
WELSH STATUTORY INSTRUMENTS

2004 No. 905

Community Health Councils Regulations 2004

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.