - (7) Each Local Health Board must have regard to guidance issued under subsection (5).”
- (4) In Chapter 2 of Part 2 (health service bodies: NHS trusts), after section 20 (general duty of NHS trusts) insert—

**“20A Duty of NHS trusts to secure quality in health services**

- (1) Each NHS trust must exercise its functions with a view to securing improvement in the quality of health services.
  - (2) For the purposes of this section—
    - “health services” means any services provided or secured in accordance with this Act;
    - “quality” includes, but is not limited to, quality in terms of—
      - (a) the effectiveness of health services,
      - (b) the safety of health services, and
      - (c) the experience of individuals to whom health services are provided.
  - (3) Each NHS trust must publish an annual report on the steps it has taken to comply with the duty in subsection (1).
  - (4) The report must include an assessment of the extent of any improvement in outcomes achieved by virtue of those steps.
  - (5) The Welsh Ministers must issue guidance to NHS trusts in relation to the requirements imposed by subsections (1) and (3).
  - (6) The guidance must, in particular, include guidance about—
    - (a) the evidence to be used in support of an assessment required by this section, and
    - (b) the conduct of such an assessment.
  - (7) Each NHS trust must have regard to guidance issued under subsection (5).”
- (5) In Chapter 3 of Part 2 (health service bodies: Special Health Authorities), after section 24 (exercise of health service functions by Special Health Authorities) insert—

**“24A Duty of Special Health Authorities to secure quality in health services**

- (1) Each Special Health Authority must exercise its functions with a view to securing improvement in the quality of health services.
- (2) For the purposes of this section—
  - “health services” means any services provided or secured in accordance with this Act;
  - “quality” includes, but is not limited to, quality in terms of—
    - (a) the effectiveness of health services,
    - (b) the safety of health services, and
    - (c) the experience of individuals to whom health services are provided.
- (3) Each Special Health Authority must publish an annual report on the steps it has taken to comply with the duty in subsection (1).
- (4) The report must include an assessment of the extent of any improvement in outcomes achieved by virtue of those steps.
- (5) The Welsh Ministers must issue guidance to Special Health Authorities in relation to the requirements imposed by subsections (1) and (3).
- (6) The guidance must, in particular, include guidance about—
  - (a) the evidence to be used in support of an assessment required by this section, and
  - (b) the conduct of such an assessment.
- (7) Each Special Health Authority must have regard to guidance issued under subsection (5).
- (8) This section does not apply in relation to a cross-border Special Health Authority (within the meaning of section 8A(5)).”

**PART 3****DUTY OF CANDOUR***Application of the duty***3 When the duty of candour applies**

- (1) The duty of candour comes into effect in relation to an NHS body if it appears to the body that both of the following conditions are met.
- (2) The first condition is that a person (the “service user”) to whom health care is being or has been provided by the body has suffered an adverse outcome.
- (3) The second condition is that the provision of the health care was or may have been a factor in the service user suffering that outcome.

- (4) For the purpose of the first condition a service user is to be treated as having suffered an adverse outcome if the user experiences, or if the circumstances are such that the user could experience, any unexpected or unintended harm that is more than minimal.

#### *Procedural and other requirements*

### **4 Duty of candour procedure**

- (1) Regulations must provide for a procedure (the “candour procedure”) to be followed by an NHS body in relation to which the duty of candour has come into effect.
- (2) The regulations must require an NHS body, as part of the candour procedure—
- (a) on first becoming aware that the duty of candour has come into effect, to give notification of this in accordance with the regulations to the service user concerned or someone acting on the service user’s behalf;
  - (b) to notify a person mentioned in paragraph (a), in accordance with the regulations, of—
    - (i) the identity of a person who has been nominated by the body as a point of contact for the service user in respect of the candour procedure;
    - (ii) any further enquiries carried out by the body in respect of the circumstances in which the duty of candour came into effect.
- (3) The regulations must also make provision—
- (a) for an apology to be offered by the body;
  - (b) in connection with the provision of support to a service user given notification under subsection (2)(a);
  - (c) about record-keeping.
- (4) The regulations may make any other provision in respect of the candour procedure that the Welsh Ministers consider appropriate.

### **5 Primary care providers: duty to prepare report**

- (1) As soon as practicable after the end of each financial year, a primary care provider must prepare a report under this section.
- (2) The report must state whether, during the reporting year, the duty of candour has come into effect in respect of the provision of health care by the primary care provider.
- (3) If the duty of candour has come into effect during the reporting year, the report must—
- (a) specify how often this has happened during the reporting year,
  - (b) give a brief description of the circumstances in which the duty came into effect, and
  - (c) describe any steps taken by the provider with a view to preventing similar circumstances from arising in future.
- (4) If during the same financial year the primary care provider has provided health care on behalf of two or more Local Health Boards, a separate report is to be prepared under this section in respect of each of those bodies.
- (5) In this section and sections 6 to 8—

- (a) references to a financial year are to each period of 12 months ending on 31 March;
- (b) references to a reporting year, in relation to a report, are to the financial year to which the report relates.

## **6 Supply and summary of report under section 5**

- (1) A primary care provider that has prepared a report under section 5 in respect of the provision of health care on behalf of a Local Health Board must, as soon as practicable after the end of the reporting year, supply the report to that Local Health Board.
- (2) A Local Health Board to which reports have been supplied under subsection (1) must, as soon as practicable after the end of the reporting year prepare a summary of those reports.
- (3) The summary must—
  - (a) specify how often, during the reporting year, the duty of candour has come into effect in respect of health care provided on behalf of the Local Health Board by a primary care provider,
  - (b) give a brief description of the circumstances in which the duty came into effect, and
  - (c) describe any steps taken by the primary care provider with a view to preventing similar circumstances from arising in future.

## **7 Local Health Board, NHS trust and Special Health Authority: reporting requirements**

- (1) As soon as practicable after the end of each financial year, a Local Health Board, NHS trust or Special Health Authority must prepare a report under this section.
- (2) The report must state whether, during the reporting year, the duty of candour has come into effect in respect of the provision of health care by the body.
- (3) If the duty of candour has come into effect during the reporting year, the report must—
  - (a) specify how often this has happened during the reporting year,
  - (b) give a brief description of the circumstances in which the duty came into effect, and
  - (c) describe any steps taken by the body with a view to preventing similar circumstances from arising in future.

## **8 Publication of section 6 summary and section 7 report**

- (1) An NHS body to which section 7 applies must publish the report prepared by it under that section as soon as practicable after the end of the reporting year.
- (2) In the case of an NHS body that is a Local Health Board, the report must include the summary prepared by it under section 6.

## **9 Confidentiality**

- (1) A report published by an NHS body under section 8 must not name—

- (a) anyone to whom health care is being or has been provided by or on behalf of the NHS body;
  - (b) anyone acting on behalf of a person within paragraph (a).
- (2) In determining what information to include in a report under section 8, an NHS body must have regard to the need to avoid providing information that, while not naming an individual, is in the circumstances likely to enable the identification of that individual.

## **10 Guidance given by the Welsh Ministers**

In exercising functions under or by virtue of this Part, an NHS body must have regard to any guidance issued by the Welsh Ministers.

## **11 Interpretation of “health care” and other terms**

- (1) A reference in this Part to health care is to services provided in Wales under or by virtue of the 2006 Act for or in connection with—
- (a) the prevention, diagnosis or treatment of illness;
  - (b) the promotion and protection of public health.
- (2) In subsection (1), “illness” has the meaning given in section 206 of the 2006 Act.
- (3) A reference in this Part to an NHS body is to—
- (a) a Local Health Board;
  - (b) an NHS trust;
  - (c) a Special Health Authority;
  - (d) a primary care provider.
- (4) A person is a primary care provider, for the purposes of this Part, in so far as (and only in so far as) the person provides health care on behalf of a Local Health Board by virtue of a contract, agreement or arrangement under Part 4, 5, 6 or 7 of the 2006 Act between the person and the Local Health Board.
- (5) Health care provided by one NHS body (the “providing body”) on behalf of another NHS body (“the arranging NHS body”), by virtue of a contract, agreement or arrangement made under the 2006 Act between the providing body and the arranging body, is to be treated for the purposes of this Part as being provided by the providing body, not the arranging body.
- (6) Health care provided by a person other than an NHS body (the “provider”), on behalf of an NHS body, whether by virtue of a contract, agreement or arrangement made under the 2006 Act or otherwise, is to be treated for the purposes of this Part as being provided by the NHS body, not the provider.
- (7) In this Part—
- “candour procedure” (“*gweithdrefn gonestrwydd*”) has the meaning given by section 4(1);
  - “harm” (“*niwed*”) includes psychological harm, and in the case of a service user who is pregnant, loss of or harm to the unborn child;
  - “service user” (“*defnyddiwr gwasanaeth*”) has the meaning given by section 3(2);
  - “Special Health Authority” (“*Awdurdod Iechyd Arbennig*”) means a body established under section 22 of the 2006 Act; but does not include any cross-

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border Special Health Authority (within the meaning of section 8A(5) of the 2006 Act) other than NHS Blood and Transplant.

## PART 4

### THE CITIZEN VOICE BODY FOR HEALTH AND SOCIAL CARE

#### *Establishment and general objective etc. of Citizen Voice Body*

#### **12 Establishment of Citizen Voice Body**

- (1) The Citizen Voice Body for Health and Social Care, Wales (referred to in this Part as “the Citizen Voice Body”) is established as a body corporate.
- (2) Schedule 1 makes provision about the Citizen Voice Body’s constitution and related matters.

#### **13 General objective**

- (1) The Citizen Voice Body’s general objective, in exercising its functions, is to represent the interests of the public in respect of health services and social services.
- (2) For the purposes of achieving that objective, the Citizen Voice Body must seek the views of the public, in whatever way it thinks appropriate, in respect of health services and social services.
- (3) In making arrangements to comply with subsection (2), the Citizen Voice Body must in particular have regard to the importance of ensuring, where appropriate, face-to-face engagement between its staff, or any other persons acting on its behalf, and any individuals from whom views are being sought.

#### **14 Public awareness and statement of policy**

- (1) The Citizen Voice Body must take steps to promote public awareness of its general objective and of its functions.
- (2) The Citizen Voice Body must prepare and publish a statement of its policy setting out how it proposes to—
  - (a) promote awareness of its functions, and
  - (b) seek the views of the public for the purposes of its general objective.
- (3) The statement of policy must in particular specify how, in exercising its functions, the Citizen Voice Body proposes to ensure that—
  - (a) the Body represents the interests of people in all parts of Wales,
  - (b) the Body is accessible to people throughout Wales, and
  - (c) members of the Body’s staff and any other persons acting on the Body’s behalf are able to engage effectively with people throughout Wales.

### *Making representations*

#### **15 Representations to public bodies**

- (1) The Citizen Voice Body may make representations to a person mentioned in subsection (2) about anything it considers relevant to the provision of a health service or the provision of social services.
- (2) The persons are—
  - (a) a local authority;
  - (b) an NHS body.
- (3) A person to whom representations under subsection (1) are made must have regard to the representations in exercising any function to which the representations relate.
- (4) The Welsh Ministers must issue guidance to the persons mentioned in subsection (2), in relation to representations made under this section.
- (5) Those persons must have regard to the guidance.

#### **16 Advocacy services etc. in respect of complaints about services**

- (1) The Citizen Voice Body may provide assistance (by way of representation or otherwise) to any individual making, or intending to make a complaint to which any of the following subsections applies.
- (2) This subsection applies to any complaint in respect of which, by virtue of section 187 of the 2006 Act, the Welsh Ministers are required to arrange for the provision of independent advocacy services.
- (3) This subsection applies to any complaint under regulations under section 171 of the 2014 Act (complaints about social services).
- (4) This subsection applies to any complaint to a service provider in respect of a regulated service (within the meaning of the [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#)).
- (5) This subsection applies to any complaint to the Public Services Ombudsman for Wales which relates to—
  - (a) a local authority's social services functions;
  - (b) a matter to which, by virtue of section 42(1)(a) and (b) of the [Public Services Ombudsman \(Wales\) Act 2019 \(anaw 3\)](#), Part 5 of that Act applies (investigations by Ombudsman in relation to action taken by care home providers or domiciliary care providers).
- (6) The Citizen Voice Body may also provide assistance (by way of representation or otherwise) to an individual making, or intending to make a complaint capable of being considered as representations under section 174 of the 2014 Act (representations relating to certain children etc.); but this is subject to subsection (7).
- (7) The Citizen Voice Body may not provide assistance under subsection (6) to an individual if the individual is eligible for assistance in relation to the complaint by virtue of arrangements made under section 178(1)(a) of the 2014 Act (duty of local authorities to arrange assistance for children in respect of representations falling within section 174 of the 2014 Act).

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- (8) In exercising its functions under this section, the Citizen Voice Body must have regard to the importance of ensuring, where appropriate, face-to-face engagement between its staff, or any other persons acting on its behalf, and any individuals to whom any assistance under this section is being or may be provided.
- (9) In this section, “2014 Act” means the [Social Services and Well-being \(Wales\) Act 2014](#) (anaw 4).

*Duties imposed on certain public bodies in respect of Citizen Voice Body*

**17 Duty to promote awareness of activities of Citizen Voice Body**

- (1) A person mentioned in subsection (2) must make arrangements to bring the activities of the Citizen Voice Body to the attention of people who are receiving, or may receive, health services or social services provided by or on behalf of the person.
- (2) The persons are—
  - (a) a local authority;
  - (b) an NHS body.

**18 Duty to supply information to Citizen Voice Body**

- (1) A person mentioned in subsection (2) must supply the Citizen Voice Body with such information as the Citizen Voice Body reasonably requests for the purpose of carrying out its functions.
- (2) The persons are—
  - (a) a local authority;
  - (b) an NHS body.
- (3) Nothing in this section requires or permits any disclosure of information which is prohibited by any enactment or other rule of law.
- (4) A person who refuses to disclose information in response to a request made under subsection (1) must give the Citizen Voice Body its reasons in writing for not disclosing the information.

*Access to premises by Citizen Voice Body: duty to have regard to code of practice*

**19 Code of practice on access to premises**

- (1) The Welsh Ministers must prepare and publish a code of practice about—
  - (a) requests made by the Citizen Voice Body for access to premises for the purpose of seeking the views of individuals in respect of health services or social services, and
  - (b) where access to those premises has been agreed, engagement with individuals at those premises for that purpose.
- (2) “Premises” in subsection (1) means any premises at which health services or social services are being provided.
- (3) The Citizen Voice Body must have regard to the code.

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- (4) Each local authority and NHS body must have regard to the code (so far as the code is relevant) in exercising any function that relates to the provision of health services or social services.
- (5) In preparing the code the Welsh Ministers must consult—
  - (a) the Citizen Voice Body;
  - (b) each local authority;
  - (c) each NHS body;
  - (d) such other persons as the Welsh Ministers consider appropriate.

### *Co-operation in the exercise of functions*

## **20 Co-operation between the Body, local authorities and NHS bodies**

- (1) The Citizen Voice Body, local authorities and NHS bodies must make arrangements to co-operate with a view to supporting each other in the exercise of their relevant functions.
- (2) For the purposes of subsection (1) “relevant functions”—
  - (a) in relation to the Body, means its functions under sections 13(2) and 14(1);
  - (b) in relation to local authorities and NHS bodies, means their functions under section 17(1).

### *Interpretation of this Part*

## **21 Meaning of “health services” and “social services”**

- (1) References in this Part to health services are to services provided (whether in Wales or elsewhere) under or by virtue of the 2006 Act, for or in connection with—
  - (a) the prevention, diagnosis or treatment of illness;
  - (b) the promotion and protection of public health.
- (2) In subsection (1), “illness” has the meaning given in section 206 of the 2006 Act.
- (3) References in this Part to social services are to services provided in the exercise of a local authority’s social services functions.
- (4) In subsection (3), “social services functions”, in relation to a local authority, has the same meaning as it has for the purposes of the [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#) (see, in particular, section 143 of that Act).

## **22 Meaning of other terms**

In this Part—

- “local authority” (“*awdurdod lleol*”) means a council for a county or county borough in Wales;
- “NHS body” (“*corff GIG*”) means—
  - (a) a Local Health Board;
  - (b) an NHS trust;
  - (c) a Special Health Authority;

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“Special Health Authority” (“*Awdurdod Iechyd Arbennig*”) means a body established under section 22 of the 2006 Act; but does not include any cross-border Special Health Authority (within the meaning of section 8A(5) of the 2006 Act).

*Abolition of Community Health Councils etc.*

**23 Abolition of Community Health Councils, and connected matters**

- (1) Section 182 of the 2006 Act, which provides for the continuance or establishment of Community Health Councils for areas in Wales, is repealed, and those Community Health Councils are abolished.
- (2) Schedule 10 to the 2006 Act, which makes further provision about Community Health Councils, is also repealed.
- (3) Schedule 2 makes provision relating to the transfer of property, rights and liabilities, in connection with the abolition of Community Health Councils.

**PART 5**

MISCELLANEOUS AND GENERAL

*Constitution of NHS trusts*

**24 Vice-chairs of boards of directors of NHS trusts**

- (1) Part 1 of Schedule 3 to the 2006 Act (constitution, establishment etc. of NHS trusts) is amended as follows.
- (2) In paragraph 3 (board of directors)—
  - (a) after sub-paragraph (1)(a) insert—
 

“(aa) if the Welsh Ministers consider it appropriate, a vice-chair appointed by them, and”, and
  - (b) omit “and” at the end of sub-paragraph (1)(a).
- (3) In paragraph 4 (regulations relating to the appointment etc. of the board of directors), in sub-paragraph (1)(a), after “chairman” insert “, the vice-chair”.
- (4) In paragraph 11 (pay and allowances of chairman and non-executive directors)—
  - (a) in sub-paragraph (1)(a), after “chairman” insert “, the vice-chair (if any)”, and
  - (b) in sub-paragraph (1)(b), after “chairman” insert “, the vice-chair (if any)”.

*General*

**25 Regulations**

- (1) A power to make regulations under this Act is to be exercised by statutory instrument.
- (2) A power to make regulations under this Act includes power to make different provision for different purposes.

- (3) A statutory instrument containing regulations under section 28 that amends or repeals any enactment contained in primary legislation may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.
- (4) A statutory instrument containing regulations made under any other provision of this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (5) In subsection (3), “primary legislation” means—
  - (a) an Act or Measure of the National Assembly for Wales;
  - (b) an Act of Parliament.

## **26 Interpretation**

In this Act—

“the 2006 Act” (“*Deddf 2006*”) means the [National Health Service \(Wales\) Act 2006 \(c. 42\)](#);

“Local Health Board” (“*Bwrdd Iechyd Lleol*”) means a body established under section 11 of the 2006 Act;

“NHS trust” (“*ymddiriedolaeth GIG*”) means a body established under section 18 of the 2006 Act;

“regulations” (“*rheoliadau*”) means regulations made by the Welsh Ministers.

## **27 Minor and consequential amendments**

Schedule 3 contains minor and consequential amendments.

## **28 Power to make transitional etc. provision**

- (1) Regulations may, if the Welsh Ministers consider it necessary or appropriate for the purposes of this Act, make—
  - (a) supplementary, incidental or consequential provision;
  - (b) transitory, transitional or saving provision.
- (2) Regulations under this section may amend, repeal or revoke any enactment.
- (3) “Enactment” means a provision contained in any of the following, whenever enacted or made—
  - (a) an Act or Measure of the National Assembly for Wales;
  - (b) an Act of Parliament;
  - (c) subordinate legislation made under an Act or Measure referred to in paragraph (a) or (b).

## **29 Coming into force**

- (1) This section and section 30 come into force on the day after the day this Act receives Royal Assent.

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- (2) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (3) An order under subsection (2) may—
  - (a) make different provision for different purposes;
  - (b) make transitional, transitory or saving provision.

**30 Short title**

The short title of this Act is the Health and Social Care (Quality and Engagement) (Wales) Act 2020.

## SCHEDULE 1

(introduced by section 12(2))

### CITIZEN VOICE BODY FOR HEALTH AND SOCIAL CARE, WALES

#### PART 1

##### STATUS

###### *Status*

- 1 (1) The Citizen Voice Body is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The Body's property is not to be regarded as property of, or property held on behalf of, the Crown.

#### PART 2

##### MEMBERS

###### *Membership*

- 2 (1) The Citizen Voice Body's members are—
  - (a) a person appointed by the Welsh Ministers as its chairing member,
  - (b) a person appointed by the Welsh Ministers as deputy to the chairing member,
  - (c) at least 6 but not more than 8 other persons appointed by the Welsh Ministers,
  - (d) its chief executive (see paragraph 9), and
  - (e) where one or more trade unions are recognised by the Body, a person appointed as its associate member (see paragraph 6).
- (2) In this Schedule, the members appointed by the Welsh Ministers are collectively referred to as “non-executive members”; and any reference in this Schedule to the exercise by the non-executive members of a function is a reference to the non-executive members exercising the function as a committee of the Body.

###### *Disqualification from appointment as non-executive member*

- 3 A person is disqualified from being appointed as a non-executive member of the Citizen Voice Body, if the person is a member of the Body's staff.

###### *Terms of non-executive membership*

- 4 (1) A non-executive member of the Citizen Voice Body holds office for such period, and on such terms and conditions, as may be specified in the terms of appointment, but this is subject to sub-paragraphs (2) and (4) and paragraph 5.
- (2) The period of office specified in a non-executive member's terms of appointment may not exceed 4 years.

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- (3) A person who has held office as a non-executive member may be reappointed as a non-executive member once only (and sub-paragraph (2) applies in relation to the appointment).
- (4) A non-executive member may resign from office by giving written notice to the Welsh Ministers.
- (5) The Citizen Voice Body may, with the approval of the Welsh Ministers—
  - (a) pay its non-executive members remuneration, expenses and allowances;
  - (b) pay pensions to, or in respect of, persons who have been non-executive members of the Body, and amounts for or towards provision of pensions to, or in respect of, persons who have been non-executive members of the Body.

*Removal of non-executive members from office*

- 5 (1) The Welsh Ministers may by written notice to a non-executive member of the Citizen Voice Body remove that person from office if the Welsh Ministers are satisfied—
  - (a) that the person is unfit to continue as a member, or
  - (b) that the person is unable or unwilling to exercise the functions of a member.
- (2) The Welsh Ministers may by written notice to a non-executive member of the Body suspend that person from office if it appears to them that there may be grounds to exercise the power in sub-paragraph (1).
- (3) A person ceases to be a non-executive member of the Body if the person becomes a member of the Body’s staff.

*Appointment of the associate member*

- 6 (1) Sub-paragraph (2) applies where—
  - (a) one or more trade unions are recognised by the Citizen Voice Body, and
  - (b) the position of associate member is unoccupied.
- (2) The non-executive members must invite each of the trade unions recognised by the Body to nominate an eligible candidate for appointment as the Body’s associate member.
- (3) The invitation must specify the period within which a nomination is to be made.
- (4) The non-executive members must appoint a person, from among the eligible candidates nominated during the period specified under sub-paragraph (3), as the Body’s associate member.
- (5) A person is an eligible candidate for appointment as the Body’s associate member, only if the person is—
  - (a) a member of the Body’s staff, and
  - (b) a member of a trade union recognised by the Body.
- (6) In this Part—
  - “recognised”, in relation to a trade union, has the meaning given by the [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#);
  - “trade union” has the meaning given by that Act.

*Terms of associate membership etc.*

- 7
- (1) An associate member of the Citizen Voice Body is not eligible to vote in any proceedings of the Body.
  - (2) An associate member of the Body holds office for such period, and on such terms and conditions, as may be specified by the non-executive members in the terms of appointment, but this is subject to sub-paragraphs (3) and (5) and paragraph 8.
  - (3) The period of office specified in an associate member's terms of appointment may not exceed 4 years.
  - (4) A person who has held office as an associate member may be reappointed under paragraph 6 as an associate member (and sub-paragraph (3) applies in relation to the appointment).
  - (5) An associate member of the Body may resign from office by giving written notice to the non-executive members.
  - (6) The Citizen Voice Body may pay an associate member expenses.

*Removal of associate member from office*

- 8
- (1) The non-executive members may by written notice to the associate member of the Citizen Voice Body remove that person from office as the associate member if satisfied—
    - (a) that the person is unfit to continue as a member, or
    - (b) that the person is unable or unwilling to exercise the functions of a member.
  - (2) The non-executive members may by written notice to the associate member of the Body suspend that person from office as the associate member, if it appears to them that there may be grounds to exercise the power in sub-paragraph (1).
  - (3) An associate member ceases to hold office if the member ceases to be an eligible candidate for appointment as an associate member (see paragraph 6(5)).

### **PART 3**

#### **STAFF**

*Chief executive*

- 9
- (1) The non-executive members of the Citizen Voice Body must appoint a person as the Body's chief executive.
  - (2) The chief executive is appointed on such terms and conditions (including terms and conditions as to remuneration, allowances and pension) as may be specified by the non-executive members in the terms of the appointment.
  - (3) An appointment under this paragraph may not be made without the approval of the Welsh Ministers.

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### *Other staff*

- 10 (1) The Citizen Voice Body may appoint other members of staff, in addition to a chief executive.
- (2) A member of staff appointed under this paragraph is appointed on such terms and conditions (including terms and conditions as to remuneration, allowances and pension) as the Body may specify in the terms of the appointment.
- (3) The Body may not agree terms and conditions as to remuneration, allowances or pension without the approval of the Welsh Ministers.

## **PART 4**

### ANCILLARY FUNCTIONS ETC.

### *Committees*

- 11 (1) The Citizen Voice Body may establish committees and sub-committees.
- (2) A committee or sub-committee may include, or be comprised entirely of, persons who are not members of the Body.
- (3) The Body may pay expenses and allowances to any person who—
- (a) is a member of a committee or sub-committee established under this paragraph, and
  - (b) is not a member of the Body, or a member of its staff.

### *Delegation*

- 12 (1) The Citizen Voice Body may arrange for any of its functions to be exercised by any of its —
- (a) committees,
  - (b) sub-committees,
  - (c) members, or
  - (d) staff.
- (2) An arrangement under sub-paragraph (1) does not affect the Body's responsibility for exercise of a delegated function, nor affect its ability to exercise a delegated function.

### *Supplementary powers*

- 13 (1) The Citizen Voice Body may do anything which is calculated to facilitate, or which is conducive or incidental to, the exercise of its functions.
- (2) But sub-paragraph (1) does not permit the Body to borrow money.

## PART 5

### PROCEDURE ETC.

#### *Procedure*

- 14 (1) The Citizen Voice Body must make rules to regulate its own procedure (including quorum).
- (2) The Body must make rules to regulate the procedure of its committees and sub-committees (including quorum).

#### *Validity of proceedings and acts*

- 15 The validity of proceedings and acts of the Citizen Voice Body (or of its committees and sub-committees) is not affected by—
- (a) any vacancy in the Body’s membership, or
  - (b) any defect in the appointment of a member.

#### *Seal*

- 16 (1) The Citizen Voice Body may have a seal.
- (2) The application of the seal must be authenticated by the signature of—
- (a) any member of the Body, or
  - (b) any other person authorised by the Body for that purpose.

#### *Evidence*

- 17 A document purporting to be duly executed under the seal of the Citizen Voice Body or to be signed on the Body’s behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

## PART 6

### FINANCIAL MATTERS

#### *Funding*

- 18 The Welsh Ministers may make payments to the Citizen Voice Body of such amounts, and at such times, and on such conditions, as the Welsh Ministers think appropriate.

#### *Accounting officer*

- 19 (1) The Citizen Voice Body’s chief executive is its accounting officer.
- (2) The accounting officer has, in relation to the Body’s accounts and finances, the responsibilities specified from time to time by the Welsh Ministers.
- (3) The responsibilities that may be specified include—
- (a) responsibilities in relation to the signing of accounts;
  - (b) responsibilities for the propriety and regularity of the Body’s finances;

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- (c) responsibilities for the economy, efficiency and effectiveness with which the Body uses its resources;
- (d) responsibilities owed to the Welsh Ministers, the National Assembly for Wales or its Public Accounts Committee.

### *Accounts*

- 20 (1) The Citizen Voice Body must for each financial year—
- (a) keep proper accounts and proper records in relation to those accounts, and
  - (b) prepare a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Welsh Ministers as to—
- (a) the information to be contained in it,
  - (b) the manner in which the information is to be presented, and
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) No later than 31 August after the end of each financial year the Body must submit its statement of accounts to—
- (a) the Welsh Ministers, and
  - (b) the Auditor General for Wales.

### *Audit*

- 21 (1) This paragraph applies in relation to each statement of accounts submitted to the Auditor General for Wales by the Citizen Voice Body under paragraph 20(3)(b).
- (2) The Auditor General for Wales must examine, certify and report on the statement of accounts.
- (3) The Auditor General for Wales must, before the expiry of the period of 4 months beginning with the day on which the statement of accounts is submitted (“the 4-month period”), lay before the National Assembly for Wales—
- (a) a copy of the certified statement and report, or
  - (b) if it is not reasonably practicable to comply with paragraph (a), a statement to that effect, which must include reasons as to why this is the case.
- (4) Where the Auditor General for Wales has laid a statement under sub-paragraph (3) (b) in relation to a statement of accounts, the Auditor General must lay a copy of the certified statement and report before the National Assembly for Wales as soon as reasonably practicable after the expiry of the 4-month period.
- (5) In complying with sub-paragraph (2) the Auditor General for Wales must, in particular, examine and report on whether, in the opinion of the Auditor General, the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it.

## PART 7

### REPORTING REQUIREMENTS ETC.

#### *Annual plan*

- 22 (1) Before the start of each financial year the Citizen Voice Body must publish a plan setting out how it proposes to exercise its functions during the year.
- (2) A plan under this paragraph must include a statement of the Body’s objectives and priorities for the year.
- (3) Before publishing a plan under this paragraph, the Body must consult such persons as it considers appropriate on its proposed objectives and priorities.

#### *Annual reports*

- 23 (1) As soon as is practicable after the end of each financial year, the Citizen Voice Body must publish a report (an “annual report”) on the exercise of its functions during the year.
- (2) The Body must—
- (a) send a copy of its annual report to the Welsh Ministers;
  - (b) lay a copy of its annual report before the National Assembly for Wales.

#### *Provision of information to Welsh Ministers*

- 24 The Citizen Voice Body must provide the Welsh Ministers with such information relating to the exercise of its functions as they may from time to time require.

## PART 8

### INTERPRETATION

#### *General interpretation*

- 25 In this Schedule—
- “financial year” means the period of 12 months ending with the 31 March;
  - “non-executive member” has the meaning given by paragraph 2(2).

## SCHEDULE 2

(introduced by section 23(3))

### TRANSFERS OF PROPERTY, RIGHTS AND LIABILITIES

#### *Transfer schemes*

- 1 (1) The Welsh Ministers may, in connection with the abolition of Community Health Councils, make one or more transfer schemes.

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- (2) A transfer scheme is a scheme providing for the transfer to the Citizen Voice Body of any property, rights and liabilities mentioned in sub-paragraph (3).
- (3) The property, rights and liabilities are property and rights acquired, or liabilities incurred, by—
- (a) the Welsh Ministers;
  - (b) a Local Health Board;
  - (c) an NHS trust.
- (4) The things that may be transferred under a transfer scheme include—
- (a) property, rights and liabilities which could not otherwise be transferred;
  - (b) property acquired, and rights and liabilities arising, after the making of the scheme.
- (5) A transfer scheme may make consequential, supplementary, incidental, transitional or transitory provision.
- (6) By virtue of sub-paragraph (5), a transfer scheme may, for example—
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
  - (b) make provision about the continuing effect of things done in respect of anything transferred;
  - (c) make provision about the continuation of things (including legal proceedings) in the process of being done in respect of anything transferred;
  - (d) make provision for the shared ownership or use of property;
  - (e) make provision for references to the Welsh Government or the Welsh Ministers, or references to a Local Health Board or an NHS trust, in an instrument or other document in respect of anything transferred to be treated as references to the Citizen Voice Body;
  - (f) make provision which is the same as or similar to a provision made by the [Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#) in a case where those regulations do not apply in relation to the transfer.
- (7) A transfer scheme may provide—
- (a) for modification by agreement;
  - (b) for modifications to have effect from the date when the scheme came into effect.
- (8) The Welsh Ministers must lay a copy of any transfer scheme before the National Assembly for Wales.
- (9) In this paragraph—
- (a) references to rights and liabilities include references to rights and liabilities arising in relation to a contract of employment;
  - (b) references to the transfer of property include references to the grant of a lease.

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## SCHEDULE 3

(introduced by section 27)

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 1

##### AMENDMENTS AND REPEALS RELATING TO PART 2

###### *Health and Social Care (Community Health and Standards) Act 2003 (c. 43)*

- 1 Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 (standards in relation to health care provided by or for Welsh NHS bodies) is amended as follows.
- 2 Section 45(1) is repealed.
- 3 In section 47 (power to prepare and publish standards in relation to the provision of health care), in subsection (4), for the words from “every” to the end substitute “a Welsh NHS body in discharging a duty under section 12A(1), 20A(1) or 24A(1) of the National Health Service (Wales) Act 2006 (duties to secure quality in the provision of health services).”
- 4 In section 70 (reviews and investigations relating to Wales), in subsection (3), for the words from “arrangements” to the end substitute “steps taken by a Welsh NHS body for the purpose of discharging a duty under section 12A(1), 20A(1) or 24A(1) of the National Health Service (Wales) Act 2006 (duties to secure quality in the provision of health services).”

#### PART 2

##### AMENDMENTS AND REPEALS RELATING TO PART 4

###### *Public Bodies (Admission to Meetings) Act 1960 (c. 67)*

- 5 In Schedule 1 to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which Act applies), in paragraph 1, after sub-paragraph (bj) insert—  
“(bja) the Citizen Voice Body for Health and Social Care, Wales;”.

###### *Mental Health Act 1983 (c. 20)*

- 6 In section 134 of the Mental Health Act 1983 (correspondence of patients)—
  - (a) after subsection (3)(ca), insert—  
“(cb) the Citizen Voice Body for Health and Social Care, Wales;”;
  - (b) in subsection (3)(e), omit “, a Community Health Council”.

###### *Community Health Councils (Access to Information) Act 1988 (c. 24)*

- 7 The Community Health Councils (Access to Information) Act 1988 is repealed.

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*Freedom of Information Act 2000 (c. 36)*

- 8 In Schedule 1 to the Freedom of Information Act 2000 (public authorities)—
- (a) in Part 3 (the National Health Service, England and Wales), omit paragraph 41;
  - (b) in Part 6 (other public bodies and offices: general), after the entry for the Children’s Commissioner for Wales insert—  
“*The Citizen Voice Body for Health and Social Care, Wales.*”

*Government of Wales Act 2006 (c. 32)*

- 9 In section 148 of the Government of Wales Act 2006 (meaning of “Welsh public records”), in subsection (2), after paragraph (a) insert—  
“(aa) the Citizen Voice Body for Health and Social Care, Wales.”.

*Equality Act 2010 (c. 15)*

- 10 In Schedule 19 to the Equality Act 2010 (public authorities), in Part 2 (relevant Welsh authorities)—
- (a) under the heading “National Health Service”—
    - (i) omit the words “A Community Health Council in Wales.”;
    - (ii) omit the words “The Board of Community Health Councils in Wales or Bwrdd Cynghorau Iechyd Cymuned Cymru.”;
  - (b) under the heading “other public authorities”, after the entry for the Auditor General for Wales insert—  
“*The Citizen Voice Body for Health and Social Care, Wales or Corff Llais y Dinesydd ar gyfer Iechyd a Gofal Cymdeithasol, Cymru.*”

*Welsh Language (Wales) Measure 2011 (nawm 1)*

- 11 In Schedule 6 to the Welsh Language (Wales) Measure 2011 (public bodies etc.: standards), in the table—
- (a) omit the entry for the Board of Community Health Councils in Wales;
  - (b) omit the entry for Community Health Councils;
  - (c) under the heading “General”, after the entry for the Children’s Commissioner for Wales insert—

“ <i>The Citizen Voice Body for Health and Social Care, Wales (“Corff Llais y Dinesydd ar gyfer Iechyd a Gofal Cymdeithasol, Cymru”)</i>	Service delivery standards Policy making standards Operational standards Record keeping standards”.
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*Well-being of Future Generations (Wales) Act 2015 (anaw 2)*

- 12 In section 32 of the Well-being of Future Generations (Wales) Act 2015 (other partners of public services boards)—
- (a) omit subsection (1)(c);
  - (b) after subsection (1)(b) insert—

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“(ba) the Citizen Voice Body for Health and Social Care, Wales;”.

#### *Counter-Terrorism and Security Act 2015 (c. 6)*

- 13 In Schedule 6 to the Counter-Terrorism and Security Act 2015 (specified authorities), in Part 1 (General: England and Wales), under the heading “Health and social care”, omit the words “A Community Health Council in Wales.”

#### *Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)*

- 14 In section 177 of the Regulation and Inspection of Social Care (Wales) Act 2016 (meaning of relevant authority in Part 9 of Act)—
- (a) omit subsection (1)(g), and
  - (b) omit subsection (2)(c).

#### *Digital Economy Act 2017 (c. 30)*

- 15 In Schedule 4 to the Digital Economy Act 2017 (specified persons for purposes of disclosure of information to improve public service delivery), in Part 2 (Welsh bodies)—
- (a) in paragraph 35 for “A Community Health Council in Wales.” substitute “The Citizen Voice Body for Health and Social Care, Wales.”;
  - (b) omit paragraph 38.

#### *The Welsh Language Standards (No. 7) Regulations 2018 (S.I. 2018/441)*

- 16 (1) The Welsh Language Standards (No. 7) Regulations 2018 are amended as follows.
- (2) In regulation 3(2)(b) for “Community Health Councils and the Board of Community Health Councils in Wales requiring them” substitute “the Citizen Voice Body requiring it”.
- (3) In Schedule 6—
- (a) omit the entry for the Board of Community Health Councils in Wales;
  - (b) omit the entry for Community Health Councils;
  - (c) at the appropriate place insert—  
“the Citizen Voice Body for Health and Social Care, Wales (“*Corff Llais y Dinesydd ar gyfer Iechyd a Gofal Cymdeithasol, Cymru*”).”

#### *Public Services Ombudsman (Wales) Act 2019 (anaw 3)*

- 17 (1) The Public Services Ombudsman (Wales) Act 2019 is amended as follows.
- (2) In section 16 (power to investigate other health-related services), in the definition of “relevant listed authority” in subsection (4)—
- (a) omit paragraph (a);
  - (b) omit paragraph (e);
  - (c) after paragraph (i) insert—  
“(ia) the Citizen Voice Body for Health and Social Care, Wales;”.
- (3) In Schedule 3 (listed authorities), under the heading “Health and social care”—

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- (a) omit the words “The Board of Community Health Councils in Wales.”;
- (b) omit the words “A Community Health Council.”;
- (c) after the final entry insert—  
“The Citizen Voice Body for Health and Social Care, Wales.”

### **PART 3**

#### AMENDMENT OF 2006 ACT: INDEPENDENT ADVOCACY SERVICES

##### *National Health Service (Wales) Act 2006 (c. 42)*

- 18 In section 187 of the 2006 Act (duty of Welsh Ministers to arrange for provision of independent advocacy services)—
- (a) in subsection (2)(ca), after “health service body” insert “, family health service provider in Wales, independent provider”;
  - (b) in subsection (3), at the appropriate place, insert—  
““family health service provider in Wales” has the same meaning as it has in the Public Services Ombudsman (Wales) Act 2019 (see, in particular, section 78 of that Act).”