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STATUTORY INSTRUMENTS

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**1996 No. 640**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES**

**The Community Health Councils Regulations 1996**

<i>Made</i>	- - - -	<i>7th March 1996</i>
<i>Laid before Parliament</i>		<i>7th March 1996</i>
<i>Coming into force</i>	- -	<i>1st April 1996</i>

The Secretary of State for Health, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of powers conferred on them by sections 17, 126(4) and (5) and 128(1) of, and paragraphs 2 and 3 of Schedule 7 to the National Health Service Act 1977<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:

**PART I  
GENERAL**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Community Health Councils Regulations 1996 and shall come into force on 1st April 1996.

(2) In these Regulations—

“the Act” means the National Health Service Act 1977;

“appointing body” means, in relation to the appointment of a member, the Secretary of State, a relevant local authority or a voluntary organisation;

“Chief Officer” means the person appointed under regulation 13 to act as Chief Officer of a Council;

“Council” means a Community Health Council;

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(1) 1977 c. 49; section 17 is substituted by paragraph 8 of Schedule 1 to the Health Authorities Act 1995 (c. 17) (“the 1995 Act”); section 126(4) was amended by section 65(2) of the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”); section 126(5) was added by section 65(2) of the 1990 Act; section 128(1), as amended by section 26(2)(g) and (i) of the 1990 Act is cited for the definitions of “prescribed” and “regulations”; paragraph 2 of Schedule 7 was amended by paragraph 15 of Schedule 3 to the Health and Social Security Act 1984 (c. 48), by paragraph 17(3) of Schedule 9 to the 1990 Act, and by paragraph 62 of Schedule 1 to the 1995 Act.

“financial year” means the period of 12 months ending on 31st March in any year;

“member” means a member of a Council;

“1985 Regulations” means the Community Health Councils Regulations 1985(2).

“relevant date” means, in relation to the term of office of any member—

(a) in the case of a Council whose district is situated in England, 31st August; and

(b) in the case of a Council whose district is situated in Wales, 31st March;

“relevant Health Authority” means, in relation to a Council, any Health Authority whose area, or any part of whose area, is included in the district of the Council;

“relevant local authority” means, in relation to a Council, any local authority whose area or part of whose area, is included in the district of the Council;

“relevant NHS trust” means, in relation to a Council, any NHS trust established in relation to a hospital, or other establishment or facility situated or to be situated wholly or partly within the district of the Council;

(3) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is a reference to the regulation bearing that number in these Regulations, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

## PART II

### ESTABLISHMENT AND MEMBERSHIP OF COUNCILS

#### Composition of Councils

2.—(1) The members of a Council shall be appointed—

(a) in the case of certain members, by the relevant local authorities in accordance with regulation 4,

(b) in the case of certain other members, by the voluntary organisations determined in accordance with regulation 5, and

(c) in the case of the remaining members, by the Secretary of State;

and for this purpose the Secretary of State shall, when establishing a Council, determine the number of its members to be appointed by each of the categories of appointing authorities mentioned in subparagraphs (a), (b) and (c) above.

(2) The Secretary of State shall exercise his power of determination under paragraph (1) so as to secure that—

(a) at least one member is appointed by each of the relevant local authorities;

(b) at least half of the members are appointed by local authorities; and

(c) at least one-third of the members are appointed by voluntary organisations.

(3) Subject to paragraph (2), the Secretary of State may, after consultation with the Council and with such other bodies as he may consider appropriate, vary the total membership or the composition of that Council, whether or not the variations is accompanied by a variation in the district or part of the district for which the Council is established.

### **Term of office of members**

3.—(1) Subject to the following provisions of this regulation and to regulations 7 and 8 (disqualification for, and termination of, membership), the term of office of any member shall be four years commencing—

- (a) in the case of a Council whose district is situated in England, on 1st September; and
  - (b) in the case of a Council whose district is situated in Wales, on 1st April,
- in any year.

(2) Subject to paragraph (4), as respects the members first appointed on the establishment of a Council—

- (a) the term of office of certain of those members, to be identified in accordance with paragraph (3), shall end on the relevant date in the first even year; and
- (b) the term of office of the other members shall end on the relevant date in the next even year which falls after the first even year.

(3) The members whose term of office is to expire in accordance with paragraph (2)(a) shall be chosen at the time of their appointment by agreement between the appointing bodies or, in default of such agreement, by the Secretary of State; and those members shall comprise one half (as near as may be) of the members appointed by each of the following categories of appointing authority:—

- (a) the relevant local authorities;
- (b) the voluntary organisations; and
- (c) the Secretary of State.

(4) Where a new Council is to be established for the district or part of the district of an existing Council, the Secretary of State may determine that the term of office of any member of the existing Council shall cease immediately before the establishment of the new Council.

(5) Subject to regulation 8(1), where a person (“the original member”) ceases for any reason to be a member before the expiration of the term for which he was appointed, the term of office of any member appointed or member re-appointed in his place shall be the unexpired period of the original member’s term.

(6) In this regulation—

“even year” means any calendar year which is a multiple of two;

“first even year” means the next even year falling after the calendar year in which a Council is established.

### **Appointment of members by local authorities**

4.—(1) Where the number of members to be appointed to a Council by relevant local authorities allows for more than one member to be appointed by each relevant local authority, any further members shall be appointed by such of the relevant local authorities.

- (a) as those authorities may by agreement determine; or
- (b) in default of agreement by such date as the Secretary of State may specify, as the Secretary of State shall determine.

(2) A member appointed in accordance with this regulation may, but need not, be a member of the local authority which appoints him.

(3) Subject to paragraph (4), where a member appointed by a local authority is a member of the authority, he shall, if he ceases to be a member of that authority, cease also to be a member of the Council at the end of the period of two months beginning with the date on which he ceased to be a member of the authority.

(4) In a case to which paragraph (3) applies the local authority may, during the period referred to in that paragraph, give notice in writing to the Chief Officer and to the Secretary of State that the person appointed is to continue as a member of the Council.

### **Appointment of members by voluntary organisations**

5.—(1) The Secretary of State shall invite such voluntary organisations as he shall determine, being organisations which in his opinion have an interest in the health service in the district of a Council, to take part in the appointment of members of the Council.

(2) Subject to paragraph (3), the voluntary organisations invited to take part in making appointments to a Council shall, by agreement between them, determine which of them, acting either alone or jointly with one or more other voluntary organisations, shall make the appointment of those members who are to be appointed by the voluntary organisations.

(3) In default of agreement for the purposes of paragraph (2) by such date as the Secretary of State may specify for the purpose, the Secretary of State shall determine which of the voluntary organisations shall make any appointment and whether the appointment should be made by one or more such organisations acting alone or jointly with one or more other ayxg organisations.

(4) A member appointed in accordance with this regulation may, but need not, be a member of the voluntary organisation which appoints him.

### **Eligibility of members for reappointment**

6.—(1) Subject to paragraph (2) and to regulation 7, a member shall, on the expiration of his term of office, be eligible for reappointment.

(2) A person who has been a member for eight or more consecutive years shall not be eligible for reappointment, unless a period of at least 4 years has elapsed since he was last a member.

### **Disqualification for membership**

7.—(1) Subject to paragraph (3), a person shall be disqualified for appointment as a member, and from being a member, if—

- (a) he is a chairman or is a member of, or is employed by a relevant Health Authority or, a Special Health Authority, which provides services within the district of the Council;
- (b) he 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 the relevant Health Authority or a relevant NHS trust;
- (c) he is a chairman or director of, or is employed by, a relevant NHS trust which provides services in the district of the Council; or
- (d) he is a—
  - (i) medical practitioner;
  - (ii) dental practitioner;
  - (iii) registered pharmacist;
  - (iv) registered ophthalmic optician or registered dispensing optician within the meaning of the Opticians Act 1989(3);
  - (v) registered nurse, registered midwife or registered health visitor;
 providing services as such within the district of the Council.

(2) Subject to paragraph (3), a person shall be disqualified for appointment, and from being a member if he has been dismissed, otherwise than by reason of redundancy, from any paid employment with any of the following bodies—

- (a) a Regional Health Authority, a District Health Authority or a Family Health Services Authority;
- (b) a Health Authority;
- (c) a Special Health Authority;
- (d) the National Radiological Protection Board established by section 1 of the Radiological Protection Act 1970<sup>(4)</sup>;
- (e) the Public Health Laboratory Service Board;
- (f) an NHS trust; or
- (g) the Dental Practice Board<sup>(5)</sup>.

(3) Subject to paragraph (4), where a person is disqualified under paragraph (2) he may, after the expiry of not less than two years commencing with the date of the dismissal, apply in writing to the Secretary of State for the removal of the disqualification, and the Secretary of State may direct that the disqualification shall cease.

(4) Where the Secretary of State refuses a person's application for the removal of a disqualification, no further application may be made by that person within two years of the date of that application.

### **Termination of membership**

**8.—**(1) A member may resign at any time during the period for which he was appointed on giving notice in writing to the Secretary of State who shall, if he did not appoint the member, forthwith notify the relevant appointing body.

(2) The date on which a resignation by notice given pursuant to paragraph (1) is to take effect, shall be—

- (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 Secretary of State.

(3) If a member has failed to attend a meeting of the Council, or a committee of the Council, for a period of four months the Council shall report his absence to the relevant appointing body and (where the absence is not reported to him as a relevant reporting body) to the Secretary of State, and the Secretary of State shall, unless he is satisfied that—

- (a) the absence was due to a reasonable cause; and
- (b) the member will be able to attend meetings of the Council within such period as the Secretary of State considers reasonable,

declare that his place on the Council has become vacant and on the making of such a declaration, that person shall cease to be a member.

(4) If the Secretary of State is of the opinion that it is not in the interests of the health service for a person to continue as a member, he may, subject to paragraph (5), terminate the member's term of office.

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(4) 1970 c. 46.

(5) See s.12(1) of the Health and Medicines Act 1988.

(5) The Secretary of State shall not terminate a member’s term of office under paragraph (4) without having consulted the Council and, where he did not appoint the member, the relevant appointing body.

(6) A person who ceases to be a member by virtue of the operation of paragraph (3) and (4) shall be disqualified from reappointment as a member for a period of four years.

(7) In this regulation, “relevant appointing body” means, in relation to a member, the appointing body which appointed him.

**Variation of Councils and of their membership**

9. Where the district for which any Council is established is varied, or where the membership of a Council is varied, the term of office of any member appointed to any Council immediately following such a variation shall be for such period not exceeding four years, expiring on the relevant date in any even year, as the Secretary of State shall in each case determine.

**PART III**

**PROCEEDINGS OF COUNCILS**

**Election of chairman and vice-chairman**

10.—(1) The members shall elect—

- (a) one of their number to be chairman; and
- (b) one or two of their number, other than the chairman, to be vice-chairman;

for such periods as they may determine on making the election, not being in any case a longer period than the remainder of the period of the elected member’s term of office as a member; and the Chief Officer shall forthwith notify the Secretary of State in writing of the names of the persons so elected.

(2) A chairman or vice-chairman may at any time resign that office by giving notice in writing to the Chief Officer, who shall forthwith notify the Secretary of State in writing;

- (a) where the chairman has resigned, the members shall elect another chairman in accordance with paragraph (1)
- (b) where a vice-chairman has resigned—
  - (i) if there is no other vice-chairman, the members shall,
  - (ii) if there is another vice-chairman, the members may,elect another vice-chairman in accordance with paragraph (1).

**Appointment of committees and joint committees**

11.—(1) Subject to paragraph (2), a Council may appoint one or more committees of the Council to exercise, subject to such restrictions and conditions as the Council thinks fit, some, but not all, of the Council’s functions.

(2) Except where the Secretary of State may, in any particular case, otherwise allow, not less than two-thirds of the members of any committee appointed by a Council shall be members of that Council.

(3) A Council may, together with one or more other Councils, appoint a joint committee, of which the members shall consist wholly of members of those Councils, to exercise, subject to such

restrictions and conditions as may be agreed between those Councils, some, but not all, of the functions of each of those Councils.

### **Meetings and proceedings**

**12.** The provisions of the Schedule to these Regulations shall have effect with respect to the meetings and proceedings of a Council.

### **Officers**

**13.—**(1) The Secretary of State shall appoint a person acceptable to a Council to act as its Chief Officer and shall also, after consultation with the Council and subject to acceptance by the Council of any individual officer appointed, appoint persons to act as such other officers for the Council as he considers necessary.

(2) The appointment of a person to act as an officer of a Council shall be made by the Secretary of State in a manner and for a period acceptable to the Council.

(3) Persons appointed in accordance with paragraphs (1) and (2) shall be employed by such Health Authority as the Secretary of State may determine for the purpose, in accordance with any regulations made and any directions given by the Secretary of State under the Act, and their services shall be made available to the Council by the employing authority for the period of the appointment.

### **Premises and other facilities**

**14.—**(1) The Secretary of State shall, after consultation with the Council—

- (a) provide the Council with such office and other accommodation as he considers necessary to enable the Council to perform its functions; and
- (b) secure that arrangements are made for such administration, maintenance, cleaning and other services as may, in his opinion, be necessary for such accommodation;

but arrangements for the provision of services and accommodation may be made, with the approval of the Secretary of State, by the members.

(2) To enable the Council to perform its function

- (a) the Secretary of State may make available to the Council such facilities (including use of any premises and the use of any vehicle, plant or apparatus) provided by him for any service under the Act as he considers are necessary and
- (b) the Health Authority shall referred to in regulation 13(3) make available to the Council the services of such of its employees as the Secretary of State may direct.

### **Expenses**

**15.—**(1) The Secretary of State shall, in respect of each financial year, pay to each Council sums equal to the amounts which he has approved as the amounts of expenditure which he considers may reasonably be incurred by the Council in that year for the purpose of performing its functions.

(2) Each Council shall submit to the Secretary of State, in such form and by such date as he may specify, such estimates as he may require of the expenditure which it expects to incur during such financial years as he may specify.

(3) The Secretary of State may approve the amounts of the estimates submitted under paragraph (2) with or without modification, or subject to such conditions as he thinks fit, and may at any time vary such approval or conditions.

(4) A Council shall not incur expenses in excess of the amounts approved for that Council by the Secretary of State under this regulation.

## Reports

16.—(1) A Council shall, as soon as reasonably practicable after 31st March in 1997 and in each successive year—

- (a) make a report in writing to the Secretary of State regarding the performance of its functions during the period of twelve months ending on 31st March in that year and such other matters as the Secretary of State may require;
  - (b) furnish copies of the report to each relevant Health Authority, each relevant NHS trust and each relevant local authority; and
  - (c) take such measures as the Council considers to be appropriate to secure that the contents of the report are made known to the public in its district.
- (2) Upon receipt of the report each relevant Health Authority shall—
- (a) furnish to the Council its comments on the report and a record of any steps taken by the Health Authority in consequence of advice given, or proposals made, by the Council; and
  - (b) secure that those comments and that record are made known to the public in the district of the Council.

## PART IV

### PERFORMANCE OF FUNCTIONS

#### Advising on operation of the health service

17. It shall be the duty of each Council to keep under review the operation of the health service in its district, to make recommendations for the improvement of that service and to advise any relevant Health Authority upon such matters relating to the operation of the health service within its district as the Council thinks fit.

#### Consultation of Councils by relevant Health Authorities

18.—(1) Subject to paragraphs (2) and (3), it shall be the duty of each relevant Health Authority to consult a Council on any proposals which the Health Authority may have under consideration for any substantial development of the health service in the Council's district and on any proposals to make any substantial variation in the provision of such service.

(2) Paragraph (1) shall not apply with respect to any proposal to establish or dissolve an NHS trust.

(3) Paragraph (1) shall not apply to any proposal on which the Health Authority is satisfied that, in the interest of the health service, a decision has to be taken without allowing time for consultation; but, in any such case, the Health Authority shall notify the Council immediately of the decision taken and the reason why no consultation has taken place.

(4) A Health Authority may specify the date by which comments on any proposals referred to in paragraph (1) are to be made by the Council.

(5) In any case where a Council is not satisfied that sufficient time has been allowed under paragraph (4), or that consultation on any proposal referred to in paragraph (1) has been adequate, the Council shall notify the Secretary of State in writing who may require the Health Authority to carry out such further consultation with the Council as he considers appropriate.

(6) Where further consultation has been required under paragraph (5), the Health Authority shall, having regard to the outcome of such further consultation, reconsider any decision it has taken in relation to the proposal in question.



### **Information to be furnished by relevant Health Authorities**

19.—(1) Subject to paragraph (2), it shall be the duty of each relevant Health Authority to provide a Council with such information about the planning and operation of health services in its area as the Council may reasonably require in order to discharge its functions.

(2) Nothing in paragraph (1) shall require the provision by a Health Authority of confidential information relating to—

- (a) the diagnosis or treatment of any patient; or
  - (b) personnel matters affecting any officer employed by the Health Authority;
- or any of other information the disclosure of which is prohibited by law.

(3) In the event of a Health Authority refusing to disclose to a Council information to which paragraph (2) does not apply, the Council may appeal to the Secretary of State and a decision of the Secretary of State as to whether the information is reasonably required by the Council in order to discharge its functions shall be final for the purposes of this regulation.

### **Inspection of premises by Councils**

20.—(1) Subject to paragraph (2), a Council or any member authorised by the Council for the purpose may enter and inspect any premises controlled by a relevant Health Authority or relevant NHS trust at such times and subject to such conditions as may be agreed between the Council and the Health Authority or NHS trust or, in default of such agreement, as may be determined by the Secretary of State.

(2) No member shall enter—

- (a) any premises or part of premises used as residential accommodation for officers employed by any Health Authority or NHS trust, without having first obtained the consent of the officers residing in such accommodation; or
- (b) any premises or part of premises made available to persons providing general medical services, general dental services, general ophthalmic services or pharmaceutical services, without having first obtained the consent of those persons.

### **Meetings between Council and relevant Health Authority**

21. It shall be the duty of each relevant Health Authority to arrange, not less than once every year, a meeting between members of the Health Authority, being not less than one-third of its members, and the members of the Council to discuss such matters relating to the functions of the Council as may be raised by the Council or the relevant Health Authority.

## **PART V**

### **TRANSITIONAL PROVISIONS AND REVOCATIONS**

#### **Transitional arrangements for existing members**

22. Where, before 1st April 1996, a person has been appointed a member of a Council whose district is situated in England, under the 1985 Regulations and his term of office has not expired before that date, he shall continue as a member for the remainder of his term of office, and regulation 7 (disqualification for membership) and regulation 8 (termination of membership) of those Regulations shall continue to apply in his case, for the remainder of his term of office as if these Regulations had not come into force.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## Revocations

23. The Community Health Councils Regulations 1985(6), the Community Health Councils (Amendment) Regulations 1990(7) and the Community Health Councils (Amendment) Regulations 1991(8) are hereby revoked.

Signed by authority of the Secretary of State for Health

Department of Health  
6th March 1996

*John Horam*  
Parliamentary Under Secretary of State,

Signed by authority of the Secretary of State for Wales

Welsh Office  
7th March 1996

*Rod Richards*  
Parliamentary Under Secretary of State,

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(6) S.I. 1985/304.  
(7) S.I. 1990/1375.  
(8) S.I. 1991/275.

## SCHEDULE

Regulation 12

### MEETINGS AND PROCEEDINGS OF COUNCILS

1. The first meeting of a Council shall be held on such day and at such place as may be fixed by the Secretary of State who shall be responsible for convening the meeting.
  2. A meeting of the Council shall take place at least once in every period of three months.
  - 3.—(1) After the first meeting, the chairman may call a meeting of the Council at any time.  
(2) If a requisition for a meeting, signed by at least one-third of the total number of members, is presented to the chairman, and the chairman either—
    - (a) refuses to call a meeting; or
    - (b) without so refusing, does not within ten days after the requisition has been presented to him call a meeting,those members may forthwith call a meeting.
  - (3) Before each meeting of a Council, a notice of the meeting which—
    - (a) specifies the business proposed to be transacted at it; and
    - (b) is signed by the Chief Officer or by an officer of the Council authorised by the Chief Officer to sign on his behalf,shall be delivered to each member, or sent by post to his usual place of residence or business, at least seven clear days before the day of the meeting.
  - (4) Want of service of the notice on any member shall not affect the validity of a meeting.
  - (5) In the case of a meeting called by members in default of the chairman, the notice shall be signed by those members and no business shall be transacted at the meeting other than that specified in the notice.
- 4.—(1) At any meeting of a Council the chairman, if present, shall preside.  
(2) If the chairman is absent from the meeting a vice-chairman, if present, shall preside.  
(3) If the chairman and vice-chairman are absent, such member as the members present shall choose shall preside.
5. Every question at a meeting shall be determined by a majority of the votes of the members present and voting on the question and, in the case of any equality of votes, the person presiding shall have a second and casting vote.
  6. No business shall be transacted at a meeting unless at least one-third of the members are present.
  - 7.—(1) The minutes of the proceedings of a meeting shall be drawn up and submitted for agreement at the next meeting of the Council, where they shall be signed by the person presiding at it.  
(2) The names of members present at a meeting shall be recorded in the minutes of the meeting.
  8. In paragraph 3 of this Schedule “chairman” includes a vice-chairman acting as chairman.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations supersede the Community Health Councils Regulations 1985.

They make provision in connection with the establishment by the Secretary of State of Community Health Councils, and provide for their membership (regulations 2 to 9), proceedings (regulations 10 to 12, and Schedule), staff (regulation 13), premises (regulation 14), expenses (regulation 15) and functions (regulations 16—21).

These Regulations also make transitional provisions in relation to the membership of Community Health Councils (regulation 22), and revoke the Regulations which they replace, as well as the amending instruments (regulation 23).