

Explanatory Memorandum to the National Health Service Local Health Boards (Consultation with Local Dental Committees) (Wales) Regulations 2010.

This Explanatory Memorandum has been prepared by the Dental Division of the Health and Social Services Directorate General and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the National Health Service Local Health Boards (Consultation with Local Dental Committees) (Wales) Regulations 2010.

Edwina Hart

Minister for Health and Social Services

26 November 2010

1. Description

These Regulations establish the principle of Local Health Boards (LHBs) consulting with Local Dental Committees (LDCs) and also prescribe the occasions and the extent of such consultation.

2. Matters of special interest to the Constitutional Affairs Committee

None.

3. Legislative background

The Regulations will be made pursuant to powers under sections 69(6), 203(9) and (10) of the National Health Service (Wales) Act 2006.

The provisions governing LDCs are set out in section 69 under which an LHB may recognise a committee formed for its area which it is satisfied is representative of the dental profession. Regulations may require an LHB, in exercise of its functions relating to primary care services, to consult any committee recognised by it on such occasions and to such extent as may be prescribed.

These Regulations relate to matters dealing with individual dental practitioner contractual issues and on the planning and delivery of dental services in each LHB area delivered through:

- The National Health Service (General Dental Services Contracts) (Wales) Regulations 2006; and
- The National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006

This instrument will follow the negative resolution procedure.

4. Purpose & intended effect of the legislation

The purpose of these Regulations is to facilitate:

- The LHB or contractor being able to invite the LDC to participate in contract negotiations for the provision of services. This to include annual review of performance, local dispute resolution, proposals for contract termination and contract sanction;
- The LHB or contractor being able to invite the LDC to participate in practice inspections by the Relevant Body or other authorised organisations;
- The LHB to seek the views of the LDC should a contractor excessively prescribe what is seen as reasonably necessary for proper treatment of patients (i.e. excessive recalls, scale and polishes, prescriptions etc.); and
- The LHB to consult with the LDC on the planning and delivery of dental services in the area. This to include provision of significant additional new, or changes to existing, services. Also strategic plans for the future delivery of dental services and oral health.

There are currently no Regulations which require LHBs to consult an LDC in Wales. LDCs can be an effective source of advice for LHBs and are able to

provide a comprehensive profile of the primary care dental services in the area. Concerns have been expressed about the need to strengthen the flow of information and consultation between LHBs and dentists providing NHS services. This has recently been highlighted by the Welsh Dental Committee and a number of individual LDCs.

The need for LDCs to provide effective advice has increased with the restructuring of the NHS in Wales and has been highlighted in the report of the Dental Contract Review Group and also in responses to the consultation on the restructuring. The interests, voice and views of the dental profession need to be taken into account following restructuring and wider powers to engage with LDCs on their area of expertise is seen as way of achieving this.

5. Consultation

A Consultation exercise has been undertaken involving all key stakeholders including the British Dental Association (Wales). There is broad support for the introduction of these Regulations. Following an analysis of the responses, the Regulations were re-ordered to improve the flow and reflect the 'order' in which dental services are planned, contracted and monitored.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment has not been prepared for this instrument as the Regulations are cost neutral and do not directly impact upon the public, private sectors, charities, the third and business sectors.