

## **EXPLANATORY MEMORANDUM**

### **The Regulatory Reform (National Health Service Charitable Trust Accounts and Audit) Order 2004**

#### **Summary**

1. The proposed joint order between the Department of Health and National Assembly for Wales will remove the requirement under the National Health Service Act 1977 for NHS bodies to submit annual Charity accounts to the Department of Health and NAW. It will remove an excessive and unnecessary burden imposed by requirements under section 98(4) for NHS Charities whereby they are required to submit two sets of annual accounts to the NAW and Charity Commission.

#### **Background**

2. The legislation at issue in these reforms are Section 98 of the NHS Act, the Charities Act 1993 and the Audit Commission Act 1998.
3. These accounts are prepared in the form directed by the NAW. Section 98 also provides for the audit of the accounts by auditors appointed by the Audit Commission and for their submission to the NAW. The summarised accounts are examined by the Auditor General for Wales and presented to the NAW.
4. Section 98 covers both Exchequer funds and the separate accounts for funds held on trust. However, these proposals only cover funds held on trust. The proposals, described below, have been issued to the NHS and other interested parties for consultation and have been well received. From the responses received 74 out of 79 have expressed their approval with the original proposals.
5. The requirement for NHS Charities to submit accounts to two separate bodies under different legislation is an anomaly and contrary to Government policy to reduce unnecessary burden on charities. The changes are principally a matter of deregulation and are being introduced using a Regulatory Reform Order under the Regulatory Reform Act 2001.

#### **Summary of Main proposals**

6. To remove the requirement in the NHS Act 1977 for NHS Bodies to submit accounts for accounts to the Department of Health or NAW. As a result , this would mean that the accounts would not be summarised or presented to Parliament or the NAW.
7. In accordance with the 1993 Charity Act the annual accounts would continue to be submitted to the Charity Commission.
8. NHS charitable funds would be brought into line with the accounting and

scrutiny requirements under Charity Law of other charities of a similar size, with the following exceptions:

The Audit Commission will appoint the auditors and not the trustees;

All charity accounts will be subject to scrutiny by a person appointed by the Audit Commission, irrespective of size;

Auditors will be qualified as detailed in the Audit Commission Act 1998, not the Charities Act 1993;

The accounts may be examined by the Comptroller and Auditor General for Wales.

9. All NHS charitable funds would derive benefit from the removal of the dual accounting burden. Smaller charities would benefit most by being able to take advantage of the simpler accounts and audit scrutiny arrangements under Charity Law. All NHS charities could benefit from the longer time period allowed under charity legislation for submission of the accounts.

### **Financial Implications**

10. There are no financial cost implications for the Welsh Assembly Government associated with amending section 98. However, there should be some administration cost savings to the charities as their reporting requirements ease.