

EXPLANATORY MEMORANDUM TO
THE NATIONAL HEALTH SERVICE (FUNCTIONS OF STRATEGIC HEALTH
AUTHORITIES AND PRIMARY CARE TRUSTS AND ADMINISTRATION
ARRANGEMENTS) (ENGLAND) (AMENDMENT NO.2) REGULATIONS 2007

2007 No. 1818

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

2. **Description**

This regulation delegates to Primary Care Trusts the Secretary of State's function of setting allowances payable to chairmen and other members of Professional Executive Committees of Primary Care Trusts.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None

4. **Legislative Background**

The National Health Service Act 2006 makes provision for allowances to be payable to the members of the board and committees of Primary Care Trusts ("PCTs"). The Act provides only for the Secretary of State to determine allowances for board members. The same applies to allowances (which include locum payments) for members of PCT committees, including members of the PCT's Executive Committee (usually referred to as the Professional Executive Committee or "PEC"). Following the outcome of a full, formal consultation on the future of the PCT Professional Executive Committee, these regulations delegate the Secretary of State's functions in respect of the allowances payable to PEC members, in order to give PCTs the freedom to develop local approaches to allowances and locum payments.

5. **Extent**

This instrument applies to England.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Primary Care Trusts (PCTs) are NHS organisations which have been set up throughout the country to provide, plan and fund health services for their local populations.

The functions of PCTs include;

- *Development of the provision of primary care* (e.g. health services provided by GPs, opticians, dentists or local pharmacists.-
- *Provision of community health services*
PCTs employ district nurses, health visitors, therapists, nurse advisers, specialist nurses, school nurses etc. to provide services within patient's homes, at GP surgeries or through PCT premises.
- *Commissioning health care services*
The PCT assesses the health needs of their local population and commissions health care services, particularly hospital services, from NHS Trusts and other health providers.

Each PCT is overseen by a Board comprising a lay chair and a majority of non-executive members, who are members of the local community served by the PCT. The PCT management team (which comprises Directors, eg Director of Finance, Director of Public Health, Director of Nursing) is accountable to the Chief Executive and is charged with ensuring the delivery of the decisions of the Board.

In addition to the Board and the management team, each PCT must have a Professional Executive Committee (PEC). Broadly speaking, PECs provide a clinical view point on the strategy and operations of the PCT. Together with the Board and the management team, the PEC forms the "three at the centre" governance structure of a PCT.

In autumn 2006, a six week review of the PEC was undertaken by the NHS Alliance on behalf of the Department of Health. This was because:

- Feedback suggested that the success of PECs had been variable;
- the role of the PEC needed to be clarified;
- PECs had difficulty evolving as they wanted due to the existing framework of the relevant legislation and directions;
- A reconfiguration of PCTs in 2006 provided further impetus for a review.

The outcome of the review formed the basis of a consultation document, *Fit to Lead, a review of the PEC*, which was published in November 2006. The consultation document contained all responses to the initial review.

Following a full, three month, public consultation on proposals for new PECs, *Fit for the Future*, new guidance for the PCT Professional Executive Committee, was published in March 2007. This set out a framework of principles giving PCTs the flexibility to determine how their PEC should operate, reflecting local circumstances. This is entirely consistent with the direction of health reform and empowerment of PCTs through devolved freedoms and decision-making.

David Nicholson, NHS Chief Executive, issued a further letter to NHS Chief Executives in issue 372 of the Chief Executive's Bulletin setting out new arrangements for PEC remuneration.

The consultation on the future of PECs included three national stakeholder consultation events and a number of smaller events arranged by the key stakeholder organisations. In total there were 114 written responses. 61% of those who submitted a response addressed the question of remuneration. Over 90% of those respondents strongly indicated that existing levels of remuneration, and in particular the locum element of the payment (the payment given to organisations releasing staff to attend PEC meetings to pay for the cover required) hindered PCTs from attracting the right calibre of clinical member to the PEC.

Key stakeholders included PCT Chief Executives, PEC Chairs and members, Strategic health Authorities, the NHS Alliance, NHS Networks, the NHS Confederation and Royal Colleges.

The majority of respondents thought that in recognition of the role of the PEC as part of a “three at the centre” management arrangement of the PCT, members should be paid at equivalent levels to those of PCT directors. A third of those who commented on PEC remuneration specifically suggested that in order to address issues around the locum elements of the allowance, PCTs should have flexibility to develop their own PEC remuneration frameworks according to local circumstances. The remaining two thirds who commented, did not offer a solution.

In drafting new PEC guidance, a PEC reference group, consisting of key stakeholders, carefully considered all responses to the consultation. On the issue of remuneration they concluded that:

- PEC members should receive equal pay;
- PEC chairs should be paid a higher rate to reflect the additional responsibilities and time required of the post;
- PEC members pay should be commensurate with the responsibilities and time commitment of the post as set out in the job description;
- PCTs should develop a local pay structure for PEC members linked to the *Pay Framework for Very Senior Managers in Strategic Health Authorities, Primary Care Trusts and Ambulance Trusts (Nov 2006)*¹;
- In developing the framework for pay, PCTs need to consider reimbursement of lost earnings or backfill costs to ensure that PEC members do not suffer financially for taking on their PEC role.

8. Impact

A Regulatory Impact Assessment has not been prepared because there is no impact on the private or voluntary sector.

9. Contact

Julie Topping at the Department of Health Tel: 0113 2545619 or e-mail: Julie.Topping@dh.gsi.gov.uk can answer any queries regarding the instrument.

¹www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_41374