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WELSH STATUTORY INSTRUMENTS

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**2015 No. 509**

**The Community Health Councils (Constitution, Membership and Procedures) (Wales) (Amendment) Regulations 2015**

**Title, commencement and application**

1.—(1) The title of these Regulations is the Community Health Councils (Constitution, Membership and Procedures) (Wales) (Amendment) Regulations 2015 and they come into force on 1 April 2015.

(2) These Regulations apply in relation to Wales.

**Interpretation**

2. In these Regulations—

“the principal Regulations” (“*y prif Reoliadau*”) means the Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010<sup>(1)</sup>.

**Amendments to regulation 2 of the principal Regulations**

3.—(1) Regulation 2 (interpretation) of the principal Regulations is amended as follows.

(2) In the appropriate place in alphabetical order insert—

““Chief Executive” (“*Prif Weithredwr*”) means a person employed under regulation 36 to act as chief executive of the CHC Board;”

(3) Omit the following definitions—

““continued Council” (“*Cyngor sy’n parhau*”);

“Director” (“*Cyfarwyddwr*”);

“new Council” (“*Cyngor newydd*”).”

(4) In the definitions of the following words and phrases omit “new” in each place where it occurs—

““executive committee” (“*pwyllogor gweithredol*”);

“local committee” (“*pwyllogor lleol*”);

“relevant local committee” (“*pwyllogor lleol perthnasol*”);

“services planning committee” (“*pwyllogor cynllunio gwasanaethau*”).”

**Composition of Councils**

4.—(1) Regulation 3 (composition of councils) of the principal Regulations is amended as follows.

(2) For paragraph (2) substitute—

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<sup>(1)</sup> S.I. 2010/288 (W. 37).

“(2) In addition to the members appointed in accordance with paragraph (1) and (3A), a Council may from time to time co-opt such members as appear to the Council to be necessary for the performance by that Council of its functions, and such members may be appointed to sit on any committee or joint committee of that Council.”

(3) For paragraph (3) substitute—

“(3) Members co-opted by a Council in accordance with paragraph (2) may not vote in any meetings or proceedings of a Council or its committees or joint committees.”

(4) After paragraph (3) insert—

“(3A) In addition to the members appointed in accordance with paragraphs (1) and (2), the Welsh Ministers may from time to time, in response to advice provided by the CHC Board under regulation 32(2)(h), co-opt such members to a Council as appear to the Welsh Ministers to be necessary for improving the performance of that Council, and such members may be appointed to sit on any committee or joint committee of that Council.

(3B) Members co-opted by the Welsh Ministers in accordance with paragraph (3A) may vote in any meetings or proceedings of a Council or its committees or joint committees.”

#### **Term of appointment of co-opted members**

5.—(1) Regulation 5 (term of appointment of co-opted members) of the principal Regulations is amended as follows.

(2) For regulation 5 substitute—

“5. Co-opted members may not be appointed for a period exceeding two years and must not be reappointed as co-opted members after the expiry of their term.”

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

6.—(1) Regulation 6 (appointment of members by local authorities) of the principal Regulations is amended as follows.

(2) For paragraph (2) substitute—

“(2) At least one person appointed in accordance with this regulation must be a member of the local authority which appoints them.”

(3) In paragraph (3) after the words “local authority” in the first place where they occur insert “from its membership”.

#### **Procedures for appointment of members**

7.—(1) Regulation 9 (procedures for appointment of members) of the principal Regulations is amended as follows.

(2) In paragraph (d) after “competence” insert “and conduct”.

#### **Code of Conduct**

8. After regulation 9 of the principal Regulations insert—

##### **“Code of Conduct**

9A. On appointment, each member and co-opted member must give a written undertaking to observe any code of conduct applying from time to time to members and co-opted members of a Council in their capacity as such.”

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

**9.**—(1) Regulation 10 (eligibility of members for reappointment) of the principal Regulations is amended as follows.

(2) In paragraph (1) for “(2) and (3)” substitute “(2), (3) and (4)”.

(3) After paragraph (3) insert—

“(4) When calculating the eight year period referred to in paragraph (2), all periods of service as a co-opted member must be disregarded.”

### **Term of office – transitional arrangements for members already appointed to continued Councils**

**10.** Omit regulation 11 of the principal Regulations.

### **Termination of membership and suspension of members**

**11.**—(1) Regulation 13 (termination of membership and suspension of members) of the principal Regulations is amended as follows.

(2) For paragraph (1) substitute—

“(1) This regulation applies to any person who is appointed as a member of a Council under regulation 3.”

(3) For paragraph (7) substitute—

“(7) The Welsh Ministers may not terminate or suspend a member’s term of office under this regulation without being recommended to do so by the CHC Board. The CHC Board may not make such a recommendation without having consulted the relevant Council, and, where the Welsh Ministers did not appoint the member, the body which appointed the member.”

### **Election of chair and vice-chair**

**12.**—(1) Regulation 15 (election of chair and vice-chair) of the principal Regulations is amended as follows.

(2) For paragraph (1) substitute—

“(1) Subject to paragraphs (3), (4) and (5), the members of a Council must elect—

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

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

for a maximum period of three years, 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 must notify the Welsh Ministers and the CHC Board immediately in writing of the names of the persons so elected.”

(3) In paragraph (2) for “two” substitute “three”.

(4) Omit paragraph (8).

### **Application of regulations 17 to 19**

**13.** Omit regulation 16 of the principal Regulations.

**Appointment of committees to be known as Local Committees**

14.—(1) Regulation 17 (appointment of committees to be known as local committees) of the principal Regulations is amended as follows.

- (2) In paragraph (1) omit “at numbers 1 to 6”.

**Appointment of other committees by a Council**

15.—(1) Regulation 20 (appointment of other committees by a council) of the principal Regulations is amended as follows.

- (2) For paragraph (3) substitute—

“(3) The executive committee must determine the constitution and standing orders of committees appointed under this regulation, which may be varied or revoked only with the approval of the executive committee.”

- (3) Omit paragraph (4).

**Appointment of joint committees by a Council**

16.—(1) Regulation 21 (appointment of joint committees by a council) of the principal Regulations is amended as follows.

- (2) For paragraph (2) substitute—

“(2) Where Councils are appointing a joint committee, the executive committees of all such appointing Councils must together determine the constitution and standing orders of the joint committee which is appointed under this regulation, which may be varied or revoked only with the approval of those executive committees.”

- (3) Omit paragraph (3).

**Officers**

17.—(1) Regulation 23 (officers) of the principal Regulations is amended as follows.

- (2) For paragraph (2) substitute—

“(2) The Welsh Ministers may direct a Welsh NHS Trust or a Local Health Board to—

- (a) employ a person to act as Chief Officer of a Council or of a number of Councils;
- (b) employ persons to act as such other officers of a Council or of a number of Councils as the Welsh NHS Trust or Local Health Board so directed considers necessary.”

- (3) For paragraph (3) substitute—

“(3) Persons employed under this regulation may include a person to be known as a Deputy Chief Officer of a local committee or of a number of local committees established under regulation 17.”

- (4) In paragraph (4) after “Council” insert “or Councils”.

**Performance of Functions**

18.—(1) Regulation 26 (performance of functions) of the principal Regulations is amended as follows.

- (2) After paragraph (2) insert—

“(3) In carrying out its functions each Council must have regard to any standards in relation to the performance of its functions set by the CHC Board.”

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

**19.**—(1) Regulation 27 (consultation of councils by relevant health service bodies) of the principal Regulations is amended as follows.

(2) In paragraphs (6), (7) and (9) after “may” where it first occurs, insert “, having regard to any standards set by the CHC Board,”.

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

**20.**—(1) Regulation 29 (entry and inspection of premises) of the principal Regulations is amended as follows.

(2) In paragraph (5) after “Welsh Ministers” insert “, and to any standards set by the CHC Board”.

### **Independent complaints advocacy**

**21.**—(1) Regulation 31 (independent complaints advocacy) of the principal Regulations is amended as follows.

(2) After “must” insert “, having regard to any standards set by the CHC Board,”.

### **Functions**

**22.**—(1) Regulation 32 (functions) of the principal Regulations is amended as follows.

(2) For paragraph (2) substitute—

“(2) With effect from the 1 April 2015 the CHC Board has the functions of—

- (a) advising Councils with respect to the performance of their functions;
- (b) setting standards for Councils with respect to the performance of their functions, in particular, in relation to—
  - (i) the provision of complaints advocacy services,
  - (ii) the scrutiny of the operation of the health service, including the inspection of premises,
  - (iii) engagement with the local population within their district, Local Health Boards and NHS Trusts,
  - (iv) the production and content of reports to the Welsh Ministers that may be made under regulation 27 (7) and (9);
- (c) assisting Councils in the performance of their functions;
- (d) representing the collective views and interests of Councils to the Welsh Ministers;
- (e) monitoring and managing the performance of Councils and ensuring the consistent application by all Councils of the standards set in accordance with paragraph (2)(b);
- (f) monitoring and managing the conduct of members and co-opted members appointed under regulation 3 with a view to ensuring their observance with any code of conduct applying to members and co-opted members of a Council in their capacity as such;
- (g) monitoring the conduct and performance of officers employed under regulation 23;
- (h) advising the Welsh Ministers of any Councils who are failing in the performance of their functions and the application of the standards set in accordance with paragraph (2)(b);

- (i) advising the Welsh Ministers of any members and co-opted members who are failing to observe any code of conduct applying to members and co-opted members of a Council in their capacity as such; and
- (j) operating a complaints procedure in accordance with regulation 33.”

### **Composition of the CHC Board**

**23.**—(1) Regulation 34 (composition of the CHC Board) of the principal Regulations is amended as follows.

- (2) In paragraph (1) for “2010” substitute “2015”.
- (3) For paragraph (1)(a) substitute—
  - “(a) seven are comprised of the persons appointed as chair of each of the seven Councils, one of whom is to be elected, by the seven members acting jointly, as the vice-chair;”.
- (4) For paragraph (1)(c) substitute—
  - “(c) one is appointed to act as chair by the Welsh Ministers in accordance with paragraph (4);”.
- (5) Omit paragraph (1)(d).
- (6) In paragraph (1)(e) for “Director” substitute “Chief Executive”.
- (7) After paragraph (1)(e) insert—
  - “(f) two are appointed by the Welsh Ministers in accordance with paragraph (4).”
- (8) For paragraph (4) substitute—
  - “(4) Appropriate arrangements must be in place for the selection and appointment by the Welsh Ministers of persons, who are not members of a Council, as chair and members under paragraph (1)(c) and (f) and those arrangements must take into account—
    - (a) the principles from time to time laid down by the Commissioner for Public Appointments;
    - (b) the requirement that the selection and appointment of members be open and transparent;
    - (c) the requirement of fair and open competition in the selection and appointment of the successful candidates.”
- (9) In paragraphs (5) and (6) for “two” substitute “three”.
- (10) In paragraph (7)—
  - (a) for “(d)” substitute “(f)”; and
  - (b) for “two” substitute “four”.
- (11) In paragraph (8) in each place where it occurs for “Director” substitute “Chief Executive”.

### **Eligibility of Board Members for re-appointment to the CHC Board**

**24.**—(1) Regulation 35 (eligibility of board members for re-appointment to the CHC Board) of the principal Regulations is amended as follows.

- (2) In paragraph (1)—
  - (a) for “to (d)” substitute “and (b)”; and
  - (b) for “two” substitute “three”.
- (3) After paragraph (1) insert—

“(1A) A Board member appointed under paragraph (1)(c) and (f) of regulation 34 may serve a maximum period of four years.”

(4) In paragraph (2)—

(a) for “two” substitute “three”; and

(b) for “(d)” substitute “(f)”.

(5) After paragraph (2) insert—

“(2A) When calculating the four year period referred to in paragraph (1A) all periods of service as a Board member must be aggregated, which includes all periods of service before the 1 April 2010 and all periods of service resulting from any appointment under paragraph (1)(a) to (f) of regulation 34.”

(6) In paragraph (3) in each place where it occurs for “Director” substitute “Chief Executive”.

(7) Omit paragraph (4).

### **Support Staff**

**25.**—(1) Regulation 36 (support staff) of the principal Regulations is amended as follows.

(2) For paragraph (2) substitute—

“(2) The Welsh Ministers may direct a Welsh NHS Trust or Local Health Board to—

(a) employ a person to act as Chief Executive of the CHC Board; and

(b) employ such persons to act as officers for the CHC Board as the Welsh NHS Trust or Local Health Board so directed considers necessary.”

(3) Omit paragraph (3).

### **Finance, Accounts and Indemnity**

**26.** For the heading of Part VI substitute—

“Finance, Accounts and Indemnity”.

### **Indemnity**

**27.** After regulation 41 (accounts) of the principal Regulations insert—

#### **“Indemnity**

**41A.**—(1) The Welsh Ministers may indemnify a Council or the CHC Board against any reasonable legal costs and expenses reasonably incurred in connection with the exercise of their functions.

(2) The terms of any indemnity given may be such as the Welsh Ministers may determine.”

### **Total number of members to be appointed to membership of a Council by the appointing bodies**

**28.**—(1) Schedule 1 (total number of members to be appointed to membership of a council by the appointing bodies under regulation 3) to the principal Regulations is amended as follows.

(2) In column 1 for item 7 substitute “Powys Community Health Council”.

(3) In columns 2 and 3 for item 7 substitute “6”.

(4) In column 4 for item 7 substitute “12”.

- (5) Omit item 8.

**Community Health Councils and Local Authority Areas or parts thereof for which appointments are made and Local Committees established**

**29.**—(1) Schedule 2 (community health councils and local authority areas or parts thereof for which appointments are made and, in respect of new councils, local committees established) to the principal Regulations is amended as follows.

- (2) For the heading substitute—

“Community Health Councils and Local Authority Areas or parts thereof for which appointments are made and local committees established”.

- (3) For the heading of column 2 substitute—

“Local Authority Areas or parts thereof for which appointments are made and local committees established”.

- (4) In column 1 for item 7 substitute “Powys Community Health Council”.

- (5) In column 2 for item 7 substitute—

“(i) The district of Radnorshire and Brecknock which form part of the Principal Local Government Area of Powys

(ii) The district of Montgomeryshire which forms part of the Principal Local Government Area of Powys including the communities of Llanrhaeadr-ym-Mochnant, Llansilin and Llangedwyn”.

- (6) Omit item 8.

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