
EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 182 of the National Health Service (Wales) Act 2006 (“the Act”) provides that Community Health Councils established for areas in Wales continue in existence. Section 182 also gives Welsh Ministers the power to vary the area in Wales for which a Community Health Council is established, abolish a Community Health Council or establish a new Community Health Council. Schedule 10 of the Act gives Welsh Ministers the power to make regulations about the constitution, membership, functions and procedures of Community Health Councils.

These Regulations supersede the Community Health Councils Regulations 2004 and the Community Health Councils (Amendment) Regulations 2005.

References in this Explanatory Note to regulation numbers and Schedules are to regulation numbers and Schedules in these Regulations unless otherwise specified.

Regulation 2 contains the list of defined terms used in these Regulations.

Regulation 3 deals with the composition of Councils. It prescribes who may appoint members of a Council and provides that the total number of members to be appointed to a Council is set out in Schedule 1. Regulation 3 also enables a Council to co-opt such members as appear to the Council to be necessary to perform its functions.

Regulation 4 deals with the term of appointment of Council members and includes provisions relating to the power of the Welsh Ministers to terminate the term of office of a member of a Council abolished under section 182(2)(c) of the Act or of a Council whose area or part of whose area is to be taken by a new Council established under section 182(2)(d) of the Act.

Regulation 5 provides for the term of appointment of co-opted members.

Regulation 6 deals with the appointment of Council members by local authorities. Each local authority whose area (or part of) is set out in column 2 of Schedule 2 must make three appointments to the Council set out in column 1 of that Schedule. Local authority appointees to Councils must be members of the local authority and, on ceasing to be a member of the appointing local authority must, within 2 months, cease to be a member of the Council.

Regulation 7 deals with the appointment of Council members by voluntary organisations. The voluntary organisations chosen must, between them, make a total of three appointments to the relevant Council set out in column 1 of Schedule 2 for each local authority area (or part of) set out in column 2 of that Schedule. Regulation 7 also provides that each voluntary organisation must appoint an equal number of members to the Council and provides at regulation 7(4) for the procedure to be followed where this is not possible. Council members appointed by a voluntary organisation must be a member of or connected to the voluntary organisation and if they cease to be a member of the voluntary organisation must, within a period of two months, also cease to be a member of the Council.

Regulation 8 deals with the appointment of Council members by Welsh Ministers. Welsh Ministers make six appointments to a Council for each local authority area (or part of) set out in column 2 of Schedule 2.

Regulation 9 provides that the bodies that appoint Council members must have appropriate arrangements in place for the selection and appointment of such members.

Regulation 10 deals with eligibility of members for reappointment. A person may serve a maximum of eight years as a member of a Council.

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Regulation 11 provides for transitional arrangements for members who are already appointed to Councils that are continuing in existence and have not been abolished by the Community Health Councils (Establishment, Transfer of Functions and Abolition) (Wales) Order 2010 namely Brecknock and Radnor Community Health Council and Montgomeryshire Community Health Council. The term of office of any member of a Council that is continuing in existence is the remainder of that member's term of office even if that results in a member serving more than the eight year maximum prescribed in regulation 10 and/or the continuation of the member's or members' term or terms results in a continued Council having more members, on a temporary basis than provided for in regulations 6, 7 and 8. Regulation 11(2) makes it clear that regulations 6, 7, 8 and 10 do apply to continued Councils.

Regulation 12 sets out the grounds for disqualification for membership of a Council.

Regulation 13 provides for the termination of membership and suspension of members of Councils and applies to members appointed under regulation 3 or, in the case of continued Councils, members appointed under regulation 2 of the Community Health Councils Regulations 2004.

Regulation 14 provides that a member of a Council may resign on giving notice to the Welsh Ministers and provides for the date on which the resignation is to take effect.

Regulation 15 provides that the members of a Council must elect one of their members to be a chairperson and another of their number to be a vice chairperson. The regulation sets the maximum term for such an appointment and other conditions which must be satisfied before a person may be appointed to such posts.

Regulation 16 provides that regulations 17 to 19 inclusive only apply to Councils established by the Community Health Councils (Establishment, Transfer of Functions and Abolition) (Wales) Order 2010.

Regulation 17 provides that the Councils established by the CHC (Establishment, Transfer of Functions and Abolition) (Wales) Order 2010 must appoint committees to be known as local committees for each of the relevant local authority areas (or part of) specified in column 2 of Schedule 2. Regulation 17(1)(b) prescribes what functions the local committees must be given. Regulation 17(1)(c) prescribes who must be appointed as members of such committees.

Regulation 18 provides that a Council must appoint a committee to be known as the services planning committee to liaise with the relevant Local Health Board regarding health services within the district of a Council. Regulation 18 makes further provision about the membership and functions of such a committee.

Regulation 19 provides that a Council must appoint an executive committee to oversee the conduct and performance of all local committees in its district and to ensure that the Council's statutory duties and core functions are delivered. Regulation 19 makes further provision about the functions and membership of such a committee.

Regulation 20 enables Councils to appoint committees that are additional to the committees that they are required to appoint under regulations 17 to 19 inclusive. These additional committees may be tasked to perform some, but not all, of a Council's functions.

Regulation 21 enables two or more Councils to appoint a joint committee of those Councils to exercise some, but not all, of the functions of each of the appointing Councils. Regulation 21 also provides how the standing orders of such joint committees are to be determined. For the avoidance of doubt new Councils and continued Councils may enter into joint committee arrangements with each other.

Regulation 22 provides that Schedule 3 has effect with respect to the meetings and proceedings of a Council.

Regulation 23 makes provisions relating to officer members of Councils. Welsh Ministers are under a duty to ensure that Councils have sufficient officers to enable them to perform their functions. Regulation 23(2) provides that Welsh Ministers may direct a Local Health Board or a Welsh NHS

Trust to employ officer members of Councils and regulation 23(4) provides that the employing Welsh NHS Trust or Local Health Board must make the services of such persons available to the Councils for the period of their employment.

Regulation 24 deals with the premises and facilities of Councils. It provides that Welsh Ministers may, after consultation with a Council, provide a Council with such office and other accommodation as are necessary to enable a Council to perform its functions and will secure that arrangements are made for servicing such accommodation. Regulation 24(3) provides that Welsh Ministers may direct a Local Health Board to perform any or all of their functions under this regulation and may direct a Local Health Board to make available to Councils the services of such employees as the Welsh Ministers may direct.

Regulation 25 sets out the reporting obligations on Councils.

Regulation 26 makes provisions relating to the functions of Councils and the matters to which Councils must have regard when performing such functions.

Regulation 27 places a duty on specified NHS bodies to consult Councils. It places a duty on Local Health Boards whose area, or part thereof, corresponds with a district of a Council and Welsh NHS Trusts which provide services to persons resident within a Council's district to involve a Council in (1) the planning and provision of health services for which they are responsible, (2) proposals for changes in the way those services are provided and (3) decisions that will affect the operation of services. Consultation by Local Health Boards and Welsh NHS Trusts must be in accordance with Guidance issued by the Welsh Ministers. Regulation 27 also places a duty on Primary Care Trusts, Strategic Health Authorities and English NHS Trusts which provide services to persons resident within the district of a Council to consult with a Council in the circumstances set out at regulation 27(2). Regulation 27 also sets out the circumstances in which no consultation is required, the ability of a Council to make comments in respect of proposals in relation to which it has been consulted and what a Council may do if it is of the opinion that the consultation has been inadequate.

Regulation 28 deals with information to be provided by health service bodies to Councils.

Regulation 29 provides that members of a Council who are authorised in writing by that Council may, for the purposes of performing the Council's functions, at any reasonable time enter and inspect the premises owned or controlled by the persons/bodies listed in regulation 29(1). Regulation 29 also makes further provision in relation to the entry and inspection of premises by Council members.

Regulation 30 deals with meetings between Councils and Local Health Boards.

Regulation 31 provides that Councils provide, on behalf of Welsh Ministers, independent complaints advocacy services for persons aged 18 years and over.

Regulation 32 provides for the continuation of the CHC Board and specifies the functions of the Board.

Regulation 33 provides that the CHC Board must continue to make provision for the handling of complaints about the exercise of the functions of a Council or the CHC Board. The CHC Board must obtain the Welsh Ministers' approval before amending the procedure.

Regulation 34 prescribes the composition of the CHC Board and the term of office of the various types of Board member.

Regulation 35 makes provision in respect of the appointment term of members of the CHC Board and their eligibility for re-appointment. Regulation 35(4) also makes a transitional provision in relation to a member of a continued Council appointed to the CHC Board under regulation 24 of the Community Health Councils Regulations 2004.

Regulation 36 makes provisions relating to officer members of the CHC Board. Welsh Ministers are under a duty to ensure that the CHC Board has sufficient officers to enable it to perform its functions. Regulation 36(2) provides that Welsh Ministers may direct a Local Health Board or a Welsh NHS Trust to employ officer members of the CHC Board and regulation 36(4) provides that the employing

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Welsh NHS Trust or Local Health Board must make the services of such persons available to the CHC Board for the period of their employment.

Regulation 37 deals with the premises and facilities of the CHC Board. It provides that Welsh Ministers may, after consultation with the CHC Board, provide the Board with such office and other accommodation as are necessary to enable the Board to perform its functions and will secure that arrangements are made for servicing such accommodation. Regulation 37(3) provides that Welsh Ministers may direct a Local Health Board to perform any or all of their functions under this regulation and may direct a Local Health Board to make available to the Board the services of such employees as the Welsh Ministers may direct.

Regulation 38 deals with the proceedings of the CHC Board.

Regulation 39 prescribes the reporting obligations of the CHC Board.

Regulation 40 makes provisions in respect of the provision of finance to Councils and the CHC Board.

Regulation 41 provides that the Councils and the CHC Board must keep such accounts as the Welsh Ministers may require and that the Councils and the CHC Board must send Welsh Ministers copies of their annual accounts as soon as possible after the end of the financial year.

Regulation 42 revokes the Community Health Councils Regulations 2004 and the Community Health Councils (Amendment) Regulations 2005.