
WELSH STATUTORY INSTRUMENTS

2004 No. 905 (W.89)

NATIONAL HEALTH SERVICE, WALES

Community Health Councils Regulations 2004

Made - - - - 24th March 2004

Coming into force - - 1st April 2004

The National Assembly for Wales in exercise of powers conferred upon it by sections 16BB(4), 17 and 126(4) and paragraphs 2, 3 and 4 of Schedule 7A to the National Health Service Act 1977⁽¹⁾ hereby makes the following Regulations:

PART I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Health Councils Regulations 2004 and shall come into force on 1st April 2004.

(2) In these Regulations —

“the Act” (“*y Ddeddf*”) means the National Health Service Act 1977;

“the 2001 Act” (“*Deddf 2001*”) means the Health and Social Care Act 2001⁽²⁾

“the Assembly” (“*y Cynulliad*”) means the National Assembly for Wales;

“appointing body” (“*corff sy'n penodi*”) means, in relation to the appointment of a Council member, the Assembly, a relevant local authority or a voluntary organisation;

“Chief Officer” (“*Prif Swyddog*”) means the person appointed under regulation 14 to act as Chief Officer of a Council;

“Council” (“*Cyngor*”) means a Community Health Council;

(1) 1977 c. 49. Section 126(4) was amended by section 65(2) of the National Health Service and Community Care Act 1990 (c. 19) and by paragraph 37(6) of the Health Act 1999 (c. 8) and by section 1 of the Health (Wales) Act 2003 (c. 4) (“the 2003 Act”). Section 16BB(4) was inserted by section 6 of the National Health Service Reform and Health Care Professions Act 2002 (c. 17). Schedule 7A was inserted by section 1 of the 2003 Act. The functions of the Secretary of State under section 126(4) of the National Health Service Act 1977 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 S.I. 1999/672.

(2) 2001 c. 15.

“CHC Board”(“*Bwrdd CIC*”) means the Board of Community Health Councils in Wales established by regulation 23 of these Regulations;

“Director” (“*Cyfarwyddwr*”) means the person appointed under regulation 24 to act as Director of the Board of Community Health Councils in Wales;

“financial year” (“*blwyddyn ariannol*”) means the period of 12 months ending on 31st March in any year;

“member” (“*aelod*”) means, where the context so admits a member of a Council or a member of the CHC Board as the case may be;

“relevant local authority” (“*awdurdod lleol perthnasol*”) means, in relation to a Council, any county council or county borough council whose area or part of whose area, is included in the district of the Council;

“relevant Local Health Board” (“*Bwrdd Iechyd Lleol perthnasol*”) means, in relation to a Council, any Local Health Board whose area, or any part of whose area, is included in the district of the Council;

“relevant NHS Trust” (“*Ymddiriedolaeth GIC perthnasol*”) means, in relation to a Council, any NHS Trust established in relation to a hospital, or other establishment or facility which provides services to persons resident within the district of the Council;

“relevant Primary Care Trust” (“*Ymddiriedolaeth Gofal Sylfaenol berthnasol*”) means, in relation to a Council, any Primary Care Trust which provides services to persons resident in the district of the Council;

“relevant Strategic Health Authority” (“*Awdurdod Iechyd Strategol perthnasol*”) means, in relation to a Council, any Strategic Health Authority which makes decisions affecting persons resident in the district of the Council.

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 5;
- (b) in the case of certain other members, by the voluntary organisations determined in accordance with regulation 6; and
- (c) in the case of the remaining members, by the Assembly,

and for this purpose the Assembly shall determine the number of members to be appointed by each of the categories of the appointing authorities mentioned in sub-paragraphs (a) and (b) above.

(2) The Assembly shall exercise its powers of determination under paragraph (1) so as to secure that no later than April 2006—

- (a) at least one member is appointed by each of the relevant local authorities and one quarter of the total membership of a Council are appointed by the relevant local authorities; and
- (b) one quarter of the members are appointed by the voluntary organisations.

(3) In addition to the members appointed in accordance with paragraphs (1) and (2), a Council may from time to time appoint such co-opted members as appear to the Council to be necessary or expedient for the performance by a Council of its duties.

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

Term of office of members

3.—(1) Subject to the following provisions of this regulation and to regulations 9 and 10 (disqualification for, and termination of, membership), the term of office of any member shall be—

- (a) in the case of an existing Council, four years;
- (b) in the case of a Council established under section 20A(2)(b)(3) of the Act, a period not exceeding four years as the appointing body shall specify on appointment;
- (c) in the case of appointment as a first member to a Council established under section 20A(2)(b) of the Act, the term of office of a member who, immediately prior to appointment as a first member to a new Council was a member of an existing Council or of a Council abolished or of a Council in respect of which the district for which it was established was altered under section 20A(2)(b) of the Act, shall be the unexpired period of that member's term of office as a member of a Council referred to in this paragraph.

(2) Where a new Council is to be established for the district or part of a district of an existing Council, the Assembly may determine that the term of office of any member of the existing Council shall cease immediately before the establishment of the new Council and if a member whose term of office is terminated pursuant to this paragraph is appointed as a first member of the new Council, the term of office of that member shall be the unexpired period of that member's term of office as a member of the existing Council.

Period of appointment of co-opted members.

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

Appointment of members by local authorities

5.—(1) Where the number of members to be appointed by each relevant local authority 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 as those local authorities may by agreement determine, or, in default of agreement by such date as the Assembly may specify for the purpose, as the Assembly may determine.

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

(3) Subject to paragraph (4), where a member appointed by a local authority is a member of the appointing local authority, he or she shall, on ceasing to be a member of the appointing local 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 or she ceased to be a member of the appointing local 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 Assembly that the person appointed is to continue as a member of the Council.

Appointment of members by voluntary organisations

6.—(1) The Assembly shall invite such voluntary organisations as it may determine as having sufficient interest in the health service in the district of a Council, to take part in the appointment of persons to a 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 shall make the appointment.

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

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

Procedures for appointment of members

7. The appointing bodies shall 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⁽⁴⁾ and in the Assembly's Code of Practice for Ministerial Appointments to Public Bodies⁽⁵⁾;
- (b) the requirements that the selection and appointment of members be open and transparent; and
- (c) where applicable, the requirement of fair and open competition in the selection and appointment of members.

Eligibility of members for reappointment

8.—(1) Subject to paragraph (2) and to regulation 9, a member shall, on the expiration of his or her 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 four years has elapsed since he or she was last a member save that, where a Council and the Assembly agree that it is necessary or expedient for the performance by a Council of its duties, a member may be re-appointed for a further period not exceeding one year.

Disqualification for membership

9.—(1) A person shall be disqualified for appointment as a member, and from being a member, if—

- (a) he or she is a chair, director or a member of a relevant Local Health Board, relevant NHS Trust, relevant Strategic Health Authority, or relevant Primary Care Trust;
- (b) he or she is employed by a relevant Local Health Board, relevant NHS Trust, relevant Strategic Health Authority or Primary Care Trust;

(4) Copies of this document may be obtained by writing to the NHS (Human Resources) Division, the National Assembly for Wales, Cathays Park, Cardiff CF10 3NQ.

(5) Copies of this document may be obtained by writing to the NHS (Human Resources) Division, the National Assembly for Wales, Cathays park, Cardiff, CN10 3NQ.

- (c) he or she 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 Local Health Board or a relevant NHS Trust;
- (d) he or she is a member of another Council; or
- (e) he or she 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⁽⁶⁾,
 - (v) registered nurse, registered midwife or registered health visitor or, on the coming into force of the Nursing and Midwifery Order 2001⁽⁷⁾ is registered in the register maintained by the Nursing and Midwifery Council under article 5 of the 2001 Order, providing services as such within the district of the Council, save that the provisions of paragraph (a) shall not apply to a member who is to serve as an Associate Member of a Local Health Board in accordance with the provisions of the Local Health Board (Constitution, Membership and Procedures) (Wales) Regulations 2003⁽⁸⁾.

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

- (a) a Local Health Board;
- (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⁽⁹⁾;
- (e) the Public Health Laboratory Service Board;
- (f) the Commission for Health Improvement;
- (g) a NHS Trust;
- (h) the Dental Practice Board;
- (i) the Health Protection Agency⁽¹⁰⁾;
- (j) a Strategic Health Authority, or
- (k) a Primary Care Trust.

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

(4) Where the Assembly 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.

⁽⁶⁾ 1989 c. 44

⁽⁷⁾ S.I. 2002/253.

⁽⁸⁾ SI 2003/149(W.19), regulation 3(4)(m) and Schedule 2, paragraph 17(a).

⁽⁹⁾ 1970 c. 46

⁽¹⁰⁾ Established by SI 2003/505

Termination of membership

10.—(1) A member may resign at any time during the period for which he or she was appointed on giving notice in writing to the Assembly, which shall, if it did not appoint the member forthwith notify the relevant appointing body and the CHC Board.

(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 Assembly.

(3) If a member has failed to attend a meeting of the Council, or a committee of the Council, for a period of three months the Council shall notify the CHC Board and report the member's absence to the Assembly and the Assembly shall, unless it 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 Assembly considers reasonable,

declare that his or her 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 Assembly is of the opinion that it is not in the interests of the health service for a person to continue as a member, the Assembly may, subject to paragraph (5), terminate the member's term of office.

(5) The Assembly shall not terminate a member's term of office under paragraph (4) without having consulted the Council, the CHC Board, and, where the Assembly 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.

PART III

Proceedings of Councils

Election of chair and vice-chair

11.—(1) The members shall elect —

(a) one of their number to be chair; and

(b) one or two of their number, other than the chair, to be vice-chair

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 Assembly and the CHC Board in writing of the names of the persons so elected.

(2) A chair or vice-chair may at any time resign that office by giving notice in writing to the Chief Officer, who shall forthwith notify the Assembly and the CHC Board in writing; and —

(a) where the chair has resigned, the members shall elect another chair in accordance with paragraph (1);

(b) where a vice-chair has resigned —

(i) if there is no other vice-chair, the members shall, or

- (ii) if there is another vice-chair, the members may,
elect another vice-chair in accordance with paragraph (1).

Appointment of committees and joint committees

12.—(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 Assembly 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

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

Officers

14.—(1) The Assembly 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 the Assembly considers necessary.

(2) The appointment of a person to act as an officer of a Council shall be made by the Assembly 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 Local Health Board as the Assembly may determine for the purpose, in accordance with any regulations made and any directions given by the Assembly under the Act, and their services shall be made available to the Council by that Local Health Board for the period of the appointment.

Premises and other facilities

15.—(1) The Assembly shall, after consultation with the Council —

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

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

(2) To enable a Council to perform its functions —

- (a) the Assembly may make available to a Council such facilities (including use of any premises and the use of any vehicle, plant or apparatus) provided by it for any service under the Act as the Assembly considers are necessary; and
- (b) the Local Health Board referred to in regulation 14(3) shall make available to a Council the services of such of its employees as the Assembly may direct.

Reports

- 16.—(1) A Council shall by 1st September 2004 and in each successive year —
- (a) make a report in writing to the Assembly regarding the performance of its functions (including its functions under regulation 22) (independent advocacy) during the period of twelve months ending on 31st March in that year and such other matters as the Assembly may require;
 - (b) furnish copies of the report to each relevant Local Health Board, 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 Local Health Board or NHS Trust shall —
- (a) furnish to the Council its comments on the report and a record of any steps taken by the Local Health Board or NHS 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

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 Local Health Board, or NHS Trust 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 bodies

18.—(1) It shall be the duty of each relevant Local Health Board, NHS Trust, Primary Care Trust and Strategic Health Authority (in this regulation referred to as a “relevant NHS body”) in respect of health services for which it is responsible, to involve a Council in—

- (a) the planning of the provision of those services,
- (b) the development and consideration of proposals for changes in the way those services are provided, and

decisions to be made by that body affecting the operation of those services.

(2) Where a relevant NHS body has under consideration any proposal for a substantial development of the health service in the area of a Council, or for a substantial variation in the provision of such a service, it shall consult that Council.

(3) Paragraphs (1) and (2) shall not apply in respect of proposals to establish a Local Health Board or to vary or revoke a Local Health Board Order or to establish or dissolve a NHS trust.

(4) Paragraphs (1) and (2) shall not apply to any proposals on which the relevant NHS body is satisfied that, in the interests of the health service or because of a risk to safety or welfare of patients or staff, a decision has to be taken without allowing for consultation; but in such case, the relevant NHS body shall notify the Council immediately of the decision taken and the reason why no consultation has taken place.

(5) A Council which has been consulted by a relevant NHS body pursuant to paragraph (2) may make comments on the proposal consulted on by such date as may be specified by the relevant NHS body.

(6) In any case where a Council is not satisfied that —

(a) consultation on any proposal referred to in paragraph (2) has been adequate in relation to content or time allowed; or

(b) where paragraph (4) applies, the reason given by the relevant NHS body are adequate, it may report to the Assembly in writing and the Assembly may require the relevant Local Health Board or relevant NHS Trust, and may request the relevant Primary Care Trust or relevant Strategic Health Authority concerned to carry out such consultation, or further consultation, with a Council as it considers appropriate.

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

(8) In any case where a Council considers that a proposal submitted under paragraph (2) by a relevant Local Health Board or a relevant NHS Trust would not be in the interests of the health service in its area, it may report to the Assembly in writing and the Assembly may make a final decision on the proposal and require the relevant NHS body to take such action, or desist from taking such action, as the Assembly may direct.

Information to be furnished by relevant health bodies

19.—(1) Subject to paragraph (2), it shall be the duty of each relevant Local Health Board, NHS Trust, Primary Care Trust or Strategic 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 Local Health Board, NHS Trust, Strategic Health Authority, or a Primary Care Trust of confidential information relating to —

(a) the diagnosis or treatment of any patient; or

(b) personnel matters affecting any officer employed by the Local Health Board, NHS Trust, Strategic Health Authority, or Primary Care Trust; or any of other information the disclosure of which is prohibited by law.

(3) In the event of a relevant Local Health Board, NHS Trust, Primary Care Trust or Strategic Health Authority refusing to disclose to a Council information to which paragraph (2) does not apply, the Council may appeal to the Assembly and a decision of the Assembly 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.

Entry and inspection of premises

20.—(1) Subject to the following paragraphs of this regulation, persons authorised in writing by a Council may at any reasonable time enter and inspect premises owned or controlled by:—

(a) Local Health Boards;

(b) NHS Trusts ;

(c) local authorities;

(d) Primary Care Trusts

(e) persons providing services under Part 2 of the Act or under arrangements under section 28 C of that Act;

- (f) persons providing piloted services under pilot schemes established under section 28 of the 2001 Act, or providing services under an LPS scheme established under Schedule 8A to the Act,
- (g) persons providing primary medical services or primary dental services under Part 1 of the Act; or
- (h) persons who own or control premises where services as mentioned in (e), (f) or (g) are provided.

(2) Each person authorised by a Council under paragraph (1) shall be furnished with written evidence of his or her authority and on applying for entry to any premises referred to in paragraph (1) for the purposes specified in that paragraph shall, if so requested by the owner or occupier of those premises or a person acting on either of their behalf, produce that evidence.

(3) A person authorised by a Council under paragraph (1) shall not, save where a Council is of the opinion that it is expedient in the interests of the health service or because of a risk to the safety or welfare of patients or staff, demand admission to any premises referred to in that paragraph as of right unless the person or body which owns or controls the premises has been given reasonable notice of the intended entry

(4) A person authorised by a Council under paragraph (1) may not enter any premises or part of premises used as residential accommodation —

- (a) for persons employed by any of the bodies referred to in paragraphs 4(a) to (d); or
- (b) by persons referred to in paragraphs 4(e) to (g),

without first having obtained the consent of those persons.

(5) In exercising rights of entry and inspection under this regulation, a Council shall have regard to the need to safeguard patients' safety, privacy and dignity, and to any advice or guidance issued by the Assembly and shall, when it is practicable to do so, co-operate with any other body exercising similar rights pursuant to any enactment.

Meetings between Councils and relevant Local Health Boards

21. It shall be the duty of each relevant Local Health Board to arrange, not less than once in every year, a meeting between members of the relevant Local Health Board, being not less than one-third of its members, and the members of the Council to discuss such matters as may be agreed between the Council and the Local Health Board.

Independent complaints advocacy

22. Councils shall provide on behalf of the Assembly the independent advocacy services required to be provided under section 19A of the Act.

PART V

The Board of Community Health Councils in Wales

Establishment of the Board of Community Health Councils in Wales

23. There is hereby established, with effect from 1st April 2004 a body to be known as the Board of Community Health Councils in Wales which shall have the functions of—

- (a) advising Councils with respect to the performance of their functions;
- (b) assisting Councils in the performance of their functions;

- (c) representing the collective views and interests of Councils to the Assembly;
- (d) monitoring the performance of Councils and officers appointed under regulation 14 with a view to developing and ensuring consistency of standards by all Councils.

Composition of the CHC Board

- 24.** The CHC Board shall comprise 28 members of which —
- (a) 26 shall be appointed by the Councils acting jointly; and
 - (b) 2 shall be appointed by the officers appointed under regulation 14 acting jointly.

Support Staff

25.—(1) The Assembly shall appoint a person acceptable to the CHC Board to act as its Director and shall also, after consultation with the CHC Board and subject to acceptance by the CHC Board of any individual officer appointed, appoint persons to act as such other officers for the CHC Board as the Assembly considers necessary.

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

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

Premises and other facilities

26.—(1) The Assembly shall, after consultation with the CHC Board —

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

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

(2) To enable the CHC Board to perform its functions —

- (a) the Assembly may make available to the CHC Board such facilities (including use of any premises and the use of any vehicle, plant or apparatus) provided by it for any service under the Act as the Assembly considers are necessary; and
- (b) the Local Health Board referred to in regulation 25(3) shall make available to the Council the services of such of its employees as the Assembly may direct.

Proceedings

27.—(1) The CHC Board shall adopt a constitution and Standing Orders as it thinks fit.

(2) The constitution and orders so adopted may be varied or revoked at any subsequent meeting of the CHC Board.

(3) The CHC Board may appoint committees and sub-committees which may consist of persons who are not members of the CHC Board.

(4) A representative of the Assembly and a representative of the Local Health Board referred to in regulation 25(3) shall be entitled to attend and take part in any deliberations (but not in decisions) at meetings of the CHC Board.

Reports

28. The CHC Board shall, by 1st September 2004 and in each successive year make a report in writing to the Assembly 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 Assembly may require.

PART VI

Finance and Accounts

Finance

29.—(1) The Assembly shall pay to the CHC Board and the Councils such sums as the Assembly considers necessary to enable the CHC Board and the Councils to carry out its and their functions respectively under these Regulations and such sums shall be paid at such times and subject to such conditions as the Assembly may from time to time determine.

(2) The CHC Board shall submit to the Assembly in such form and by such date as the Assembly may require, such estimates as the Assembly may require of the expenditure which the CHC Board expects to incur during such financial years as the Assembly may specify.

(3) Each Council shall submit to the CHC Board in such form and by such dates as the CHC Board may specify, such estimates as the CHC Board may require of the expenditure each Council expects to incur during such financial years as the CHC Board may specify.

(4) The CHC Board shall confirm the amounts of the estimates submitted under paragraph (3) with or without modification, or subject to such conditions as the CHC Board thinks fit, and may at any time vary such confirmation or conditions and will recommend such sums to the Assembly for payment under paragraph (1).

(5) The CHC Board and Councils shall not incur expenditure in excess of the amounts approved by the Assembly under this regulation.

Accounts

30.—(1) The CHC Board and the Councils shall prepare and keep such accounts in respect of each financial year as the Assembly may require and such accounts shall give a true and fair view of any income and expenditure and cash flows of the CHC Board and the Councils.

(2) the Councils and the CHC Board shall send a copy of their respective annual accounts for each financial year to the Assembly as soon as possible after the end of the financial year.

PART VII

Revocations

Revocations

31. In their application to Wales, the Community Health Council Regulations 1996⁽¹¹⁾, the Community Health Councils Amendment (Wales) Regulations 2000⁽¹²⁾ and the National Health Service (Association of Community Health Councils) Regulations 1977⁽¹³⁾ are hereby revoked..

(11) S.I. 1996/640.

(12) S I 2000/479 (W.20).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽¹⁴⁾

24th March 2004

John Marek
The Deputy Presiding Officer of the National
Assembly

⁽¹³⁾ [SI 1977/874](#).
⁽¹⁴⁾ [1998 c. 38](#).

SCHEDULE

Regulation 13

1. The first meeting of a Council established under section 20A(2)(b) of the Act shall be held on such day and at such place as may be fixed by the Assembly which 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 and meetings shall be open to the public.

3.—(1) After the first meeting, the chair 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 chair, and the chair 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 or her 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 chair, 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 chair, if present, shall preside.

(2) If the chair is absent from the meeting a vice-chair, if present, shall preside.

(3) If the chair and vice-chair 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 members (excluding vacancies and co-opted members) are present.

7. 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.

8. The names of members present at a meeting shall be recorded in the minutes of the meeting.

9. In paragraph 3 of this Schedule “chair” includes a vice-chair acting as chair.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 20 of the National Health Service Act 1977 imposed a duty on the Secretary of State, now exercisable by the National Assembly for Wales in respect of Wales, to establish Community Health Councils. Section 1 of the Health (Wales) Act 2003 provides for the repeal of section 20 of, and Schedule 7 to, the 1977 Act and also inserts a new section 20A and Schedule 7A into the 1977 Act.

Section 20A provides for the retention of Community Health Councils in Wales; Schedule 7A enables the National Assembly for Wales to make regulations in connection with Community Health Councils.

These Regulations supersede the Community Health Councils Regulations 1996. They make provision in respect of:—

the composition and membership of Councils (including provision for the appointment of members to existing Councils and Councils established or reconfigured under section 20A of the 2003) (regulations 2 to 10). The 1996 Regulations currently provide for one half of the membership of Community Health Councils to be drawn from local authorities, one third from voluntary organisations and the remainder appointed by the National Assembly for Wales. These Regulations provide that, by April 2006, the membership of Community Health Councils will be one quarter appointed by local authorities, one quarter appointed by voluntary organisations and the remainder by the National Assembly for Wales. Regulation 7 provides for procedures for appointments;

proceedings (regulations 11 to 16);

staff and premises (regulations 14 and 15);

finance (regulations 29 and 30; and

functions (regulations 17 to 22) which include a requirement for health service bodies (i.e. Local Health Boards, NHS Trusts, Primary Care Trusts and Strategic Health Authorities), local authorities and providers of family health services (e.g. G.P.s., pharmacists, dentists and opticians) as well as others who own or control premises where such services are provided to allow authorised members of Community Health Councils to inspect premises owned or controlled by them. Whilst reasonable notice of inspection will generally be required, where a Council is of the view that it is in the interest of the health service or the welfare or safety of patients, notice need not be given (regulation 20). Regulation 22 requires Councils to undertake, on behalf of the National Assembly for Wales, independent advocacy services as required under section 19A of the 1977 Act.

Regulation 23 provides for the establishment of a new statutory body to be known as the Board of Community Health Councils in Wales to advise and assist Community Health Councils in the performance of their functions. The Board will also represent the collective views of Community Health Councils to the National Assembly for Wales and monitor the performance of Community Health Councils with a view to developing and ensuring consistency of standards by all Councils. These Regulations make provision for the composition (regulation 24), staff and premises (regulations 25 and 26), proceedings of the Board (regulation 27) and finance (regulations 29 and 30).

These Regulations revoke, in their application to Wales, the Community Health Councils Regulations 1996, the Community Health Councils Amendment (Wales) Regulations 2000 and the National Health Service (Association of Community Health Councils) Regulations 1977.

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