

Explanatory Memorandum to accompany the National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020

This Explanatory Memorandum has been prepared by the Primary Care Division of the Directorate of Primary Care and Health Science and is laid before Senedd Cymru 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 National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020. I am satisfied that the benefits justify the likely costs.

Vaughan Gething
Minister for Health and Social Services
5 November 2020

1. Description

The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (“the Regulations”) amend Part 4 of the National Health Service (Performers Lists) (Wales) Regulations 2004 (“the Principal Regulations”) in relation to Dental Performers Lists.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

3. Legislative background

The Regulations will be made pursuant to the Welsh Ministers’ powers under sections 63 and 203(9) and (10) of the National Health Service (Wales) Act 2006. Section 63(3) includes that Regulations under section 63(1) may include provision as to eligibility for inclusion into a list. Section 18 of the Legislation (Wales) Act 2019 provides that the power to make subordinate legislation includes the power to amend it.

The Regulations are being made under the negative resolution procedure.

4. Purpose & intended effect of the legislation

The purpose of the Regulations is to align the legislation with the policy position with regard to new arrangements managed by Health Education and Improvement Wales (HEIW) which commenced on 1 September 2020, whereby Foundation Dentists (FDs – (trainees)) no longer hold a contract of employment with an individual dentist (the trainer) in a training practice.

From 1 September 2020, all FDs have moved to a single lead employer (SLE), operated and administered by the NHS Wales Shared Services Partnership (NWSSP), who already administer the GP specialty employment contract in Wales. As well as releasing time for the training practices and trainees, this arrangement also has additional benefits in terms of centralisation and consistency with regard to human resources, including employment conditions and performance management.

The purpose of the Dental Performers List established by the Principal Regulations is to ensure that dentists are suitable to undertake primary dental services and to protect patients from any performers who are not suitable, or whose efficiency to perform those services may be impaired.

The Principal Regulations allow NWSSP to accept FDs onto the Performer Lists subject to a 3 months ‘grace period’ but currently require the FD to have a contract of employment with an approved training practice. The Regulations will make the required amendments to the Principal Regulations to facilitate

FDs full inclusion on to the Dental Performers List from 1 December 2020 and to align the applicable legislative provisions with the change to policy. The relevant definitions applicable to Part 4 in regulation 28 of the Principal Regulations are amended by the Regulations to reflect the move to Velindre University NHS Trust under the direction of the NWSSP committee as single lead employer for foundation dentists. The Regulations also insert new definitions of HEIW, NWSSP committee and Velindre University NHS Trust into regulation 28 of the Principal Regulations.

5. Consultation

The 2020 Regulations will not be subject to public consultation. The Statutory Instrument concerns the principle of amending operational procedures which affect a small number of key stakeholders who have participated in the development of the proposal with HEIW from its inception.

Key stakeholder representatives were invited by HEIW to discuss and develop the draft proposal with the finally agreed proposal published inviting colleagues with an interest across Wales to provide their comments.

The British Dental Association (Wales) have noted the introduction of the amending Regulations.

6. Regulatory Impact Assessment (RIA)

On this occasion, a Regulatory Impact Assessment has not been carried out. The 2020 Regulations support an administrative change and not a change in policy. There are no additional costs associated with the 2020 Regulations with no impact on the private, local government or third sector foreseen.