

WELSH HEALTH CIRCULAR



Llywodraeth Cymru
Welsh Government

Issue Date: 9 July 2020

STATUS: COMPLIANCE

CATEGORY: GOVERNANCE

Title: Temporary Amendments to Model Standing Orders, Reservation and Delegation of Powers – Local Health Boards, NHS Trusts, Welsh Health Specialised Services Committee, Emergency Ambulances Services Committee and Health Education and Improvement Wales

Date of Expiry / Review: 31 March 2021 or to the end of the term of any appointments made in accordance with the amendments detailed in the appendices, whichever is the later.

For Action by:

Chairs of Local Health Boards and NHS Trusts

Chair of Health Education and Improvement Wales

Chairs of the Welsh Health Specialised Services Committee, the Emergency Ambulance Services Committee and the Shared Services Committee

Directors of Corporate Governance/Board and Joint Committee Secretaries

Action required by:

In accordance with Board and Committee timetable but no later than 31 July 2020

Sender:

Melanie Westlake, Head of NHS Board Governance, Mental Health, NHS Governance and Corporate Services, Health and Social Services Group

HSSG Welsh Government Contact(s) :

Melanie Westlake, Head of NHS Board Governance, Mental Health, NHS Governance and Corporate Services, Health and Social Services Group

Enclosure(s):

Annex 1 – Temporary Amendments – LHB Model Standing Orders and Reservation and Delegation of Powers July 2020

Annex 2 – Temporary Amendments - Schedule 4.1 – LHB Model Standing Orders and Reservation and Delegation of Powers – Model Standing Orders Welsh Health Specialised Services Committee

Annex 3 – Temporary Amendments - Schedule 4.2 – LHB Model Standing Orders and Reservation and Delegation of Powers – Model Standing Orders Emergency Ambulance Services Committee

Annex 4 – Temporary Amendments - Trust Model Standing Orders and Reservation and Delegation of Powers July 2020

Annex 5 - Temporary Amendments – Health Education and Improvement Wales Model Standing Orders and Reservation and Delegation of Powers July 2020

Background

In March 2020, in response to the COVID-19 pandemic the Welsh Government agreed to delay the date by which NHS bodies were required to hold their Annual General Meetings from before the end of July to before the 30 November 2020.

On 5 July 2020, in response to the suspension of recruitment to public appointments in Wales, the ***National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020*** came into force. The purpose of these Regulations is to dis-apply the maximum tenure of office contained in the specified regulations for NHS board/committee non-officer members for a time limited period.

The membership regulations for NHS boards and committees in Wales, in most cases, restrict a person from being appointed for a period of no longer than four years and holding office as a member or an associate member for a total period of no more than eight years. Although the Commissioner for Public Appointments' Governance Code provides some flexibility to ensure the continued operation of NHS boards/committees, any person who is nearing the end of their maximum tenure of office, as prescribed in legislation, would be required to leave office as they will no longer be eligible for re-appointment.

A number of key appointments on health boards/committees are due to end their tenure during the next 9 months. Due to the temporary suspension of all public appointments in March 2020 in Wales and the time required to re-start the appointment process as the restrictions are lifted, board and committees would potentially have a number of key vacant positions. The ***National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020*** will ensure that during such a critical and

challenging period for the health sector in responding and recovering from the impact of COVID-19, boards and committees do not to carry vacancies, allowing them to function properly and support good and effective board governance.

The Regulations will dis-apply the statutory maximum tenure of office to ensure any board or committee member who is nearing the end of their statutory maximum tenure of office is eligible for re-appointment. Any re-appointments will be made in accordance with the Commissioner for Public Appointments' Governance Code which includes allowing an appointee to hold office for a maximum of ten years.

The Regulations temporarily dis-apply the following:

- Regulations 6(5) and 7(5) of the Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009
- Regulation 14(3) of the Public Health Wales National Health Service Trust (Membership and Procedure) Regulations 2009
- Regulations 6(5) and 7(4) of the Welsh Health Specialised Services Committee (Wales) Regulations 2009
- Regulation 8(5) of the Velindre National Health Service Trust Shared Services Committee (Wales) Regulations 2012
- Regulations 6(5) and 7(4) of the Emergency Ambulance Services Committee (Wales) Regulations 2014
- Regulation 4(3) of the Health Education and Improvement Wales Regulations 2017

Amendments to Model Standing Orders

Introduction of the ***National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020*** require the temporary amendment of the Model Standing Orders and Reservation and Delegation of Powers issued in September 2019 (see WHC 2019/027) in accordance with the powers of direction of Welsh Ministers as follows:-

- to Local Health Boards, the Welsh Health Specialised Services Committee, the Emergency Ambulance Services Committee, NHS Trust in accordance with Section 12(3) of the National Health Services (Wales) Act 2006
- to NHS Trusts in accordance with Section 19(1) of the National Health Services (Wales) Act 2006

Model Standing Orders were also issued to Health Education and Improvement Wales in September 2018, however these were issued under the cover of a letter from the Director General of Health and Social Services and NHS Wales Chief Executive. The Welsh Ministers did not use their powers of direction in accordance with Section 23(1) of the National Health Services (Wales) Act 2006.

Model Standing Orders are not issued for the NHS Wales Shared Services Committee. The Committee is subject to Standing Orders and Reservation and Delegation of Powers which form part of the Velindre University NHS Trust Standing Orders.

In addition to the amendments to reflect the ***National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020***, amendments are also required to:

- the timing of the Annual General Meeting for Local Health Boards, NHS Trust and Health Education and Improvement Wales, and;
- the tenure of the Chair and Vice Chair of the Stakeholder Reference Group and Health Professionals' Forum.

The amendments are detailed within the appropriate Annex to this Welsh Health Circular.

Amendments to Standing Orders of NHS Bodies

NHS Bodies are required to make, vary and revoke Standing Orders for the regulation of their proceedings and business as follows:

- **Local Health Boards**

Local Health Boards have a duty under Regulation 15(2) of the Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009 to make Standing Orders for the regulation of their proceedings and business. Regulation 15(3) specifies that Boards may (a) vary; or (b) revoke and remake its Standing Orders.

Regulation 15(6) provides that Standing Orders made under this regulation will be subject to, and must be made in accordance with, such directions as may be issued by Welsh Ministers.

The Committees are slightly different in terms of process as the Local Health Boards also need to approve their Standing Orders as follows:

- **Welsh Health Specialised Services Committee**

Regulation 12(1) of the Welsh Health Specialised Services Committee (Wales) Regulations 2009 place a duty on each Local Health Board to agree Standing Orders for the regulation of the meetings and proceedings of the joint committee. Regulation 15(5) of the Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009 also require that where a joint committee has been established, the Board must approve any Standing Orders that may be made by that committee.

- **Emergency Ambulance Services Committee**

Regulation 10(1) of the Emergency Ambulance Services Committee (Wales) Regulations 2014 place a duty on each Local Health Board to agree Standing Orders for the regulation of meetings and proceedings of the joint committee. Regulation 15(5) of the Local Health Boards (Constitution, Membership and Procedures (Wales) Regulations 2009 also require that where a joint committee has been established, the Board must approve any Standing Orders that may be made by that committee.

- **Public Health Wales NHS Trust**

Public Health Wales have a duty under Regulation 23(2) of the Public Health Wales NHS Trust (Constitution, Membership and Procedure) (Wales) Regulations 2009 to make Standing Orders for regulation of their proceedings and business. They may also vary or revoke these Standing Orders.

- **Velindre University NHS Trust**

Velindre University NHS Trust has a duty under Regulation 19(2) of the National Health Service Trusts (Membership and Procedure) Regulations 1990 to make Standing Orders for the regulation of their proceedings and business. They may also vary or revoke these Standing Orders.

- **NHS Shared Services Committee**

The Shared Services Committee Standing Orders form part of the Velindre University NHS Trust Standing Orders, which must take account of the provisions of the Velindre National Health Service Trust Shared Services Committee (Wales) Regulations 2012 and the disapplication of these Regulations with regard to the tenure of the Chair and Vice Chair.

- **Welsh Ambulance Services NHS Trust**

Welsh Ambulance Services NHS Trust has a duty under Regulation 19(2) of the National Health Service Trusts (Membership and Procedure) Regulations 1990 to make Standing Orders for the regulation of their proceedings and business. They may also vary or revoke these Standing Orders.

- **Health Education and Improvement Wales (HEIW)**

HEIW under Regulation 15 of the Health Education and Improvement Wales Regulations 2017 must make standing orders for the regulation of its proceedings and business, including provision for the suspension of all or any of the standing orders. HEIW may vary, revoke and remake its standing orders. Standing orders of HEIW or a committee

or sub-committee must be made in accordance with any directions given by the Welsh Ministers and are subject to the provisions of these Regulations and any directions given by the Welsh Ministers.

Action Required

NHS organisations are required to make the necessary temporary variations as detailed in Annex 1-5 to their Standing Orders and Reservation and Delegation of Powers in accordance with the Board and Committee timetable, but no later than 30 July 2020.

In addition, Velindre University NHS Trust and the Shared Services Committee are also required to make the necessary amendments to the Standing Orders relevant to the Shared Services Committee.

The amendments will cease to have effect on the 31 March 2021 or at the end of the term of any appointments made in accordance with the amendments, whichever is the later.

Temporary Amendments to the Model Standing Orders

Reservation and Delegation of Powers

For Local Health Boards – July 2020

The following amendments, shown in italics are required to the Model Standing Orders issued in September 2019 with immediate effect. They will cease to have effect on the 31 March 2021 or, where an appointment(s) has been made under the ***National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020*** or, to the tenure of a Chair or Vice-Chair of the Stakeholder Reference Group or Health Professionals' Forum, at the end of that term, whichever is the later.

Page 17 – 1.3 Tenure of Board members

- 1.3.1 Independent Members and Associate Members appointed by the Minister for Health and Social Services shall be appointed for a period specified by the Welsh Ministers, but for no longer than 4 years in any one term. These members can be reappointed but may not hold office as a member or associate member for the same Board for a total period of more than 8 years, *with the exception of those appointed or re-appointed in accordance with Regulation 2 of the **National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020**. These members will hold office in accordance with the terms of their appointment or re-appointment.* Time served need not be consecutive and will still be counted towards the total period even where there is a break in the term.
- 1.3.2 Any Associate Member appointed by the Board will be for a period of up to one year. An Associate member may be re-appointed if necessary or expedient for the performance of the LHBs functions. If re-appointed they may not hold office as an Associate Member for the same Board for a total period of more than four years, *with the exception of those appointed or re-appointed in accordance with Regulation 2 of the **National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020**. These members will hold office in accordance with the terms of their appointment or re-appointment.* Time served includes time as a Ministerial appointment (if relevant) which need not be consecutive and will still be counted towards the total period even where there is a break in the term. An Independent or Associate Member appointed by the Minister for Health and Social Services who has already served the maximum 8 years as a Ministerial appointment to the same Board will not be eligible for appointment by the Board as an Associate Member.

The following amendment, shown in italics is required to the Model Standing Orders issued in September 2019 with immediate effect. They will cease to have effect on the 31 March 2021

Page 34 – Annual General Meeting (AGM)

7.2.5 The LHB must hold an AGM in public no later than *30 November 2020*.

The following amendments, shown in italics are required to the Model Standing Orders issued in September 2019 with immediate effect. (Note – reference to the additional term being limited to one year has been removed.) They will cease to have effect on the 31 March 2021 or where an appointment(s) has been made in accordance with the amendment, at the end of that term, whichever is the later.

Page 72 and 73 - **Schedule 5.1 – Stakeholder Reference Group, Terms of Reference and Operating Arrangements**

1.4 Appointment and terms of office

1.4.6 The Chair's term of office shall be for a period of up to two (2) years, with the ability to stand as Chair for an additional *term(s)*. That individual may remain in office for the remainder of their term as a member of the SRG after their term of appointment as Chair has ended.

1.4.8 The Vice Chair's term of office shall be for a period of up to two (2) years, with the ability to stand as Vice Chair for additional *term(s)*, in line with that individual's term of office as a member of the SRG. That individual may remain in office for the remainder of their term as a member of the SRG after their term of appointment as Vice Chair has ended.

Page 79 - **Schedule 5.2 – Health Professionals' Forum, Terms of Reference and Operating Arrangements**

1.5 Appointment and terms of office

1.5.3 The Chair's term of office shall be for a period of up to two (2) years, with the ability to stand as Chair for an additional *term(s)*. That individual may remain in office for the remainder of their term as a member of the HPF after their term of appointment as Chair has ended.

1.5.5 The Vice Chair's term of office shall be for a period of up to two (2) years, with the ability to stand as Vice Chair for additional *term(s)*, in line with that individual's term of office as a member of the SRG. That individual may remain in office for the remainder of their term as a member of the SRG after their term of appointment as Vice Chair has ended.

Temporary Amendments to the Model Standing Orders

Reservation and Delegation of Powers

For Local Health Boards – July 2020

Schedule 4.1 – MODEL STANDING ORDERS FOR THE WELSH HEALTH SPECIALISED SERVICES COMMITTEE

The following amendments, shown in italics are required to the Model Standing Orders issued in September 2019 with immediate effect. They will cease to have effect on the 31 March 2021 or where an appointment(s) has been made under the ***National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020*** at the end of that term, whichever is the later.

Page 16 – 1.4 Appointment and tenure of Joint Committee members

- 1.4.1 The *Chair*, appointed by the Minister for Health and Social Services shall be appointed for a period specified by the Welsh Ministers, but for no longer than 4 years in any one term. The Chair may be reappointed but may not serve a total period of more than 8 years, *with the exception of those appointed or re-appointed in accordance with Regulation 4 of the National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020. These members will hold office in accordance with the terms of their appointment or re-appointment.* Time served need not be consecutive and will still be counted towards the total period even where there is a break in the term.
- 1.4.2 The ***Vice Chair*** and two other ***Independent Members*** shall be appointed by the Joint Committee from existing Independent Members of the seven Local Health Boards for a period of no longer than two years in any one term. These members may be reappointed but may not serve a total period of more than 4 years, in line with that individual's term of office on any LHB Board, *with the exception of those appointed or re-appointed in accordance with Regulation 4 of the National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020. These members will hold office in accordance with the terms of their appointment or re-appointment.* Time served need not be consecutive and will still be counted towards the total period even where there is a break in the term.

Temporary Amendments to the Model Standing Orders

Reservation and Delegation of Powers

For Local Health Boards – July 2020

Schedule 4.2 – MODEL STANDING ORDERS FOR THE EMERGENCY AMBULANCE SERVICES COMMITTEE

The following amendments, shown in italics are required to the Model Standing Orders issued in September 2019 with immediate effect. They will cease to have effect on the 31 March 2021 or where an appointment(s) has been made under the ***National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020*** at the end of that term, whichever is the later.

Page 15 – 1.4 Appointment and tenure of Joint Committee members

- 1.4.1 The ***Chair***, appointed by the Minister for Health and Social Services shall be appointed for a period specified by the Welsh Ministers, but for no longer than 4 years in any one term. The Chair may be reappointed but may not serve a total period of more than 8 years, *with the exception of those appointed or re-appointed in accordance with Regulation 6 of the National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020. These members will hold office in accordance with the terms of their appointment or re-appointment.* Time served need not be consecutive and will still be counted towards the total period even where there is a break in the term.
- 1.4.2 The ***Vice-Chair*** shall be appointed by the Joint Committee from amongst the Chief Executives or their nominated representatives of the seven Local Health Boards for a period of no longer than two years in any one term. These members may be reappointed but may not serve a total period of more than four years, *with the exception of those appointed or re-appointed in accordance with Regulation 6 of the National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020. These members will hold office in accordance with the terms of their appointment or re-appointment.* Time served need not be consecutive and will still be counted towards the total period even where there is a break in the term.

Temporary Amendments to the Model Standing Orders

Reservation and Delegation of Powers

For NHS Trusts – July 2020

The following amendments, shown in italics are required to the Model Standing Orders issued in September 2019 with immediate effect. They will cease to have effect on the 31 March 2021 or where an appointment(s) has been made under the ***National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020*** at the end of that term, whichever is the later.

Page 19 and 20 – **1.3 Tenure of Board members**

1.3.1 [Delete as appropriate]

[for Public Health Wales – Note: Amendment is not required for Velindre or Welsh Ambulance Services Trust]

The Chair and Independent Members appointed by the Minister for Health and Social Services shall be appointed as Trust members for a period specified by the Welsh Ministers, but for no longer than 4 years in any one term. These members can be reappointed but may not hold office as a member or associate member for the same Board for a total period of more than 8 years, *with the exception of those appointed or re-appointed in accordance with Regulation 3 of the National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020. These members will hold office in accordance with the terms of their appointment or re-appointment.* Time served need not be consecutive and will still be counted towards the total period even where there is a break in the term.

For Public Health Wales, Velindre and the Welsh Ambulance Services NHS Trust

The following amendment, shown in italics is required to the Model Standing Orders issued in September 2019 with immediate effect. They will cease to have effect on the 31 March 2021

Page 33 – *Annual General Meeting (AGM)*

7.2.5 The Trust must hold an AGM in public no later than *30 November 2020*.

Temporary Amendments to the Model Standing Orders

Reservation and Delegation of Powers

For Health Education and Improvement Wales – July 2020

The following amendments, shown in italics are required to the Model Standing Orders issued in September 2018 with immediate effect. They will cease to have effect on the 31 March 2021 or where an appointment(s) has been made under the ***National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020*** at the end of that term, whichever is the later.

Page 10 – 1.2 Tenure of Board members

- 1.2.1 Independent Members and Associate Members appointed by the *Minister for Health and Social Services* shall be appointed for a period specified by the Welsh Ministers, but for no longer than 4 years in any one term. These members can be reappointed but may not hold office as a member or associate member for the same Board for a total period of more than 8 years, *with the exception of those appointed or re-appointed in accordance with Regulation 7 of the **National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020**. These members will hold office in accordance with the terms of their appointment or re-appointment.* Time served need not be consecutive and will still be counted towards the total period even where there is a break in the term.

The following amendment, shown in italics is required to the Model Standing Orders issued in September 2019 with immediate effect. They will cease to have effect on the 31 March 2021

Page 18 – Annual General Meeting (AGM)

- 5.2.5 HIEW must hold an AGM in public no later than *30 November 2020*.