

	<b>The Welsh NHS Confederation response to the Welsh Government's Consultation on the (draft) Partnership Arrangements (Miscellaneous Amendments) (Wales) Regulations 2024</b>
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## **Introduction**

1. The Welsh NHS Confederation welcomes the opportunity to respond to the Welsh Government's Consultation on the (draft) Partnership Arrangements (Miscellaneous Amendments) (Wales) Regulations 2024.
2. The Welsh NHS Confederation represents the seven Local Health Boards, three NHS Trusts (Velindre University NHS Trust, Welsh Ambulance Services University NHS Trust, and Public Health Wales NHS Trust), and two Special Health Authorities (Digital Health and Care Wales and Health Education and Improvement Wales). The twelve organisations make up our membership. We also host NHS Wales Employers.

## **Consultation Questions**

### **Question 1: What are your views on the draft Partnership Arrangements (Miscellaneous Amendments) (Wales) Regulations 2024? Are the provisions clear and designed so as to facilitate the intentions set out in this consultation document?**

Our members views are that the provisions are clear and designed to facilitate the intentions set out in this consultation document.

However, there are areas which need further improvement such as Regulation 4 which adds further objectives of (Regional Partnership Boards) RPBs. For example, it would be relevant to monitor the exercise of a local authority's duty under section 12 of the Children and Families (Wales) Measure 2010 in relation to the partnership arrangements. Furthermore, it is important to include working with the citizen voice body to promote the involvement of people who need care and support (or support) and carers in the work of the partnership arrangements.

Moreover, when data is used to carry out these duties, how is this captured as the arrangement does not explain how data will be shared, used, or captured across organisations to be able to carry out some of the key changes proposed. Also, Regulation 4 mentions Market Stability Report (MSR), the intention to ensure that partnership bodies work effectively together to respond to the MSR is supported. It is unclear how the proposed amendments to the regulations will help facilitate RPBs to discharge this responsibility.

Additionally, regarding Local Authority (LA) section 16, our members support the significant contribution of social enterprises, co-operatives, user-led services and the third sector to improving health and wellbeing is recognised and the promotion of these organisations is supported. Again, it is not clear whether because of this amendment there will be any governance implications for public sector bodies not currently bound by this duty.

Likewise, regarding Integration, the new definition and guidance relating to integration is welcome. As per the section 16 amendment, it would be helpful to understand the governance implications for Health Boards (HBs) of exercising Local Authority (LA) functions in partnership via the RPBs.

Regarding Regulation 5, members support the proposed arrangements for working with the new citizen voice body Llais. It is noted RPBs already have a large membership and there is a need to balance effective decision making with effective partnership working and engagement. Representing the diversity which exists within the third and community sectors will continue to be a challenge if the numbers of representatives are limited, conversely membership could become so large as to be unmanageable. Careful consideration will need to be given as to how an appropriate balance is achieved.

Additionally, regarding Regulation 6 Responsible person, members support the appointment of an executive level responsible person. However, members suggest further clarity regarding the responsibilities of these individuals i.e., what constitutes facilitation of partnership arrangements and promotion of co-operation would be helpful. Concerning administrative functions, members support clearer recruitment processes and strengthened support for members who represent the citizen's voice are welcomed.

Regarding Self-Assessment, members suggest that this should be included as a requirement of the Annual Report rather than a separate biennial exercise. Whilst self-assessment has its place it would also be useful to consider the effectiveness of the board from a range of different perspectives, including regular objective independent scrutiny.

Furthermore, Regulation 7 the production of a RPB Annual Report detailing the items listed in the consultation document has the potential to be helpful both in terms of RPB and individual partners' planning. The degree to which the Annual Report will help individual partners' planning will depend on the date of publication and alignment with partners' planning timescales. To increase the utility of the information contained in the report, members suggested it would be helpful to ensure a focus on outcomes and outputs, quantifiable where possible.

Overall, members welcome the addition of a requirement to produce annual delivery plans as this should help to maintain focus and pace in the implementation of the joint area plans. With regards to delivery, further detail could be provided regarding the outcomes that Welsh Government expect to see because of the amendments to the regulations. It would also be advantageous to have guidance, like the NHS Annual Planning Framework, which sets out Welsh Government's specific

expectations and priorities for 'rebalancing care' for the year ahead to inform the development of the annual delivery plans. This should aid a consistent strategic approach at a national level whilst enabling appropriate local variation.

**Question 2: What are your views on the likely impact of the draft regulations on particular organisations or sectors within the health and social care field? Are there any specific areas where you feel there will be a positive or negative impact upon particular sectors or organisations? What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

Our members views are that the draft regulations will positively impact organisations or sectors within the health and social care field. Our members have made some suggestions to improve the draft regulations, for example regarding data, as it is not clear in relation to self-assessments, how and where data is captured and then analysed for the RPB's. These self-assessments are proposed biannually, but if the RPB was not delivering its outcomes and its self-assessment was highlighting areas for urgent change a caveat to allow annual biannual assessments if would help it to become effective.

Members suggested some improvements to be made to the draft regulations, for example, the draft regulations introduce several new responsibilities, but it is not clear whether implementation of the amended regulations can be accommodated within existing resources or will require additional funding. Any change must add value and be affordable, which may prove challenging given the competing priorities organisations are currently managing.

Also, the draft regulations do not acknowledge the barriers to effective integrated planning, service delivery and partnership working, for example, different governance arrangements, constraints on the use of funding, misalignment of priorities etc. Not addressing at least some of these barriers through the amendments could be viewed as a missed opportunity.

Furthermore, the changes provide greater clarity in terms of the responsibilities and expectations of RPBs, but it is questionable whether they will on their own strengthen effective partnership working or help maximise opportunities to improve the efficiency and effectiveness of integrated service delivery.

To increase positive effects, identifying opportunities to remove or reduce the barriers to integrated planning, delivery and partnership working via amendment to the regulations would be helpful. Also, to mitigate negative effects, current arrangements for pooled funding do not adequately support integrated planning and delivery, consideration should be given to a different approach. Regulation to address the constraints that prevent the development of alternative financial models could be beneficial enabling the RPB to allocate more of its funding to support priority developments and potentially delivering more value for the Welsh pound.

**Question 3: What are your views on the likely impact of the draft regulations on particular groups of people, particularly those with protected characteristics under the Equality Act 2010? Are there any specific areas where you feel there will be a positive or negative impact upon specific groups? What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

Members views are that the likely impact of the draft regulations on particular groups of people, particularly those with protected characteristics under the Equality Act 2010 are positive. However, our members have suggested improvement such as the clarification of the role of Llais is welcomed as a positive inclusion and will help address the *'What actually matters?'* question and facilitate a shift in focus from price only to include consideration of quality and social value.

Moreover, a consistent proactive approach, possibly coordinated at a national level, has the potential to lead to a better understanding of the needs of hard-to-reach groups and drive wider local impact. Also, developing an integrated approach to meeting children's needs and to promoting their participation is welcomed. The arrangements to include and monitor the participation of Children and Young people is also a positive way forward as the RPB continues to develop its Children and Young people's partnership arrangements.

Extending the membership has the potential to be positive but in practice the effectiveness often depends on the individual and the extent to which they can represent their broader constituency. The amendments have the potential to make RPBs more visible to the public, for example, the Annual Report, delivery plan and expanded membership and therefore increase participation and engagement. This could be further enhanced by the requirement for a communication and engagement plan covering national and local activity.

Additionally, positive effects could be increased, and negative effects could be mitigated with the inclusion of a section in the Annual Report which sets out the board's activity in relation to the promotion of equality which could increase the positive effects. At present organisations have different arrangements for Equality Assessments relating to Equality and the Socio-Economic Duty. It would be helpful to have a nationally agreed standardised approach to RPB equality assessments as this would support and encourage partnership working and integrated service delivery.

**Question 4:**

**What, in your opinion, would be the likely effects of the draft regulations on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.**

**Do you think that there are opportunities to promote any positive effects?**

**Do you think that there are opportunities to mitigate any adverse effects?**

Members views are that it is encouraging to see a separate section at the beginning of the document acknowledging the importance of embedding the Welsh language in health and social care services across Wales. Strengthening commissioning arrangements could have a positive impact on Welsh language, if it results in commissioners and providers of services making an active offer in a meaningful way.

However, although the draft regulations potentially reinforce existing duties and standards, including the Welsh Language (Wales) Measure 2011, the Welsh Language Standards and More than just words / Mwy na geiriau, it is unclear how this would lead to addressing significant gaps in the availability of Welsh speaking workforce required to ensure Welsh is not treated any less favourably than English. Membership of the RPBs should include a percentage of Welsh speakers to reflect the Welsh speaking population of each area.

Welsh Language Awareness training should be carried out by members to ensure they understand the importance of the Welsh language needs of the public. This training should include information on the 'Active Offer' outlined in the more than just words / Mwy na geiriau five-year plan.

In terms of opportunities to promote positive effects, members have suggested expanding RPB membership to include a specific Welsh Language advocate role, to ensure that the needs of Welsh speakers are considered in all aspects of partnership planning and service delivery as well as the administrative arrangements of the RPB.

In terms of opportunities to mitigate any adverse effects, although not part of this consultation exercise but linked, it is hoped that the new National Office will play a role in supporting culture change in relation to the Welsh language. It is noted that a barrier to this will be the availability and capacity of translation services to ensure timely access to verbal and written communications.

#### **Question 5:**

**In your opinion, could the draft regulations be formulated or changed so as to:**

- **have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English; or**
- **mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?**

Members views are that the draft regulations can be formulated or changed to have positive effects or mitigate any negative effects.

Members have suggested that the Welsh language act should define this and be referred to in the draft regulations. For the draft regulations to have a more positive effect on the Welsh language, more detail is required around how the Welsh

language will be embedded, it is hoped that this will become clearer once the Welsh Language Impact Assessment has been completed.

**Question 6: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.**

Members have suggested improvements to be made to draft regulations, for example, how would engagement be measured – what is good, needs improvement, acceptable and if these need to be defined centrally before collecting data. Also, it is important to consider how this would be done in accordance with current data collection being across separate organisations. The draft identifies that information on how the board has supported improved service delivery to secure better outcomes for people will be reviewed. This requires shared data and then shared data analysis to effectively do this. How would this be done as this sits between organisations in both access to data but also analysing the holistic impact?

Moreover, each LA has an overarching statutory regulation with embedded local Council regulations. Consequently, decisions can be subject to a diverse range of governance arrangements e.g., to engage a regional fee approach or Pathways of Care Delays (POCDs). A further complication is that the statutory guidance and regulations for Health Boards are not aligned with overarching LA statutory guidance and/or the Ministerial Priorities, which are directed for health. It is acknowledged that the proposed regulatory changes seek to minimise these impacts, but it is suggested that they will not be eliminated without primary legislative alignment.

Additionally, Priorities for Health such as Pathways of Care Delivery (POCDs) are not replicated across social care despite clear direction from Welsh Government to RPBs. Consequently, health is left to lead resulting in variable degrees of engagement and ownership by partners. Where potential conflict or actual conflict of interest occurs RPBs have no formally recognised means of redress either in terms of local resolution or a dispute avoidance process, arrangements are therefore based on goodwill. It would be helpful to have additional regulatory guidance to address this.

Information governance and regulations are different for HB and LAs, this can be a barrier to integrated planning and service delivery. It is not clear the extent to which the proposed amendments to the regulations will enable the RPB to facilitate development of a common shared approach.

### **Further Comments**

Whilst we welcome the ambition to strengthen regional partnership agreements, we would like Welsh Government to do so in a wider manner including the other regional partnership arrangements not only those under the 2014 Act, looking at the complementarity and potential areas where there is a need to better integrate and

simplify the regional working arrangements and their operation, this is particularly important given the challenging financial constraints and increasing demand we are all facing. We would like this consideration to be given to the Well-being of Future Generations (Wales) Act 2015 and include the arrangements for more integrated work between Public Services Boards (PSBs) and Regional Partnership Boards (RPBs) in general and as they also affect social care, support and improve the well-being of the population. We feel the proposed regulations miss this important element of integration with other legislation and corresponding opportunities for wider impact on people's health and care.

Moreover, it would also be beneficial to see added to the regulations: objectives on integration between health and social care; more transparency of the governance arrangements (e.g. membership for example to be published and easily accessible). Specifically, on membership, we welcome the addition of new members and in particular lived experience partners, this is in line with the involvement principle in the Well-Being of Future Generations Act 2015. We suggest that to integrate the work RPBs with PSBs, the membership should include at least one member per PSB in the RPB area.

Furthermore, the RPBs annual delivery plans should take account and align with the well-being plans produced by the PSB to ensure a better focus on population health and to integrate the workings of the PSBs and RPBs. The new arrangements need to enable change and a strong focus on prevention and long-term thinking, as well as the other ways of working in the Future Generations Act (integration, collaboration, and involvement).

To conclude, we need to improve coherence and integration of regional working more generally, as well as between health and social care which is paramount, and we hope the scope of the proposed regulations will be widened to include this consideration.