

## **Part 1**

### **Explanatory Memorandum to the Emergency Ambulance Services Committee (Wales) Regulations 2014**

This Explanatory Memorandum has been prepared by the Department for Health and Social Services and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation which follows the negative procedure, 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 Emergency Ambulance Services Committee (Wales) Regulations 2014. I am satisfied that the benefits outweigh any costs.

**Professor Mark Drakeford AM**

Minister for Health and Social Services

10 March 2014

## **1. Description**

These Regulations make provision for the Emergency Ambulance Services Committee (“the joint Committee”), which will be responsible for commissioning emergency ambulance services for Local Health Boards in Wales. The Regulations make provision for the composition and membership of the joint Committee; appointment and eligibility of members of the joint Committee; the term of office of the members; and the suspension of and termination of the Chair of the joint Committee. The Regulations also make provision for the proceedings and administrative arrangements of the joint Committee.

## **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

The Constitutional and Legislative Affairs Committee may be interested to note that the Minister for Health and Social Services has also made the Emergency Ambulance Services Committee (Wales) Directions 2014. These Directions direct Local Health Boards to establish the Emergency Ambulance Services Committee (“the joint Committee”) to jointly exercise the functions of planning and securing the provision of emergency ambulance services for the sick and injured from 1 April 2014. The Emergency Ambulance Services Committee (Wales) Regulations 2014 are therefore necessary to make provision for the constitution and membership of the joint committee.

In addition, the Minister has also made the Welsh Health Specialised Services Committee (Wales) Amendment Directions 2014. These Directions, which come into force on 1 April 2014, take away the function of planning and securing the provision of emergency ambulance services from the Welsh Health Specialised Services Committee.

## **3. Legislative background**

The Welsh Ministers’ powers to make the Emergency Ambulance Services Committee (Wales) Regulations 2014 are found in sections 11, 12(3), 13(2)(c) and (4)(c) and 203(9) and (10) and paragraph 4 of Schedule 2 to the National Health Service (Wales) Act 2006.

These Regulations are subject to the negative procedure.

## **4. Purpose & intended effect of the legislation**

### *Introduction*

As stated in paragraph 2 above, the Minister has already made the Emergency Ambulance Services Committee (Wales) Directions 2014 and the Welsh Health Specialised Services Committee (Wales) Amendment Directions 2014. The combined effect of these two sets of Directions will be to remove the function of planning and securing the provision of emergency ambulance services from the Welsh Health Specialised Services Committee which deals with a large range of highly specialised but, in the main, relatively low volume commissioning and place the function with the newly created joint committee of LHBs which will be dedicated to planning and securing the provision of emergency ambulance services. The Emergency Ambulance Services Committee (Wales) Regulations 2014 provide for the composition and membership of the joint committee including its procedures and

administrative arrangements. The policy aim behind the legislative changes is to provide greater clarity with regard to the planning and commissioning of emergency ambulance services in Wales.

The Emergency Ambulance Services Committee will plan and secure the provision of emergency ambulance services in line with both the Welsh Government and NHS planning frameworks.

### *Background*

Emergency ambulance services include responses to emergency calls via 999; GP urgent admission requests; high dependency and urgent inter-hospital transfers; and major incidents.

The *McClelland Strategic Review of Welsh Ambulance Services (2013)* clearly stated that there were 'compelling arguments for change' and that 'funding and accountability arrangements (for emergency ambulance services) must change'. The Review also recommended a change from the existing funding mechanism which was described as 'complex, opaque and time consuming' and one that does not allow the Welsh Ambulance Services NHS Trust to match aims and objectives for their delivery of emergency ambulance services to Welsh residents.

The Minister for Health and Social Services responded to the Review by announcing an intention to make the legislative changes outlined above to strengthen the arrangements for planning and securing the provision of emergency ambulance services in Wales

### *Purpose of Legislation*

To achieve this objective, Chief Executives of Local Health Boards will be directed to establish a Committee for the purposes of undertaking the function of planning and securing the provision of emergency ambulance services on a joint basis. The joint committee will be known as the Emergency Ambulance Services Committee.

The general terms the Regulations make provision for the constitution and membership of the joint Committee including its procedures and administrative arrangements.

Part 1 of these Regulations confirms the title of the Regulations, the coming into force date of 1 April 2014 and the how various terms used in the Regulations are to be interpreted.

Part 2 makes provision for –

(a) the composition and membership of the joint Committee (regulation 3). The Regulations provide that the Committee will be comprised of:

- A Chair;
- A Vice Chair (a role that will be taken up by one of the Chief Executive Officers)
- The seven Chief Executive Officers of Local Health Boards or a representative nominated to attend the joint committee in his or her place ;

- The Chief Ambulance Services Commissioner who is employed by the LHB which hosts the joint Committee;
- The Chief Executive Officers of Public Health Wales, Velindre NHS Trust; and the Welsh Ambulance Services NHS Trust – as associate members with no voting rights.

(b) the appointment of the chair and vice chair to the joint committee (regulation 4);

(c) eligibility requirements for members of the joint committee (regulation 5 and Schedule 2) and

(d) tenure of office, termination of appointment and suspension of chair and vice chair.

Part 3 contains provisions in relation to the meetings and proceedings of the joint committee including the powers of the vice chair, regulations 10 and 11.

### *Intention of Legislation*

The intention of the legislation is that the Emergency Ambulance Services Committee and Chief Ambulance Services Commissioner will secure and facilitate strong local partnerships that have at their heart the right level of strategic and clinical engagement, together with effective operational leverage that enables delivery and change. The intended change should also provide assurance on the strategic and operational performance and development of the Ambulance Trust and its value for money to the Welsh Government.

Further, the Emergency Ambulance Services Committee will commission emergency ambulance services *only*. This represents a distinct change from the previous arrangements where the Welsh Health Specialised Services Committee commissioned a significant number of highly specialised, and often relatively low volume services, in addition to the high volume nature of emergency ambulance services.

Ultimately, the legislation is intended to provide the individual attention that is required to secure a robust emergency ambulance service for the population of Wales.

## **5. Consultation**

Details of consultation undertaken are included in the Regulatory Impact Assessment (RIA) overleaf.

## Part 2 – Regulatory Impact Assessment

### Options

#### Do Nothing

This would maintain the current situation. The Welsh Health Specialised Services Committee will remain responsible for commissioning emergency ambulance services.

The *McClelland Strategic Review of Welsh Ambulance Services (2013)* clearly stated that there were ‘compelling arguments for change’ based on stakeholder engagement, focus groups, literary reviews and analysis of previous reviews of the ambulance service. The Review also stated that ‘funding and accountability arrangements (for emergency ambulance services) must change’.

The Welsh Health Specialised Services Committee commissions a significant number of highly specialised, and often relatively low volume services, in addition to the high volume nature of emergency ambulance services.

Maintaining the current regulatory situation would not achieve the policy objective or public expectation of making funding and accountability a simpler and more transparent process, nor increase Local Health Board ownership for the provision of emergency ambulance services.

#### Make the Emergency Ambulance Services Committee (Wales) Regulations 2014; the Emergency Ambulance Services Committee (Wales) Directions 2014 and the Welsh Health Specialised Services Committee (Wales) (Amendment) Directions 2014.

This option is to make the legislation outlined above which includes the Emergency Ambulance Services Committee (Wales) Regulations 2014 which will have the combined effect of providing greater clarity with regard to the planning and commissioning of emergency ambulance services in Wales.

This package of legislation (including the Regulations) are intended to secure and facilitate strong local partnerships through a national joint Committee, that have at their heart the right level of strategic and clinical engagement, together with effective operational leverage that enables delivery and change.

The intended change should also provide assurance on the strategic and operational performance and development of the ambulance Trust and its value for money to the Welsh Government, via both the focussed Committee arrangement and the introduction of the Chief Ambulance Services Committee.

Ultimately, the legislation is intended to provide the focussed attention that is required to secure a robust emergency ambulance service for the population of Wales.

For these reasons, this approach is the preferred option for addressing the policy objectives of making funding and accountability a simpler and more transparent process, and increasing Local Health Board ownership of the provision of emergency ambulance services.

## **Costs & benefits**

### Do Nothing

Existing costs associated with the running of the Welsh Health Specialised Services Committee, including an annual salary for a Chair would continue to apply if the current arrangements are maintained or not.

Continuing to use the Welsh Health Specialised Services Committee to commission emergency ambulance services would result in ongoing adherence to funding arrangements described as ‘complex, opaque and time consuming’ in the McClelland *Strategic Review of Welsh Ambulance Services* (2013), at a potential cost to Welsh residents.

### Make the Emergency Ambulance Services Committee (Wales) Regulations 2014; the Emergency Ambulance Services Committee (Wales) Directions 2014 and the Welsh Health Specialised Services Committee (Wales) (Amendment) Directions 2014.

The changes brought about by the new legislation will generate new costs in an annual salary for the Chief Ambulance Services Commissioner. NHS Wales representatives have not determined the pay band for the Commissioner although it is not likely to exceed £150,000, including costs of support staff.

The appointment of a Commissioner has the potential to reduce ongoing costs by increasing focus on the strategic and operational development of the Ambulance Trust, creating organisational efficiencies and increasing value for money to the Welsh Government. The Commissioner will be accountable for ensuring compliance with the commissioning framework and performance standards. The appointment is intended to:

- Eliminate complexity and delays in agreements between Local Health Boards and the Ambulance Trust;
- Provide clarity in respect of expectations of the Ambulance Trust as a delivery organisation and their compliance with agreed specifications; and
- Ensure Local Health Boards are accountable for commissioning and funding to meet required standards locally and nationally.

There will be an additional cost in the form of a nominal annual payment for the Chair of the Emergency Ambulance Services Committee based on 26 days a year at £249 a day which will be funded by Local Health Boards. Given the benefits associated with appointing a Chair who will represent a senior, identifiable figure who is directly accountable to Welsh Ministers for the performance of the Emergency Ambulance Services Committee, this is a small part of the annual NHS Wales budget.

The Committee will be hosted by Cwm Taf University Health Board and utilise the experience and skills of existing staff to support the administration of the Committee.

### Summary for chosen option

Making the Emergency Ambulance Services Committee (Wales) Regulations 2014, the Emergency Ambulance Services Committee (Wales) Directions 2014 and the Welsh Health Specialised Services Committee (Wales) (Amendment) Directions 2014 is the only approach that meets the policy objectives of making funding and accountability a simpler and more transparent process, and increasing Local Health Board ownership of the provision of emergency ambulance services.

Further, the estimated costs associated with establishing this Committee represent an extremely small proportion of the annual revenue budget of the Health and Social Services Directorate (less than 0.001%).

### **Consultation**

The public consultation on making provision for the Emergency Ambulance Services Committee (Wales) Regulations 2014, the Emergency Ambulance Services Committee (Wales) Directions 2014 and the Welsh Health Specialised Services Committee (Wales) (Amendment) Directions 2014 (referred to as “Public consultation on legislative changes affecting ambulance services in Wales”) ran from 19 December 2013 to 13 February 2014.

In total, 62 responses were received. Not all responses addressed every question asked in the consultation, and the analysis reflects this.

18 of the responses were submitted by individuals, and the rest were submitted on behalf of organisations. All consultation responses are available to be viewed, but identifying information (such as names and addresses) has been removed where requested by respondents.

A more detailed analysis of consultation responses is included at:

<http://wales.gov.uk/consultations/healthsocialcare/ambulance/?lang=en>

All bodies affected by the proposed Regulations (including Public Health Wales, Velindre NHS Trust, Welsh Ambulance Services NHS Trust, Local Health Boards and Community Health Councils) were notified by letter of the consultation, and were offered meetings and phone calls with officials to discuss any issues or concerns that they might have.

These organisations were consulted in order to understand the views of organisations affected by the proposed Regulations. Community Health Councils were consulted to encourage a greater number of responses on the proposed changes from members of the public.

Officials met with the Welsh Ambulance Services NHS Trust on several occasions to discuss the proposed changes to regulations and to explore the impact of making these changes on their organisation.

No amendments were made to the legislation as a result of the consultation, although some changes of a technical nature (which do not affect the policy consulted upon) were made when the Regulations were undergoing final checking procedures.

All views will be considered while formulating future Welsh Government policies on ambulance services.

### **Competition Assessment**

A Competition Assessment was not required.

### **Equality Assessment**

A DRAFT Equality Impact Assessment is attached at Doc 5. We are continuing to build on the EIA with a view to publishing it by 14 March 2014.

### **Post implementation review**

Officials will monitor the Emergency Ambulance Services Committee's performance in terms of its planning and commissioning of emergency ambulance services, and the ambulance Trust's performance against national and local standards.