
WELSH STATUTORY INSTRUMENTS

2010 No. 288

**The Community Health Councils (Constitution,
Membership and Procedures) (Wales) Regulations 2010**

PART II

Establishment and Membership of Councils

Composition of Councils

- 3.—(1) The members of a Council are appointed—
- (a) by local authorities in accordance with the provisions for each relevant local authority to make appointments set out in regulation 6,
 - (b) by voluntary organisations in accordance with the provisions for appointments to be made on the basis of relevant local authority areas set out in regulation 7, such voluntary organisations being determined in accordance with that same regulation; and
 - (c) by the Welsh Ministers in accordance with the provisions for appointments to be made on the basis of relevant local authority areas set out in regulation 8;

and the total number of members appointed to each Council by the appointing bodies under this regulation is set out in Schedule 1.

(2) In addition to the members appointed in accordance with paragraph (1), a Council may from time to time co-opt such members as appear to the Council to be necessary for the performance by that Council of its functions, and such members may be appointed to sit on any committee of a new Council constituted under regulations 17, 18 or 19 or of a Council under regulations 20 or 21.

(3) Co-opted members may not vote in any meetings or proceedings of a Council or its committees.

(4) The number of co-opted members must not be taken into account for the purposes of determining the total membership of a Council under paragraph (1).

Term of appointment of members

4.—(1) Subject to regulation 10 (eligibility of members for re-appointment), the term of office of any member appointed on or after 1 April 2010 or re-appointed after 1 April 2010 is between one and four years as specified by the appointing body on appointment.

(2) Where a Council is abolished under section 182 of the Act, the office of any member of the abolished Council ceases immediately on abolition of that Council.

(3) Where a new Council is established under section 182 of the Act for the district or part of a district of an existing Council, the Welsh Ministers may determine that the office of any member of the existing Council must cease immediately before the establishment of the new Council.

Term of appointment of co-opted members

5. Co-opted members may not be appointed for a period exceeding one year and must not be re-appointed at the expiry of their term unless the Council decides that such re-appointment is necessary for the performance by the Council of its functions.

Appointment of members by local authorities

6.—(1) Each relevant local authority whose area (or part thereof) is set out in column 2 of Schedule 2 must make three appointments to the relevant Council set out in column 1 of that Schedule.

(2) A person appointed in accordance with this regulation must be a member of the local authority which appoints him or her.

(3) A member appointed by a local authority must, on ceasing to be a member of the appointing local authority, cease to be a member of the Council at the end of the period of two months beginning with the date on which he or she ceased to be a member of the appointing local authority.

Appointment of members by voluntary organisations

7.—(1) The Welsh Ministers may invite such voluntary organisations as they determine as having sufficient interest in the health service within the district of a Council, to take part in the appointment of persons to a Council under regulation 3(1)(b).

(2) The voluntary organisations chosen under paragraph (1) must between them make a total of three appointments to the relevant Council set out in column 1 of Schedule 2 for each relevant local authority area (or part thereof) set out in column 2 of that Schedule.

(3) Subject to paragraph (4), each voluntary organisation must appoint an equal number of members to the Council.

(4) Where the number of members to be appointed does not allow for an equal number of members to be appointed by each voluntary organisation, and further members are needed in order to fulfil the requirements of this regulation, those further members are appointed by such of the voluntary organisations as those organisations may by agreement determine, or, in default of agreement by such date as the Welsh Ministers may specify for the purpose, as the Welsh Ministers may determine.

(5) A member appointed in accordance with this regulation must be a member of or connected with the voluntary organisation which appoints him or her.

(6) A member appointed by a voluntary organisation must, on ceasing to be a member of or connected with the appointing voluntary organisation, cease to be a member of the Council at the end of the period of two months beginning with the date on which he or she ceased to be a member of or connected with the appointing voluntary organisation.

Appointment of members by the Welsh Ministers

8. The number of appointments made by the Welsh Ministers to the relevant Councils set out in column 1 of Schedule 2 for each relevant local authority area (or part thereof) set out in column 2 of that Schedule is six.

Procedures for appointment of members

9. The appointing bodies must ensure that appropriate arrangements are in place for the selection and appointment of persons as members and that those arrangements take into account—

- (a) the principles from time to time laid down by the Commissioner for Public Appointments.;
- (b) the requirement that the selection and appointment of members be open and transparent;

- (c) where applicable, the requirement of fair and open competition in the selection and appointment of members;
- (d) the need to ensure that the successful candidates meet the relevant selection criteria and such standards of competence as may be set out in guidance by the Welsh Ministers, and are not disqualified from membership under regulation 12.

Eligibility of members for reappointment

10.—(1) Subject to paragraphs (2) and (3), a member may, on the expiration of his or her term of office, be eligible for reappointment.

(2) A person may serve a maximum of eight years as a member of a Council.

(3) When calculating the eight year period referred to in paragraph (2), all periods of service as a member of any Council must be aggregated, including, but not limited to, service in a former Council, a Council that has had its district altered, a Council that has taken over the whole or part of the district of another Council, and in a Council that has been abolished.

Term of office — transitional arrangements for members already appointed to continued Councils

11.—(1) The term of office of any member of a continued Council is the remainder of that member's current term of office even if—

- (a) that results in a member of a continued Council serving more than the eight year maximum referred to in regulation 10(2); and/or
- (b) the continuation of a member's term or members' terms of office results in a continued Council having, on a temporary basis, more members than provided for in regulations 6, 7 and 8.

(2) For the avoidance of doubt—

- (a) the provisions of regulation 10 will apply to members of continued Councils when their current term of office expires; and
- (b) the provisions of regulations 6, 7 and 8 apply to continued Councils.

Disqualification for membership

12.—(1) A person is disqualified for appointment as a member, and from being a member, if that person—

- (a) is a chair, director or a member of a relevant health service body;
- (b) is employed by a relevant health service body;
- (c) provides, or is employed by a person or body not being a voluntary organisation providing, services under the Act in accordance with a contract made between that person or body and a relevant Local Health Board or relevant NHS Trust;
- (d) is a member of another Council; or
- (e) is a
 - (i) medical practitioner;
 - (ii) dental practitioner;
 - (iii) registered pharmacist;
 - (iv) registered optometrist or registered dispensing optician within the meaning of the Opticians Act 1989;

(v) registered nurse or registered midwife;

providing services as such within the district of the Council; save that the provisions of sub-paragraph (a) do not apply to any person who is an associate member of a Local Health Board in accordance with the provisions of the Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009⁽¹⁾;

- (f) has within the preceding five years been convicted in the United Kingdom, any of the Channel Islands or the Isle of Man of any offence and has received a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;
- (g) is the subject of a bankruptcy restrictions order or an interim order or has made a composition or arrangement with creditors;
- (h) was dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body.

(2) For the purposes of paragraph (1)(f) the date of conviction is deemed to be the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its not being prosecuted.

(3) Where a person is disqualified by reason of paragraph (1)(g)—

- (a) if the bankruptcy is annulled on the ground that the person ought not to have been adjudged bankrupt or on the ground that the person's debts have been paid in full, that person becomes eligible for appointment as a member on the date of the annulment;
- (b) if the person is discharged from bankruptcy, that person becomes eligible for appointment as a member on the date of the discharge;
- (c) if, having made a composition or arrangement with creditors, the person's debts are paid in full, that person becomes eligible for appointment as a member on the date upon which such debts are paid in full; and
- (d) if, having made a composition or arrangement with creditors, that person becomes eligible for appointment as a member on the expiry of five years from the date on which the terms of the deed of composition or arrangement were fulfilled.

(4) Subject to paragraphs (3) and (5), where a person is disqualified under paragraph (1)(h) that person may, after the expiry of not less than two years commencing with the date of the dismissal, apply in writing to the Welsh Ministers for the removal of the disqualification, and the Welsh Ministers may determine that the disqualification cease.

(5) Where the Welsh Ministers refuse an application to remove a disqualification, no further application may be made by that person until the expiry of two years beginning with the date of the application, and this paragraph applies to any subsequent application.

Termination of membership and suspension of members

13.—(1) This regulation applies to any person who is appointed as a member of a Council under regulation 3 or whose appointment as a member, in the case of members of continued Councils, was made under regulation 2 of the 2004 Regulations.

(2) If the Welsh Ministers determine that—

- (a) it is not in the interests of the health service in the district of a Council; or
- (b) it is not conducive to the good management of a Council,

(1) S.I.2009/779 (W.67).

for a person to continue to hold office, the Welsh Ministers may, subject to paragraph (7), remove that person from that office.

(3) If it comes to the notice of the Welsh Ministers that a person appointed has become ineligible for appointment under regulation 12, the Welsh Ministers may remove that person from that office.

(4) If a person appointed has failed to attend a meeting of the Council, or a meeting of a committee of a Council where a person is required to sit on that committee, for a period of three months or more, the Welsh Ministers may remove that person from that office unless satisfied that—

- (a) the absence was due to a reasonable cause; and
- (b) the person is able to attend such meetings within such period as the Welsh Ministers consider reasonable.

(5) Before making a decision to remove a person from office under any of the paragraphs above, the Welsh Ministers may suspend the tenure of office of that person for such period as they consider reasonable.

(6) A person whose appointment is suspended under paragraph (5) must not perform the functions of any member of the Council.

(7) The Welsh Ministers may not terminate or suspend a member's term of office under this regulation without having consulted the Council, the CHC Board, and, where the Welsh Ministers did not appoint the member, the relevant appointing body.

(8) A person who ceases to be a member by virtue of the operation of paragraphs (2) or (4) is disqualified from reappointment as a member for a period of two years.

Resignation of membership

14.—(1) A member may resign at any time during the period for which he or she is appointed on giving notice in writing to the Welsh Ministers, who may, if they did not appoint the member, notify the relevant appointing body as well as the CHC Board as soon as possible after receiving the written notice of resignation.

- (2) The date on which a resignation by notice given pursuant to paragraph (1) is to take effect, is—
- (a) where a date is specified in the notice as being that on which the resignation is to take effect, that date; and
 - (b) in any other case, the date on which the notice is received by the Welsh Ministers.