

Health & Social Services Committee

HSS(2)-10-06(p8)

Meeting date: Thursday 15th June 2006

Venue: Committee Room 3, Senedd, National Assembly for Wales

Title: The Health Bill and the impact of the Appointments Commission on Wales

Purpose

1. At its meeting on 19th January, the Committee requested a list of bodies that are affected by the Bill and clarification on whether the Bill would give new powers to the Secretary of State.

Summary / Recommendations

2. The Committee is invited to note the paper.

Background

3. In practice, since 2002, informal arrangements have been in place between the Assembly and the NHS Appointments Commission for the Commission to undertake a number of appointment functions on the Assembly's behalf. These have covered bodies both where the Assembly has a mere power of appointment and bodies where there is also a power to issue directions to the Commission.

4. The Assembly has the power to issue directions to the Commission in relation to the Health Protection Agency or the Healthcare Commission (Commission for Healthcare Audit and Inspection) but has not exercised this power. The Assembly has instead entered into arrangements pursuant to section 41 of the Government of Wales Act 1998 (GOWA) which empowers the Assembly to make arrangements for appointment functions to be exercised by a "relevant authority", which in this case is the Appointments Commission. The Assembly uses section 41 of GOWA widely and has interpreted "relevant authority" liberally so as to include English NDPBs even if their statutory functions do not specifically provide for such arrangements.

5. Informal discussions between policy officials have provided comfort that the Assembly can continue to negotiate fresh section 41 arrangements with the new Appointments Commission, which will provide greater flexibility in the appointments process than issuing directions to the Commission.

6. A complete list of the bodies affected by these arrangements is at Annex 1.

Powers of the Secretary of State

7. The Bill does not confer new powers on the Secretary of State but provides for the SOS to direct the new Appointments Commission to undertake appointments functions. Part 5 of the Bill covers provisions to replace the NHS Appointments Commission with a new organisation called the Appointments Commission. This is in line with the Government's response to the Public Administration Select Committee (June 2003), which indicated that some Departments could benefit from using the services of the NHS Appointments Commission to support their sponsor teams in making appointments but that statutory authority would be needed to achieve this.

8. The Bill will establish the Appointments Commission as a Non-Departmental Public Body and give it powers to exercise, if directed to do so by the Secretary of State, the appointment functions of the Secretary of State for Health and the Privy Council in relation to the appointment of Chairs and non executive members to health and social care bodies and health professional regulatory bodies (Annex 1). The appointment process of Welsh representatives on the health professional regulatory bodies will also be delegated to the Appointments Commission. The Appointments Commission may also assist, if requested to do so, the Boards of NHS Foundation Trusts with their similar powers of appointment and also assist, if requested to do so English ministers with their similar powers of appointment to other public bodies.

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Minister for Health and Social Services

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Annex 1

List of bodies affected by the Health Bill

Special Health Authorities

Shared Services Agency

Dental Vocational Training Authority

Mental Health Act Commission

National Blood Authority

National Patient Safety Agency

National Clinical Assessment Authority

NICE

UK Transplant

Other NHS Bodies

Appeal Body (DVTa)

Dental Practice Board

Executive Non-Departmental Public Bodies

Healthcare Commission (Commission for Healthcare Inspection & Audit)

Council for the Regulation of Healthcare Professionals

Human Fertilisation & Embryology Authority

Health Protection Agency

National Biological Standards Board

Postgraduate Medical Education & Training Board

Advisory Non-Departmental Public Bodies

Advisory Board on the Registration of Homeopathic Products

Advisory Committee on Borderline Substances

Advisory Committee on NHS Drugs

Advisory Committee on Distinction Awards

Advisory Committee on Dangerous Pathogens

Advisory Group on Hepatitis

Administration of Radioactive Substances Advisory Committee

British Pharmacopoeia Commission

Committee on Carcinogenicity in Food, Consumer Products and the Environment

Committee on Mutagenicity of Chemicals in Food, Consumer Products and the Environment

Committee on the Medical Aspects of radiation in the Environment

Committee on the Safety of Medicines

Doctors & Dentists Pay Review Body

Expert Advice Group on Aids

Genetics and Insurance Committee

Gene Therapy Advisory Committee

Human Genetics Commission

Independent Review Panel on the Classification of Borderline Substances

Joint Committee on Vaccination and Immunisation

Medicines Commission

Medical Workforce Standing Advisory Committee

Nurses & Midwives Pay Review Body

Patient Information Advisory Group

Specialist Advisory Committee on Antimicrobial Resistance

Scientific Advisory Committee on Nutrition

Scientific Committee on Tobacco and Health

Spongiform Encephalopathy Advisory Committee

Standing Medical Advisory Committee

Standing Nursing and Midwifery Advisory Committee

Standing Pharmaceutical Advisory Committee

United Kingdom Advisory Panel for Healthcare Workers infected with Bloodborne Viruses

Unrelated Live Transplant Regulatory Authority

UK Xenotransplantation Interim Regulatory Authority

Tribunals

Care Standards

Family Health Services Appeal Authority (Tribunal)

Mental Health Review