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WELSH STATUTORY INSTRUMENTS

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**2010 No. 288**

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

**PART IV**

**Performance of Functions**

**26.**—(1) It is the duty of each Council to scrutinise the operation of the health service in its district, to make recommendations for the improvement of that service and to advise relevant Local Health Boards and relevant NHS Trusts upon such matters relating to the operation of the health service within its district as the Council thinks fit.

(2) In carrying out its functions each Council must have regard to the need—

- (a) for systematic, continuous engagement with the local population and community groups within its district, in order to appropriately represent the public's view on the operation of the National Health Service within that district;
- (b) to consider any proposed new service or service change within the context of such current priorities, resources and governance structures as are notified to it by the Welsh Ministers; and
- (c) for constant evaluation of existing health services in its district.

**Consultation of Councils by relevant health service bodies**

**27.**—(1) It is the duty of each relevant Local Health Board and NHS Trust in Wales (in this regulation referred to as “relevant Welsh 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
- (c) decisions to be made by that body affecting the operation of those services;

and it is incumbent upon each relevant Welsh NHS body to consult a Council at the inception and throughout any such planning, development, consideration or decision-making process in accordance with any guidance which may be issued by the Welsh Ministers.

(2) It is the duty of each relevant Strategic Health Authority, Primary Care Trust and NHS Trust in England (in this regulation referred to as “a relevant English NHS body”) in respect of health services for which it is responsible, to consult with a Council when—

- (a) planning the provision of those services;
- (b) developing and considering proposals for changes in the way those services are provided; and
- (c) making decisions affecting the operation of those services;

and it is incumbent upon each relevant English NHS body to consult a Council at the inception and throughout any such planning, development, consideration or decision-making process.

(3) Where a relevant Welsh or English NHS body has under consideration any proposal for a substantial development of the health service in the district of a Council, or for a substantial variation in the provision of such a service, it must consult that Council at the inception and throughout any such consideration or variation process.

(4) Paragraphs (1), (2) and (3) do not apply in respect of proposals to establish a Local Health Board, an NHS Trust or a relevant English NHS body nor to proposals to vary or revoke a Local Health Board Order, an NHS Trust Establishment Order or an Order establishing an English NHS body.

(5) Paragraphs (1), (2) and (3) do not apply to any proposals on which the relevant Welsh or English health service 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 Local Health Board, Strategic Health Authority, Primary Care Trust and NHS Trust must notify the Council immediately of the decision taken and the reason why no consultation has taken place.

(6) A Council which has been consulted by a relevant Welsh or English NHS body pursuant to paragraphs (1), (2) and (3) may make comments on the proposal consulted on by such date as may be specified by the relevant health service body.

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

- (a) consultation on any proposal referred to in paragraphs (1), (2) and (3) has been adequate in relation to content or time allowed; or
- (b) consultation on any proposal referred to in paragraphs (1),(2) and (3) has been adequate with regard to a Council being consulted at the inception of any such proposal; or
- (c) consultation on any proposal referred to in paragraphs (1), (2) and (3) has been adequate in relation to the frequency with which a Council is consulted throughout the proposal and decision-making process; or
- (d) where paragraph (5) applies, the reason given by the relevant health service body is adequate,

it may report to the Welsh Ministers in writing and the Welsh Ministers may require the relevant Welsh NHS body, and request the relevant English NHS body to carry out such consultation, or further consultation, with a Council as they consider appropriate.

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

(9) In any case where a Council considers that a proposal submitted under paragraphs (1) and (3) by a relevant Local Health Board would not be in the interests of the health service in its district, it may report to the Welsh Ministers in writing and the Welsh Ministers may make a final decision on the proposal and require the relevant Local Health Board to take such action, or desist from taking such action, as the Welsh Ministers may direct.

### **Information to be furnished by relevant health service bodies**

**28.**—(1) Subject to paragraph (2), each relevant Local Health Board, Strategic Health Authority, Primary Care Trust and NHS Trust must provide a Council with such information about the planning and operation of health services for which it is responsible and which fall within the district of a Council as the Council may reasonably require in order to discharge its functions.

(2) Nothing in paragraph (1) requires the provision by a relevant Local Health Board, Strategic Health Authority, Primary Care Trust and NHS 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, Strategic Health Authority, Primary Care Trust and NHS Trust; or any other information the disclosure of which is prohibited by law.

(3) In the event of a Local Health Board, Strategic Health Authority, Primary Care Trust and NHS Trust refusing to disclose to a Council information to which paragraph (2) does not apply, the Council may appeal to the Welsh Ministers and a decision of the Welsh Ministers as to whether the information is reasonably required by the Council in order to discharge its functions is final for the purposes of this regulation.

### **Entry and inspection of premises**

**29.**—(1) Subject to the following paragraphs of this regulation, members of a Council who are authorised in writing by that Council may, for the purposes of carrying out any of the functions of the Council, at any reasonable time enter and inspect premises owned or controlled by—

- (a) Local Health Boards;
- (b) Strategic Health Authorities;
- (c) NHS Trusts;
- (d) local authorities;
- (e) Primary Care Trusts;
- (f) persons providing primary medical services, primary dental services or pharmaceutical services under the Act or the National Health Service Act 2006<sup>(1)</sup>;
- (g) persons providing general ophthalmic services under the Act;
- (h) persons providing piloted services within the meaning of section 92 of the Act or section 134 of the National Health Service Act 2006;
- (i) persons providing Local Pharmaceutical Services within the meaning of paragraph 1 of Schedule 7 to the Act or paragraph 1 of Schedule 12 to the National Health Service Act 2006; or
- (j) persons who own or control premises where services as mentioned in (f), (g), (h) or (i) are provided.

(2) Each member authorised by a Council under paragraph (1) must be furnished with written evidence of their authority and on applying for entry to any premises referred to in paragraph (1) for the purposes specified in that paragraph must, 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 member authorised by a Council under paragraph (1) may 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 member 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 (1)(a) to (e); or
- (b) by persons referred to in paragraphs (1)(f) to (j),

without first having obtained the consent of those persons.

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(1) 2006 c. 41.

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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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(5) In exercising rights of entry and inspection under this regulation, a Council must have regard to the need to safeguard patients' safety, privacy and dignity, and to any guidance issued by the Welsh Ministers and must, 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**

**30.** Each relevant Local Health Board must arrange, not less than once every three calendar months, 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**

**31.** Councils must provide on behalf of the Welsh Ministers for those persons aged 18 years of age and older the independent advocacy services required to be provided under section 187 of the Act.