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Consultation Document

Proposals to amend the Non-Executive Director eligibility criteria on the Public Health Wales NHS Trust Board

Date of issue: 01 December 2015

Action required: Responses by 11 January 2016

Overview We are proposing to change the Non-Executive Director eligibility criteria on the Public Health Wales NHS Trust Board in order to allow for more open and fair competition.

How to respond Please respond by answering the questions listed at the end of this document. These questions are available on a separate consultation response form located on the Health and Social Care consultation area of the Welsh Government website. Responses should be sent to:

Publichealthsponsorshipteam@wales.gsi.gov.uk

Or by Freepost to:

FREEPOST RTLK-KURC-ELKJ
Stephen Barry
Sponsorship Officer for Public Health Wales
Public Health Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Further information and related documents **Large print, Braille and alternative language versions of this document are available on request.**

Contact details For further information please contact:
Publichealthsponsorshipteam@wales.gsi.gov.uk or telephone 02920 823328

Data protection How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other

Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Proposals

What specific changes are we proposing?

- We propose to make the *Public Health Wales National Health Service Trust (Membership and Procedure) (Amendment) Regulations 2016 (Annex 1)*. We feel a shortened consultation period (6 weeks) is justified due to the intention of the proposals (broadening rather than restricting) and their narrow focus on a single NHS organisation.
- These regulations will amend the Public Health Wales National Health Service Trust (Membership and Procedure) Regulations 2009 (“the Regulations”) which currently provide that:
 - i) the Local Authority Non-Executive Director on the Public Health Wales NHS Trust Board must be nominated by a local authority or local authorities in Wales;
 - ii) the University Non-Executive Director on the Public Health Wales NHS Trust Board must be nominated by a university in Wales and have teaching or research specialism in public health; and
 - iii) the Voluntary Sector Non-Executive Director on the Public Health Wales NHS Trust Board must be an employee or a member of a voluntary sector organisation in Wales.
- It is proposed that the eligibility criteria for the Local Authority Non-Executive Director role will be relaxed by allowing candidates, who have experience of local authorities in Wales, to apply for the post without the requirement to be nominated.
- It is also proposed that the eligibility criteria for the University Non-Executive Director role will be relaxed by allowing candidates who hold a post at a university that is related to health to apply for the post without the requirement to be nominated. This removes the requirement for candidates to have a teaching or research specialism in public health and to hold a post at a University in Wales.
- The proposed amendment to the Voluntary Sector Non-Executive Director role is to broaden the existing criteria by removing the requirement for the candidate to be an employee or member of a voluntary organisation within Wales. Candidates will be able to apply from outside of Wales.

What outcomes do we anticipate?

- The amendment will result in an open and fair competition to recruit the Trust Board's Local Authority, University and Voluntary Sector Non-Executive Directors.
- By removing some of the specified criteria it will widen the scope of applicants and help to ensure the most appropriate people are appointed to the Trust's Board.

Public Health Wales

Public Health Wales is an NHS Trust providing professionally independent public health advice and services to protect and improve the health and wellbeing of the population of Wales. www.publichealthwales.wales.nhs.uk

The Regulations

The Regulations (**Annex 2**) set out the membership requirements for the Board.

They also provide that there shall be a maximum of 11 Directors (excluding the independent chair) made up of no more than 6 Non-Executive Directors and 5 Executive Directors.

The Public Health Wales National Health Service Trust (Membership and Procedure) (Amendment) Regulations 2011

The *Public Health Wales National Health Service Trust (Membership and Procedure) (Amendment) Regulations 2011* removed the requirement for a Trade Union Non-Executive Director. This requirement was proving a barrier for recruitment to the post and its removal allowed for the Trade Union representation on the Trust Board to operate in accordance with the Handbook for Trade Union Representatives at Trust Boards (which meant the Trade Union representative was neither an Executive nor Non-Executive Director on the Board). To maintain the maximum of six (6) Non-Executive Directors on the Board, an additional Independent Non-Executive Director was then recruited to represent the wider community in Wales.

Public Health Wales Non-Executive Directors

The Public Health Wales Non-Executive Director posts are currently as follows (note that not all post titles are specified in the Regulations):

- University Non-Executive Director – nominated by a University in Wales with teaching or research speciality in public health.
- Local Authority Non-Executive Director – nominated by a Local Authority or Local Authorities in Wales.
- Voluntary Sector Non-Executive Director – an employee or member of a voluntary sector organisation in Wales.
- 3 x Independent Non-Executive Director – independent of any organisation and represents the wider community in Wales.

Fundamental tasks of the Board

The duty of the Board is to add value to the organisation, enabling it to deliver its services and improvements within the law and without causing harm. It does this by providing a framework of controls and good governance within which the Trust can thrive and grow. Good governance is an important part of making sure that change and modernisation can take place and that high quality, valued services are delivered.

What is the role of a Non-Executive Director?

Non-Executive Directors are equal partners on the Trust Board with their Executive colleagues. Non-Executive Directors are required to play a full part in the governance of the Trust, both clinical and corporate. Non-Executive Directors are expected to bring to the Trust Board an independent judgement on issues of performance, key appointments, looking ahead and accountability.

The contribution of Non-Executive Directors to the work of the Board is based upon their independence, their past experience and knowledge, and their ability to stand back from the day to day operational management. Non-Executive Directors also need to contribute to and accept corporate decisions made by the Trust Board.

Non-Executive Directors are expected to work closely with other public, private and voluntary organisations and to make sure that the views of patients, carers

and families and the public in general are fully involved in helping to shape, develop and improve services.

What are the main issues?

- The Regulations (**Annex 2**) currently require the Local Authority Non-Executive Director to be nominated by a local authority or local authorities in Wales. Informal feedback received from stakeholders has indicated that the current eligibility criteria for the Local Authority Non-Executive Director post is limiting potential candidates, potentially providing a barrier to recruitment and lacking the transparency of an open and fair competition. The strong links between local government and public health make it important to have Welsh local government representation on the Public Health Wales Board.
- The Regulations currently require the University Non-Executive Director to be nominated by a university in Wales and for the nominee to have a teaching or research specialism in public health. The same arguments about transparency and open and fair competition apply to the University Non-Executive Director post. In addition, it is felt that the requirement for the post holder to have a teaching or research specialism in public health is no longer needed due to the development of the organisation over the last 6 years, specifically the broader view on population health now embedded throughout the organisation. It is also felt that the post doesn't need to be restricted to those working at universities within Wales.
- The Regulations currently require the Voluntary Sector Non-Executive Director to be an employee or member of a voluntary sector organisation within Wales. The Voluntary Sector Non-Executive Director isn't restricted by nomination but is currently limited to those who are employed or a member of an organisation within Wales. It is felt the post doesn't need to be restricted to those within Wales.
- We need to maintain the balance of Directors on the Trust Board in favour of the Non-Executive Directors to ensure there is the necessary challenge, experience and perspective for all key decisions taken by the Board.

Questions

The following questions are listed on the consultation response form:

- 1.) Do you agree with the proposal to remove the requirement that any candidate for the Local Authority Non-Executive Director post must be nominated by a local authority or local authorities in Wales?
- 2.) Do you agree with the proposal that any candidate for the Local Authority Non-Executive Director post must be able to evidence experience of local authorities in Wales, in order to demonstrate they have the required perspective for the role?
- 3.) Do you agree with the proposal to remove the requirement that any potential candidate for the University Non-Executive Director post must be nominated by a university in Wales?
- 4.) Do you agree with the proposal to remove the requirement for candidates to be a teaching or research specialist in public health and replace this with a broader requirement for candidates to hold a post in a university that is related to health?
- 5.) Do you agree with the proposal to allow candidates from any university to apply for the University Non-Executive Director post?
- 6.) Do you agree with the proposal to allow candidates who are employees or members of any voluntary sector organisation to apply for the Voluntary Sector Non-Executive Director post?
- 7.) Do you agree that any successful candidate would have to demonstrate a knowledge and understanding of public health matters relevant to Wales?
- 8.) Do you have any other comments?