

2015 No. 509 (W. 43)

**NATIONAL HEALTH
SERVICE, WALES**

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010 (“the principal Regulations”).

Regulation 3 amends definitions in the principal Regulations.

Regulations 4 and 5 make provision about co-opted members of Community Health Councils (“Councils”). Regulation 4 amends regulation 3 of the principal Regulations to remove reference to a new Council and to provide that the Welsh Ministers may, in response to advice from the Community Health Council Board (“CHC Board”), co-opt members to a Council. Members co-opted by the Welsh Ministers may vote in any meetings of a Council or its committees or joint committees. Regulation 5 amends regulation 5 of the principal Regulations to provide a maximum term of appointment for co-opted members of two years.

Regulation 6 amends regulation 6 of the principal Regulations to provide a local authority with the option of appointing persons to a Council who are not its members, provided that at least one appointment is from within its membership.

Regulation 7 amends regulation 9 of the principal Regulations to include standard of conduct as a factor which is considered in the selection and appointment of persons as members of Councils.

Regulation 8 inserts regulation 9A into the principal Regulations to require each member and co-opted member of a Council to give a written undertaking to

observe a code which relates to their conduct as a member of a Council which is in force.

Regulation 9 amends regulation 10 of the principal Regulations to clarify that service as a co-opted member must be disregarded when calculating the maximum term of appointment of eight years.

Regulation 10 omits regulation 11 of the principal Regulations.

Regulation 11 amends regulation 13 of the principal Regulations to provide that the Welsh Ministers may only terminate or suspend a member's term of office on the recommendation of the CHC Board. The CHC Board may only make such a recommendation if it has undertaken consultation in accordance with the amended regulation.

Regulation 12 amends regulation 15 of the principal Regulations to remove the provision in relation to continued Councils.

Regulation 13 omits regulation 16 of the principal Regulations.

Regulation 14 amends regulation 17 of the principal Regulations to reflect the amendment made to Schedule 2 to the principal Regulations.

Regulation 15 amends regulation 20 of the principal Regulations to provide that the executive committee of a Council must determine the constitution and standing orders of any committees appointed under the regulation. Regulation 15 also amends regulation 20 of the principal Regulations to remove references to new and continued Councils.

Regulation 16 amends regulation 21 of the principal Regulations to provide that where Councils are appointing a joint committee, the executive committees of all the appointing Councils must together determine the constitution and standing orders of the joint committee which may only be varied or revoked with the approval of those executive committees. Regulation 16 also amends regulation 21 of the principal Regulations to remove references to new and continued Councils.

Regulation 17 amends regulation 23 of the principal Regulations to provide that persons may be employed to act as officers of more than one Council.

Regulations 18, 19, 20 and 21 amend regulations 26, 27, 29 and 31 of the principal Regulations respectively to require Councils to have regard to standards set by the CHC Board.

Regulation 22 amends regulation 32 of the principal Regulations to provide that the CHC Board has the additional functions of setting standards to which

Councils must have regard, managing the performance of Councils and the conduct of Council members, and advising the Welsh Ministers of inadequate performance of Councils and breaches of any code of conduct by members.

Regulation 23 amends regulation 34 of the principal Regulations in relation to the composition of the CHC Board and its members' terms of office to provide that the seven chairs of the individual Councils are members of the CHC Board with a maximum term of appointment of three years, the seven Council chairs elect one of their number as the vice-chair of the CHC Board, the "Director" of the CHC Board is renamed the "Chief Executive", and the Welsh Ministers appoint, from outside of the membership of the Councils and the CHC Board, the chair and two members of the CHC Board whose maximum terms of appointment are four years. The arrangements for the appointments by the Welsh Ministers must take into account the principles applicable to public appointments.

Regulation 24 amends regulation 35 of the principal Regulations to reflect the maximum terms of appointment of CHC Board members and to remove provision in relation to "continued Councils".

Regulation 25 amends regulation 36 of the principal Regulations to remove the requirement for the CHC Board to be consulted and approve the appointments of the CHC Board's Chief Executive and support staff.

Regulations 26 and 27 amend the principal Regulations to include provision for the Welsh Ministers to indemnify a Council or the CHC Board on terms which the Welsh Ministers may agree.

Regulations 28 and 29 amend Schedules 1 and 2 to the principal Regulations to reflect the abolition of the "continued Councils" and the establishment of Powys Community Health Council.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained at the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff CF10 3NQ.

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**NATIONAL HEALTH
SERVICE, WALES**

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

Made 3 March 2015

Laid before the National Assembly for Wales
6 March 2015

Coming into force 1 April 2015

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 12, 19, 187(1) and 203(9) and (10) of, paragraph 7(3) of Schedule 2 to, paragraph 25(3) of Schedule 3 to, and paragraphs 2, 2A(2), 3 and 4 of Schedule 10 to, the National Health Service (Wales) Act 2006(3).

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—

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- (1) Section 187 of the National Health Service (Wales) Act 2006 (c. 42) as amended by section 180 of the Social Services and Well-being (Wales) Act 2014 (anaw 4).
- (2) Paragraph 2A of Schedule 10 to the National Health Service (Wales) Act 2006 (c. 42) as inserted by the Health Act 2009 (c. 21), section 19, Schedule 3, Part 1, paragraphs 14, 16(1) and (3).
- (3) 2006 c. 42.

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

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” (“*pwyllgor gweithredol*”);

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

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

“services planning committee” (“*pwyllgor 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—

“(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.”

(1) S.I. 2010/288 (W. 37).

(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.

Mark Drakeford

Minister for Health and Social Services, one of the Welsh Ministers

3 March 2015