

NATIONAL HEALTH SERVICE, WALES

The Betsi Cadwaladr University Local Health Board Intervention (Amendment) Order 2023

Made 13 March 2023

*Coming into force in accordance with
paragraph 1(2)*

The Welsh Ministers make the following Order in exercise of the powers conferred by sections 26 and 27 of the National Health Service (Wales) Act 2006⁽¹⁾.

Title, commencement and interpretation

1.—(1) The title of this Order is the Betsi Cadwaladr University Local Health Board Intervention (Amendment) Order 2023.

(2) This Order comes into force when it is made.

(3) This Order is made in respect of Betsi Cadwaladr University Local Health Board⁽²⁾.

(4) In this Order “the First Order” means Betsi Cadwaladr University Local Health Board Intervention Order 2023.

Amendment of the First Order

2.—(1) The First Order is amended as follows.

(2) After paragraph 2(2) insert—

“(2A) Regulation 4 applies as if—

(a) for paragraph (2) there were substituted—

“(2) The chief officer is appointed by the chair, vice-chair and non-officer members.”

(b) after paragraph (2) insert—

(1) 2006 c. 42.

(2) Betsi Cadwaladr University Local Health Board was established by the Local Health Boards (Establishment and Dissolution) (Wales) Order 2009 (S.I. 2009/778 (W. 66)).

“(2A) Other than the chief officer, the officer members are appointed by a committee whose members must be the chair, vice-chair, non-officer members and the chief officer.”;

(c) in paragraph (6)—

(i) omit “the Board makes”;

(ii) after “an appointment” insert “is made”;

(iii) after “(2),” insert “(2A)”;

(iv) omit “it must have”;

(v) after “regard” insert “must be had”;

(d) after paragraph (10) there were inserted—

“(11) The trade unions recognised by the Board may collectively nominate one person and the Welsh Ministers may choose the person nominated to be the trade union member under regulation 3(4)(c).”

(2B) Regulation 8(2) applies as if for “Board” there were substituted “chair, vice-chair and non-officer members.”

(3) Omit paragraph 2(5).

(4) For paragraph 2(6) substitute—

“(6) Schedule 3 applies as if—

(a) in paragraph 2(3) for “ten” there were substituted “five”;

(b) after paragraph 4(1) there were inserted—

“(1A) Where a question at a meeting is being determined in accordance with paragraph (1), the number of officer members voting on the question must not exceed the number of non-officer members (including the chair and vice-chair) voting on the question and the officer members who may vote are to be determined in accordance with the order by which they are listed in regulation 3(2).”

Eluned Morgan



Minister for Health and Social Services, one of the
Welsh Ministers

Date 13 March 2023

Betsi Cadwaladr University Health Board Intervention Order


Potential areas for disapplication of the Local Health Boards (Constitution, Membership and Procedures) Regulations 2009 and the Local Health Board Model Standing Orders and Reservation and Delegation of Powers

Regulation/ Paragraph	Provision	Corresponding Section of Model Standing Orders (if applicable)	Proposed alternative wording if applicable/Note – where shown in red this is revised wording as a result of the intervention order.	Rationale/Comments
3(1), (a), (b) and (d)	Membership of the Board – Chair, Vice-Chair and Non- Officer Members			As of 27 February there will be no Vice- Chair and only a Chair and 3 x non- officer members until further appointments are made.
3(4), (a), (b), (c) & (d)	There are 9 officer members which must include, (a) local authority, (b) voluntary organisation, (c) trade union member and (d) a person who holds a post in a university that is related to health		3(4) There are may be up to nine non- officer members which must may include— (a) a local authority member; (b) a voluntary organisation member; (c) a trade union member; (d) a person who holds a post in a university that is related to health.	The intention is to appoint to those posts specified in 3(4) (a) local authority, (c) trade union and (d) university through nomination in the next few weeks.
		1.1.4 – refers to provisions as specified in 3(4) as well as reference to ‘		The requirement to appoint in accordance with this paragraph has been raised as a barrier to recruitment even where a board is a full strength as

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		and five other independent members who together have experience in legal; finance; estates; information technology; and community knowledge and understanding		<p>it does not allow for a board to determine the skills required to suit their particular circumstances.</p> <p>When making interim appointments it may not be possible to ensure this range of skills and when considering the appointment of the permanent post holders it will be necessary to consider if this best meets the skills and experience required.</p> <p>The potential for amending this has also been flagged within the report produced by the NHS Wales Public Appointees Task and Finish Group</p>
4(1)	Appointment of chair, vice-chair and non-officer members by the Welsh Ministers		n/a	
4(2)	The officer members are appointed by the Board	Schedule 1 – Model Scheme of Reservation and Delegation of Powers – 24 states appointment of officer members for full board – <i>amend to reflect changes in Intervention Order</i>	<p>As referenced in Keeling Schedule</p> <p>4 (2) The chief officer is appointed by the chair, vice-chair and non-officer members.</p> <p>(2A) Other than the chief officer, the officer members are appointed by a committee whose members must be the chair, vice-chair, non-officer members and the chief officer.</p>	The current wording requires that appointments are by the unitary board. The proposed alternative wording to reflect intervention order

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4	Appointment of Trade Union Member		4 (11) The trade unions recognised by the Board may collectively nominate one person and the Welsh Ministers may choose the person nominated to be the trade union member under regulation 3(4)(c).	The current arrangements are via open competition. This is not consistent with the arrangements for the appointment of a local authority and university members and does not reflect the arrangements for engaging with trade unions within the organisation.
8(2)	If all of the officer members (other than the member who is subject of the notification) are of the opinion that a person who is an officer member should not continue to hold office as a member, they may notify the Board.		If all of the officer members (other than an officer member who is the subject of a notification to the chair under this paragraph) are of the opinion that a person who is an officer member should not continue to hold office as a member, they may notify the Board chair, vice-chair and non-officer members.	This ensures this paragraph reflects the alternative provisions for Para 4(2).
13	Powers of Vice-Chair where the Chair is unable to fulfil their duties	1.4.9 – relates to deputising for Chair – <i>will require amendment to reflect decision regarding arrangements for deputising</i>	Note: Where no vice-chair is in office, regulation 13 applies as if references to the vice-chair are references to a non-officer member selected by the Welsh Ministers, except for where the chair of the Board is unable to perform their duties for a period of 14 days or less owing to illness, absence or any other cause, in which case references to the vice-chair are references to a non-officer member selected by the chair.	This will allow for continuity in the absence of the Chair and where no vice-chair has been appointed.
		1.4.10 – in addition to corporate role VC has a specific brief to oversee the LHBS	Where a vice-chair is not in post the Chair will ensure this specific brief is undertaken by other non-officer members of the board.	To ensure focus remains on this area it may be necessary to share amongst more than one non-officer member.

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		performance in planning, delivery and evaluation of primary care, community health and mental health services ensuring a balanced care model to meet the needs of the population in the LHB area.		This will need to be discussed with the Interim Chair
		1.4.12 – Lead role of board members – the Chair will ensure that individual Board members are designated as lead roles or ‘champions’ as required y the Welsh Ministers or as set out in any statutory or other guidance.	Whilst there are less than nine non-officer members in post the Chair will consider the priority to each of the lead or ‘champion’ roles for consideration and agreement by the Welsh Ministers as advised by officials.	Whilst the board is not at full strength it will not be possible to discharge all of these roles. However, this does not take away from the collective responsibility of the unitary board. Priority should be given to those roles specified within legislation in the first instance.
		2.1.2 – Chairs action of urgent matters – where either the Chair of the Chief Executive has a personal or business interest in an urgent matter requiring decision this shall be taken by the vice-chair or an executive director acting on	Where a vice-chair is not appointed the decision shall be taken by a non-officer member acting on behalf of the Chair.	This will ensure urgent decisions can still be taken where a vice-chair has not yet been appointed.

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		behalf of the chief executive.		
14	Appointment of committees – subject to directions as may be given by the Welsh Ministers the Board may and, if directed by the Welsh Ministers, must (a) appoint committees or sub-committees of the Board, or (b) together with one or more board or NHS Trust or local authority in the Board’s area, appoint joint committees or joint-sub committees	3.4 – Committees established by the LHB	No change proposed to Regulations or Section 3 of SOs. It will be necessary to review Schedule 3 which relates to the detailed terms of reference for each of the committees.	<p>Whilst the non-officer members are not at full strength it will not be practicable to continue with the current arrangements for the holding of meetings or the number of members.</p> <p>It will be necessary to review the terms of reference and agree the operating arrangements using the governance principles agreed during the pandemic as the basis for this.</p> <p> 200326 - Response to Letter Advice_Pro</p>
15	Meetings and proceedings – The meetings and proceedings of the Board must be conducted in accordance with Schedule 3 and with Standing Orders made under para 2.		See later for proposed disapplication of Schedule 3	
		7.2 – Annual Plan of Board Business 7.2.4 – The Board shall agree the plan for the forthcoming year by the end of March and this plan will be published on	Suggest this is replaced with: The Board shall agree the plan for the forthcoming year by the end of May and this plan will be published on the organisations website. Where the plan changes during the year it will be updated accordingly and an updated	Extending the period for publication until the end of May will allow time for the board to stabilise. It is appropriate to acknowledge this may change during the year for good reason.

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		the organisations web-site	version explain the rationale for any change will be published as soon as reasonably practicable.	
Schedule 3, Regulation 15 Rules as to meeting and proceedings of boards				
2(3)	Before each meeting of a Board, a notice of the meeting, specifying the business proposed to be transacted at it, and signed by the chair or by an officer authorised by the chair to sign on his or her behalf must be delivered to every member and associate member, or sent by post to the usual place of residence of such member, so as to be available to such member, where reasonably practicable, at least ten clear days before the meeting	7.4.3 – specifies publication at least 10 calendar days - amend to ensure consistent with disapplication of Regulations	Before each meeting of a Board, a notice of the meeting, specifying the business proposed to be transacted at it must be published electronically to every member and associate member, so as to be available to such member, where reasonably practicable, at least five clear days before the meeting	Para 2(3)
		7.4.7 – specifies notice of meeting and public part of agenda should be published at least 10 calendar days before a meeting	Reword to ensure consistent with above – five clear days	As above
		7.4.5 – In the event that at least half of the Board members do not receive the	Amend to 'In the event that at least half of the Independent Members and/or half of the Executive Directors do not receive the agenda and papers etc	Whilst there is imbalance in appointed officer and non-officer members this will guard against a meeting needing to proceed where officer members have

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		Agenda and papers for the meeting as set out above the Chair must consider whether or not the board is capable of fulfilling its role.....		received papers but non-officer members have not.
3(2)	If the chair is absent from the meeting the vice-chair, if present presides.	7.5.8 – Chairing Board meetings – <i>to amend to ensure consistent with provisions made in accordance with Regulation 13.</i>	Where no vice-chair has been appointed the arrangements for presiding over a meeting in the absence of the chair will be in accordance with the provisions made for Regulation 13 above.	There may be a period when there is no vice-chair appointed.
3(3)			In accordance with the alternative arrangements made for Regulation 13 above, where the members specified in accordance with the alternative provisions are not present such non-officer member as the members present may choose presides. This will be subject to the Board remaining quorate.	This allows for absence of those appointed as an alternative to the vice-chair to also be absent.
4(1)	Every question at a meeting is determined by a majority of the votes of the members present and voting on the question and, in the case of any equality of votes, the person presiding has a second and casting vote.	1.1.2 Officer and non-officer members shall have full voting rights. <i>Will need to disapply to say in accordance with the intervention order.</i> Voting 7.5.25 – refers to decision being made	4 (1A) Where a question at a meeting is being determined in accordance with paragraph (1), the number of officer members voting on the question must not exceed the number of non-officer members (including the chair and vice-chair) voting on the question and the officer members who may vote are to be determined in accordance with the order by which they are listed in regulation 3(2)	The quorum of the board will remain at three non-officer (including chair and vice-chair where appointed) and three officer members in accordance with para 6. Whilst the unitary board is not functioning with a full cohort of non-officer members where a vote were required the officer members would have an automatic majority. This is not in accordance with governance

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		<p>by simple majority view held by Board Members present. <i>Will need to amend to reflect intervention order</i></p> <p>7.5.21 – Motion to rescind a resolution – <i>where reference to simple majority amend to reflect intervention order</i></p>	<p>Would suggest these are listed in SO's</p>	<p>requirements where the chair, vice-chair and non-officer members should hold the majority. Where numbers and votes are equal this majority would be exercised by the second and casting vote of the person presiding over the meeting.</p> <p>SOs will require amendment to ensure consistent intervention order</p> <p>It is also necessary to consider 7.5 to ensure no other paragraphs require amendment</p>