WELSH STATUTORY INSTRUMENTS

2003 No. 154 (W.24)

NATIONAL HEALTH SERVICE, WALES

The Health, Social Care and Well-being Strategies (Wales) Regulations 2003

Made - - - -	*29th January 2003*
Coming into force - -	*31st March 2003*

The National Assembly for Wales, in exercise of the powers conferred by section 24(4), (5), (6) and (9), section 38(1), (5) and (7) and section 39(1) and (3) of the National Health Service Reform and Health Care Professions Act 2002(**1**), makes the following Regulations —

Title, application and commencement

1.—(1) These Regulations may be cited as the Health, Social Care and Well-being Strategies (Wales) Regulations 2003.

(2) These Regulations apply in relation to Wales and shall come into force on 31st March 2003.

Interpretation

2. In these Regulations, the following words and phrases shall have the following meanings —

(a) "the 2002 Act" ("*Deddf 2002*") means the National Health Service Reform and Health Care Professions Act 2002;

(b) "Assembly" ("*Cynulliad*") means the National Assembly for Wales;

(c) "commissioning functions" ("*swyddogaethau comisiynu*") means any functions of the responsible bodies or any one of them which relate to the planning, purchase or monitoring of delivery of any health and well-being services;

(d) "commissioning arrangement" ("*trefniant comisiynu*") means an arrangement in relation to the commissioning of secondary care services between the responsible bodies in a commissioning arrangement group to exercise their commissioning functions jointly and to co-operate and consult with each other with respect to the exercise of those functions;

(e) "commissioning arrangement group" ("*grŵp trefniant comisiynu*") means the group which includes the responsible bodies and an NHS Trust or Trusts and which is identified in guidance published from time to time by the Assembly for the purposes of entering into a commissioning arrangement;

(**1**) 2002 c. 17.

(f) "health and well-being services" ("*gwasanaethau iechyd a llesiant*") means any services provided by an NHS body; any services (including social care services) provided under or in connection with a local authority's functions under Schedule 1 to the Local Authority Social Services Act 1970(**2**), section 31 of the Health Act 1999(**3**) or regulation 6 of the National Health Service Bodies and Local Authorities Partnership Arrangements (Wales) Regulations 2000(**4**); and any similar service provided by a voluntary or other organisation;

(g) "local authority" ("*awdurdod lleol*") shall have the meaning given in section 24 (9)(a) of the 2002 Act;

(h) "local population" ("*poblogaeth leol*") means members of the public who are usually resident or who are present in the responsible bodies' area or areas;

(i) "NHS body" ("*corff GIG*") means a Health Authority, Local Health Board, NHS Trust, Strategic Health Authority, Primary Care Trust or Care Trust(**5**);

(j) "operative period" ("*cyfnod gweithredol*") means the period in respect of which a strategy is formulated.

(k) "responsible bodies" ("*cyrff cyfrifol*") shall have the meaning given in s.24(2) of the 2002 Act;

(l) "secondary care services"("*gwasanaethau gofal eilaidd*") means services for or in connection with the prevention, diagnosis or treatment of illness which are mainly provided at or from a hospital (and the words "illness" and "hospital" have the meanings given by section 128(1) of the National Health Service Act 1977(**6**));

(m) "services" ("*gwasanaethau*") includes any function or activity which is calculated to facilitate, or is conducive or incidental to, the provision of any service referred to in these Regulations;

(n) "strategy" ("*strategaeth*") means a health and well-being strategy under s. 24 (1) of the 2002 Act (described in these Regulations as a "health, social care and well-being strategy") and includes a draft strategy.

Duty to co-operate with prescribed bodies

3.—(1) The responsible bodies shall co-operate in formulating and reviewing their strategy with —

(a) the NHS Trust or Trusts providing services to the local population;

(b) the Community Health Council or Councils representing the local population;

(c) the County Voluntary Council or Councils supporting voluntary organisations in the responsible bodies' area or areas or any part of them, or where there is no such Council,

(**2**) 1970 c. 42.
(**3**) 1999 c. 8.
(**4**) SI 2000/2993(W.193).
(**5**) The NHS bodies referred to derive from the following legislation. Health Authorities for England and Wales were created pursuant to section 8 of the National Health Service Act 1977 (1977 c. 49). In Wales, the existing Health Authorities will be abolished with effect from 31st March 2003 pursuant to section 27 of the Government of Wales Act 1998 (1998 c. 38) — *see* the Health Authorities (Transfer of Functions, Staff, Property, Rights and Liabilities and Abolition)(Wales) Order 2003 (S.I. 2003/148, W.18). Local Health Boards are to be established by the National Assembly for Wales under s.16BA of the 1977 Act and will begin operating with effect from 31st March 2003 — see the Local Health Boards (Establishment)(Wales) Order 2003 (SI 2003/148, W.18). In England, Health Authorities are renamed as Strategic Health Authorities (section 1 of the National Health Service Reform and Healthcare Professions Act 2002 (2002 c. 17). Local Health Boards are to be established by the National Assembly for Wales under section 16BA of the 1977 Act and will begin operating with effect from 31st March 2003. NHS Trusts were created pursuant to section 5 of the National Health Service and Community Care Act 1990 (1990 c. 19). Primary Care Trusts may be created in England pursuant to section 16A of the 1977 Act. NHS Trusts and Primary Care Trusts may be designated as Care Trusts pursuant to section 45 of the Health and Social Care Act 2001 (2001 c. 15).
(**6**) 1977 c. 49.

such other body as may be performing functions similar to those performed by such a Council;

(d) the Assembly; and

(e) any private, business, voluntary or other organisation which is concerned with or has an interest in the provision of health and well-being services to the local population.

(2) Before formulating a strategy or taking any action under Regulation 4, the responsible bodies shall in consultation with the persons or bodies listed in paragraph (1) prepare a procedure for co-operation with such persons or bodies.

Steps which the responsible bodies must take before formulating a strategy

4.—(1) Before formulating a strategy, the responsible bodies shall carry out an assessment of the health and well-being needs of the local population.

(2) An assessment under paragraph (1) shall include an assessment of the matters set out in regulation 5(2)(a) to (g) below.

(3) In carrying out an assessment under paragraph (1), the responsible bodies shall co-operate with the persons or bodies listed in regulation 3(1) and shall consult —

(a) the local population; and

(b) such other persons or organisations as appear to the responsible bodies to be representative of interests likely to be substantially affected by the strategy;

and shall have regard to the results of such consultation in formulating a needs assessment under paragraph (1).

(4) In carrying out an assessment under paragraph (1), the responsible bodies shall comply with any directions and have regard to any guidance given by the Assembly pursuant to section 24(7)(a) or (b) of the 2002 Act.

Matters which the strategy must address

5.—(1) The responsible bodies shall have regard to the needs assessment carried out under regulation 4(1) above.

(2) The strategy must address —

(a) the state of health and well-being of the local population;

(b) the health and well-being needs of the local population;

(c) the existing provision of health and well-being services to the local population;

(d) gaps or deficiencies in the provision of health and well-being services to the local population;

(e) risks to the health and well-being of the local population;

(f) factors affecting the health and well-being of the local population, including —

(i) social, economic and environmental factors,

(ii) health promotion and education, health protection and nutrition,

(iii) the safety of food (and "food" for the purpose of this regulation has the meaning given in section 1 of the Food Safety Act 1990)(**7**),

(iv) community development and regeneration and sustainable development,

(v) inequalities in health and well-being,

(**7**) 1990 c. 16.

(vi) the access of the local population to health and well-being services and inequalities in access to such services,

(vii) the availability of and access of the local population to public and community transport,

(viii) the availability of and access of the local population to education, training and employment, and

(ix) the standard and condition of housing of the local population;

(g) the anticipated health and well-being needs of the local population throughout the operative period;

(h) the improvement of the health and well-being of the local population;

(i) the provision of health and well-being services which will be required throughout the operative period to meet the health and well-being needs of the local population, and the effectiveness and efficiency of such services;

(j) the means of commissioning and delivery of health and well-being services;

(k) the financial or other resources which will be required to implement the strategy; and

(l) any directions or guidance given by the Assembly pursuant to section 24(7)(a) or (b) of the 2002 Act.

Commissioning arrangements for secondary care services

6.—(1) The responsible bodies shall have regard, in formulating their strategy, to —

(a) whether the interests of the local population would be best served; and

(b) whether —

(i) improvement in the quality of secondary care services which they provide; and

(ii) better value for money and efficiency in the exercise of their commissioning functions in respect of secondary care services,

could be achieved by entering into a commissioning arrangement with the other responsible bodies and the NHS Trust or Trusts in their commissioning arrangement group.

(2) If the responsible bodies propose not to enter into a commissioning arrangement, they must —

(a) provide the Assembly with full and detailed reasons for such a proposal, together with details of the alternative arrangements which the responsible bodies propose for the commissioning of secondary care services;

(b) consult the Assembly before deciding not to enter into a commissioning arrangement, and

(c) have regard to the Assembly's response to such consultation in making a decision on whether to enter into a commissioning arrangement.

(3) If the responsible bodies decide not to enter into a commissioning arrangement, they must publish the information set out in paragraph (2)(a) above in their strategy.

Integration and consideration of other prescribed strategies or plans into health, social care and well-being strategies

7.—(1) The plans to which this regulation refers are —

(a) a children's services plan under paragraph 1A of Schedule 2 of the Children Act 1989(**8**);

(**8**) 1989 c. 41. Functions of the Secretary of State were transferred to the National Assembly for Wales by The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999 No.672).