
STATUTORY INSTRUMENTS

1985 No. 304**NATIONAL HEALTH SERVICE, ENGLAND AND WALES****The Community Health Councils Regulations 1985***Made* - - - 1st March 1985*Laid before Parliament* 11th March 1985*Coming into Operation* 1st April 1985**ARRANGEMENT OF REGULATIONS****PART I—GENERAL**

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The Secretary of State for Social Services, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of powers conferred upon them by sections 13(1) and 14(2) of, and paragraph 2 of Schedule 7 to, the National Health Service Act 1977(a) and of all other powers enabling them in that behalf, hereby make the following regulations:—

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Community Health Councils Regulations 1985 and shall come into operation on 1st April 1985.

(2) In these regulations, unless the context otherwise requires —

(a) “the Act” means the National Health Service Act 1977;

“appointing body” means an establishing authority, a relevant local authority or a voluntary organisation;

“Committee” means a Family Practitioner Committee established by order made under section 10(1) of the Act(b);

“Council” means a Community Health Council;

“district” means, in relation to a Council, the locality for which it is established, whether that locality consists of the district or part of the district of a District Authority or such a district or part together with the district or parts of districts of other District Authorities;

“District Authority” means a District Health Authority;

“establishing authority” in relation to England means the Secretary of State or a Regional Authority exercising functions on his behalf and in relation to Wales means the Secretary of State;

“member” means member of a Council;

“Regional Authority” means a Regional Health Authority;

(a) 1977 c.49; paragraph 2 of Schedule 7 was amended by paragraph 15 of Schedule 3 to the Health and Social Security Act 1984 (c.48).

(b) Section 10 was substituted by section 5(1) of the Health and Social Security Act 1984.

“relevant Committee” means a relevant Family Practitioner Committee in relation to a Council’s district within the meaning of paragraph 8 of Schedule 7 to the Act(a);

“relevant District Authority” means, in relation to a Council, any District Authority determined by the relevant establishing authority in accordance with regulation 3(2) to be a relevant District Authority in relation to that Council;

“relevant local authority” means, in relation to a Council, the council of a London borough or of a county or district as defined in relation to England in section 270(1) of the Local Government Act 1972(b) or of a county or district mentioned in section 20(3) of that Act (which relates to Wales) or the Common Council of the City of London, of which the area or part of it is in each case included in the Council’s district;

“the Secretary” means the person appointed under regulation 14 to act as Secretary to a Council;

“voluntary organisation” means any body (other than a public or local authority) of which the activities are carried on otherwise than for profit;

(b) a reference to a numbered regulation is to the regulation in these regulations bearing that number and a reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

PART II

ESTABLISHMENT AND MEMBERSHIP OF COUNCILS

Exercise of functions relating to Councils

2.—(1) It shall be the duty of each Regional Authority, subject to and in accordance with these regulations and in accordance with any other directions which may be given by the Secretary of State, to exercise on behalf of the Secretary of State, as respects its region and anywhere outside its region that the Secretary of State may direct—

- (a) his functions under section 20(1) and (2) of the Act with respect to the establishment of Councils;
- (b) his functions under paragraph 6 of Schedule 7 to the Act with respect to the payment to members of travelling and other allowances; and
- (c) any function of his as an establishing authority under any provision of these regulations.

(2) Each Regional Authority shall secure that, except as provided by paragraph (3), the functions of the Secretary of State specified in paragraph (1)(a) and (c) are not made exercisable by any District Authority of which the district is included in its region.

(a) Paragraph 8 was added by paragraph 17 of Schedule 3 to the Health and Social Security Act 1984.
(b) 1972 c.70.

(3) Directions may be given by a Regional Authority to a District Authority of which the district is included in its region to exercise functions under section 20(1) and (2) of the Act or under any provision of these regulations to such extent as is necessary to enable an establishing authority to require the assistance of a relevant District Authority in—

- (a) inviting applications from voluntary organisations in accordance with regulation 6;
- (b) appointing officers of a Council under regulation 14;
- (c) administering arrangements made for the provision of accommodation, services and other facilities under regulation 15; and
- (d) paying such expenses of a Council as are approved by the establishing authority in accordance with regulation 16.

(4) Each Regional Authority shall secure, by directions given by an instrument in writing, that, for each Council established by that Authority, a specified relevant District Authority shall, in accordance with any directions which may be given by the Secretary of State, exercise the functions specified in paragraph (1)(b).

(5) A District Authority in Wales shall, in accordance with any directions which may be given by the Secretary of State, assist the Secretary of State in—

- (a) inviting applications from voluntary organisations in accordance with regulation 6;
- (b) appointing officers of a Council under regulation 14;
- (c) administering arrangements made for the provision of accommodation, services and other facilities under regulation 15; and
- (d) paying such expenses of a Council as are approved by the Secretary of State in accordance with regulation 16;

and, subject to and in accordance with any such directions, shall exercise his functions under paragraph 6 of Schedule 7 to the Act with respect to the payment to members of travelling and other allowances.

Number, size and composition of Councils

3.—(1) The number of Councils to be established by an establishing authority, and the district for which each Council is to be established, shall be determined by that authority and that authority may vary the number of Councils established by it and the district for which each such Council is established.

(2) The establishing authority shall determine, in relation to each Council which it establishes, the relevant District Authority or District Authorities and may, at any time, vary that determination.

(3) The number of members and, subject to the following provisions of this regulation, the numerical proportion as between members falling to be appointed by different appointing bodies, shall be such as may be determined on the establishment of a Council by the establishing authority; and, subject to those provisions, an establishing authority may at any time vary the total membership and composition of a Council.

(4) The establishing authority shall secure as respects each Council that at least one member is appointed by each relevant local authority and that at least half of the members consist of persons appointed by relevant local authorities.

(5) The establishing authority shall secure that at least one third of the members are appointed, in accordance with the provisions of regulation 6, by voluntary organisations.

(6) Any member other than a member appointed by a relevant local authority or a voluntary organisation shall be appointed by the establishing authority after consultation with the relevant District Authority, with the relevant Committee and with such other bodies as the establishing authority may consider appropriate.

Term of office of members

4.—(1) Subject to the following provisions of this regulation and to regulations 8 and 9, the term of office of members of a Council shall be four years expiring on the relevant date in any year.

(2) Subject to paragraph (4), of the members first appointed on the establishment of a Council —

- (a) those chosen in accordance with paragraph (3) shall be appointed for a period expiring on the relevant date in the first complete even year; and
- (b) the remainder shall be appointed for a period expiring on the relevant date in the next even year after the first complete even year.

(3) Those members whose period of appointment shall expire in accordance with paragraph (2)(a) shall be chosen by agreement between the appointing bodies or, in default of such agreement, by the establishing authority and those members shall comprise —

- (a) one half (as near as may be) of the members appointed by the relevant local authorities;
- (b) one half (as near as may be) of the members appointed by voluntary organisations; and
- (c) one half (as near as may be) of the members appointed by the establishing authority.

(4) Where a new Council is to be established for the district or part of the district of an existing Council, the establishing authority may determine that the term of office of any member of the existing Council shall cease immediately before the establishment of the new Council.

(5) Subject to regulation 10(1), where, for any reason, a person ceases to be a member before the expiration of the period for which he was appointed, the term of office of any member appointed in his place shall be the remainder of such period.

(6) In this regulation —

“even year” means 1986 or a year beginning two years or a multiple of two years after the beginning of 1986;

“first complete even year” means the next even year after the year in which a Council was established; and

“relevant date” means 31st August in England and 30th June in Wales.

Appointment of members by local authorities

5.—(1) Where the number of members to be appointed to a Council by relevant local authorities allows for such members to be appointed in addition to the one member to be appointed by each relevant local authority, the appointment of such additional members shall be made by agreement between the relevant local authorities or, in default of such agreement by such date as the establishing authority may specify, by such of the relevant local authorities as the establishing authority may determine.

(2) A member appointed by a local authority may be, but need not be, a member of that local authority but, if he is a member of that authority, he shall cease to be a member two months after ceasing to be a member of that authority unless either —

(a) that authority within those two months gives notice in writing to the Secretary and to the establishing authority that the person appointed as a member is to continue as such; or

(b) the person so appointed ceased to be a member of that authority by reason of retirement and has been re-elected a member of that authority not later than the day of his retirement.

Appointment of members by voluntary organisations

6.—(1) The establishing authority shall invite such voluntary organisations as it shall determine, being organisations which in its opinion have an interest in the health service in the district of the Council, to take part in appointing members of the 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 their number, either acting alone or jointly with one or more other voluntary organisations, shall make the appointment of those members to be appointed by a voluntary organisation.

(3) In default of unanimous agreement for the purposes of paragraph (2), by such date as the establishing authority may specify for reaching agreement, by the voluntary organisations invited to take part in appointing members, the establishing authority shall determine which voluntary organisation or voluntary organisations shall make any appointment and whether the appointment should be made by such organisations acting alone or jointly with one or more other organisations.

(4) A member appointed by a voluntary organisation or by two or more such organisations acting jointly may be, but need not be, a member of an appointing body.

Eligibility of members for re-appointment

7.—(1) Subject to paragraph (2) and to regulation 8, a member shall, on the expiration of his term of office, be eligible for re-appointment.

(2) A person who has been a member for completed terms of office of which eight or more consecutive years have fallen after 31st August 1982 in respect of service on a Council in England, or 30th June 1982 in respect of service on a Council in Wales, shall not be eligible for re-appointment unless he has not been a member for a period of not less than four years immediately preceding the date of re-appointment.

Disqualification for membership

8.—(1) A person shall be disqualified for appointment as a member and for being a member of a Council if he is a member of a Regional Authority, a District Authority or a Committee.

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

- (a) a health authority;
- (b) the Public Health Laboratory Service Board referred to in section 5(4) of the Act;
- (c) the Dental Estimates Board referred to in section 37 of the Act^(a);
- (d) the National Radiological Protection Board established by section 1 of the Radiological Protection Act 1970^(b);
- (e) a Committee;
- (f) a preserved Board within the meaning of section 15 of the National Health Service Reorganisation Act 1973^(c);
- (g) an Area Health Authority.

(3) Subject to paragraph (4), where a person is disqualified under paragraph (2) he may, after the expiry of a period of not less than two years commencing with the dismissal, apply in writing to the Secretary of State to remove the disqualification, and the Secretary of State may direct that the disqualification shall cease.

(a) See regulation 9 of the National Health Service (General Dental Services) Regulations 1973 (S.I. 1973/1468).

(b) 1970 c.46.

(c) 1973 c.32.

(4) Where the Secretary of State refuses a person's application to remove a disqualification no further application may be made by that person until the expiry of two years from the date of that application.

(5) Paragraphs (2) to (4) shall not disqualify a member in respect of a term of office commencing before 1st April 1982.

Termination of membership

9.—(1) A member may resign at any time during the period for which he was appointed on giving notice in writing to the Secretary who shall forthwith notify the relevant appointing body and the establishing authority.

(2) If a member has not attended a meeting of the Council to which he belongs, or a committee thereof to which he belongs, for a period of six months the Council shall report his absence to the relevant appointing body and to the establishing authority, and that authority, after consultation with the relevant appointing body (if the establishing authority is not itself that appointing body), shall, unless it is satisfied that the absence was due to reasonable cause, declare that his place on the Council has become vacant and on the making of such a declaration that person shall cease to be a member.

(3) If the establishing authority is of the opinion that a member has been guilty of misconduct such as to render him unfit to be a member, it may, subject to paragraph (4), terminate that member's term of office.

(4) An establishing authority shall not terminate a member's term of office under paragraph (3) without having consulted the relevant appointing body and the Council.

(5) In this regulation "relevant appointing body" means, in relation to a member, the appointing body which appointed him.

Variation of Councils and of their membership

10.—(1) Where the number of Councils established by an establishing authority or the district for which any Council is established is varied at any time in accordance with regulation 3(1) or where the membership of a Council is varied at any time in accordance with regulation 3(3) —

- (a) the establishing authority may terminate the appointment of any member of a Council as established immediately prior to such variation; and
- (b) the term of office of any original member appointed in accordance with any variation made shall be for such period, not exceeding four years, expiring in England on 31st August and in Wales on 30th June in any year, as the establishing authority shall in each case determine.

(2) Paragraph (1) shall not apply where an establishing authority has power to determine that the term of office of a member shall cease under regulation 4(4).

PART III

CONSTITUTION AND PROCEEDINGS OF COUNCILS

Election of chairman and vice-chairman

11.—(1) The members shall elect one of their number to be chairman for such period as the Council may determine on making the election, not being a longer period than the remainder of the period of his membership of the Council during which he is elected; and the Secretary shall forthwith notify the establishing authority of the name of the chairman so elected.

(2) The members shall elect one of their number, other than the chairman, to be vice-chairman for such period as the Council may determine on making the election, not being a longer period than the remainder of the period of his membership of the Council during which he is elected; and the Secretary shall forthwith notify the establishing authority of the name of the vice-chairman so elected.

(3) Any member elected to be chairman or vice-chairman may at any time resign from such office by giving notice in writing to the Secretary, who shall forthwith notify the establishing authority, and the members of the Council shall thereupon elect another of their number as chairman or vice-chairman in accordance with the provisions of this regulation.

Appointment of committees and joint committees

12.—(1) Subject to paragraph (2), a Council may appoint 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 and any such committees shall consist wholly or partly of persons who are members of the Council.

(2) Except in any particular case which the establishing authority may for special reasons allow, not less than two thirds of the members of any committee appointed by a Council must be members of that Council.

(3) A Council may, together with one or more other Councils, appoint a joint committee, of which the members consist 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 those Councils.

Meetings and proceedings

13. The provisions of the Schedule to these regulations shall apply with respect to meetings and proceedings of a Council.

Officers

14.—(1) The establishing authority shall appoint a person acceptable to the Council to act as Secretary of the Council and shall also, after consultation with the Council and subject to acceptance by the Council of any individual officer appointed, appoint such other officers for the Council as the establishing authority is satisfied may be necessary.

(2) The appointment of a person to act as Secretary of a Council or of another officer of a Council shall be made by the establishing authority 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 a health authority in accordance with any regulations made and any directions given by the Secretary of State under paragraph 10 of Schedule 5 to the Act and their services shall be made available to the Council by the employing authority for the period of the appointment.

Premises and other facilities

15.—(1) It shall be the duty of the establishing authority —

(a) to provide a Council with such office and other accommodation as that authority considers necessary to enable the Council to perform its functions; and

(b) to secure that arrangements are made for the administration, maintenance, cleaning and other services for such accommodation;

but arrangements for the provision of such accommodation and such services may, with the approval of the establishing authority, be made by the Council.

(2) The establishing authority may make available to a Council any facilities (including use of any premises and the use of any vehicle, plant or apparatus) provided for any service under the Act and the services of persons employed by a health authority, so far as the establishing authority considers such facilities and services necessary to enable the Council to perform its functions.

Expenses

16.—(1) It shall be the duty of the establishing authority—

(a) to approve such expenses as it considers may reasonably be incurred by a Council for the purpose of performing functions conferred on the Council by virtue of the Act; and

(b) to make arrangements for the payment of sums equal to such expenses as it has approved.

(2) Each Council shall submit to the establishing authority, in such form and by such date as the establishing authority may specify, such estimates of expenditure which it expects to incur for such financial years as the establishing authority may require.

(3) An establishing authority may approve estimates submitted under paragraph (2) with or without modification or subject to such conditions as it thinks fit and may at any time vary such approval or conditions.

(4) It shall be the duty of a Council not to incur expenses in excess of the expenses approved for that Council by the establishing authority.

Reports

17.—(1) It shall be the duty of a Council as soon as practicable after the completion of one year from the date of its establishment and thereafter as soon as reasonably practicable after the completion of each successive year —

- (a) to make a report to the establishing authority on the performance of its functions during the preceding year;
- (b) to furnish copies of that report to each relevant District Authority and each relevant Committee; and
- (c) to take such steps as appear to the Council to be necessary to secure that that report is made known to the public in its district.

(2) Upon receipt of the report each relevant District Authority and each relevant Committee shall furnish to the Council comments on that report and shall include in such comments a record of any steps taken by that District Authority or Committee in consequence of advice given or proposals made by the Council, and it shall be the duty of a District Authority or Committee furnishing comments on any report to secure that those comments are made known to the public in the district of the Council.

PART IV**PERFORMANCE OF FUNCTIONS***Advising on operation of the health service*

18. It shall be the duty of each Council to keep under review the operation of the health service in its district and make recommendations for the improvement of that service or otherwise advise any relevant District Authority and any relevant Committee upon such matters relating to the operation of the health service within its district as the Council thinks fit.

Consultation of Councils by relevant District Authority or Committee

19.—(1) Subject to paragraph (2), it shall be the duty of each relevant District Authority and of each relevant Committee to consult a Council on any proposals which the Authority or Committee may have under consideration for any substantial development of the health service in the Council's district and on any such proposals to make any substantial variation in the provision of such service.

(2) Paragraph (1) shall not apply to any proposal on which the District Authority or Committee is satisfied that, in the interest of the health service, a decision has to be taken without allowing time for consultation; but, in any such case, the District Authority or Committee shall notify the Council immediately of the decision taken and the reason why no consultation has taken place.

(3) A District Authority or Committee may specify a date by which comments on any such proposals as are referred to in paragraph (1) should be made by the Council to be taken into consideration by the District Authority or Committee.

(4) In any case where a Council is not satisfied that sufficient time has been allowed under paragraph (3) or that consultation on a proposal has been adequate —

(a) the establishing authority shall have power to require a District Authority to carry out such further consultations with the Council as the establishing authority considers appropriate; and

(b) the Secretary of State shall have power to require a Committee to carry out such further consultations with the Council as the Secretary of State considers appropriate,

and the District Authority or Committee shall reconsider any decision taken on the proposals having regard to such further consultations.

Information to be furnished by relevant District Authority or Committee

20.—(1) Subject to paragraph (2), it shall be the duty of a relevant District Authority and of a relevant Committee to provide a Council with such information about the planning and operation of health services in the district of that Authority or locality of that Committee as the Council may reasonably require in order to carry out its duties.

(2) Confidential information about the diagnosis and treatment of individual patients or any personnel matters relating to individual officers employed by a health authority or Committee shall not be given to any Council or member or officer of a Council and, subject to paragraphs (3) and (4), a District Authority or Committee may refuse to disclose to a Council any other information which the Authority or Committee regards as confidential.

(3) In the event of a relevant District Authority refusing to disclose to a Council information requested, the Council may appeal to the establishing authority and a decision of the establishing authority as to whether the information is reasonably required by the Council in order to carry out its duties or as to whether the District Authority may regard the information as confidential shall be final for the purposes of this regulation.

(4) The provisions of paragraph (3) shall apply in the case of a Committee, but as though any reference in it to a District Authority were a reference to a Committee and any reference in it to the establishing authority were a reference to the Secretary of State.

Inspection of premises by Councils

21. A Council shall have the right to enter and inspect any premises controlled by a relevant District Authority at such times and subject to such conditions as may be agreed between the Council and the District Authority or, in default of such agreement, as may be determined by the establishing authority; except that —

(a) premises or part of premises used as residential accommodation for officers employed by any health authority may not be entered by members of a Council without their having first obtained the consent of the officers residing in such accommodation; and

- (b) premises or parts of premises made available to persons providing general medical services, general dental services, general ophthalmic services or pharmaceutical services may not be entered by members of a Council without their having first obtained the consent of the persons providing such services.

Meeting between Council and relevant District Authority or Committee

22.—(1) It shall be the duty of each relevant District Authority to arrange, not less than once every year, a meeting between members of the Authority, being not less than one third of the whole number of such members, and the members of the Council to discuss such matters relating to the functions of the Council as may be raised by the Council or the relevant District Authority.

(2) It shall be the duty of each relevant Committee to arrange, not less than once every year, a meeting between members of that Committee, being not less than one third of the whole number of such members, and the members of the Council to discuss such matters relating to the functions of the Council as may be raised by the Council or the relevant Committee.

PART V

REVOCATIONS

Revocations

23. The National Health Service (Community Health Councils) Regulations 1973(a) and the National Health Service (Community Health Councils) Amendment Regulations 1982(b) are hereby revoked.

Signed by authority of the Secretary of State for Social Services.

K. Clarke,
Minister of State,
Department of Health and Social Security.

1st March 1985.

Nicholas Edwards,
Secretary of State for Wales.

1st March 1985.

(a) S.I. 1973/2217.

(b) S.I. 1982/37.

Regulation 13

SCHEDULE

MEETINGS AND PROCEEDINGS OF COUNCILS

1. The first meeting of a Council shall be held on such day and at such place as may be fixed by the establishing authority and that authority shall be responsible for convening the meeting.

2. A meeting of the Council shall take place at least once in every three months.

3.—(1) After the first meeting the chairman 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 members, is presented to the chairman and the chairman 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 one third or more of the 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 Secretary or by an officer of the Council authorised by the Secretary to sign on his behalf,

shall be delivered to each member, or sent by post to his usual place of residence or business, so as to be available to him at least seven clear days before the meeting.

(4) Lack 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 chairman, 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 chairman, if present, shall preside.

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

(3) If the chairman and vice-chairman 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 an equality of votes, the person presiding shall have a second and casting vote.

6. The names of members present at the meeting shall be recorded.

7. No business shall be transacted at a meeting unless at least one third of the members are present.

8. The minutes of the proceedings of a meeting shall be drawn up and entered in a book kept for that purpose and shall be signed at the same or next ensuing meeting by the person presiding at it.

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

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations consolidate, with amendments, regulations providing for the establishment of Community Health Councils ("Councils"), for the performance of functions by Councils and for the membership, proceedings, staff, premises and expenses of Councils.

The changes of substance made by these regulations are the inclusion of—

- (a) a provision for termination of membership on the grounds of misconduct (regulation 9(3) and (4));
- (b) a requirement for Councils to send copies of annual reports to Family Practitioner Committees ("Committees") and for Committees to make known to the public their comments on those reports (regulation 17);
- (c) a requirement for Councils to advise Committees on matters relating to the operation of the health service (regulation 18);
- (d) a requirement for Committees to consult Councils on proposals relating to the health service (regulation 19), and to provide information to Councils (regulation 20);
- (e) a requirement for Councils to arrange meetings with Committees at least once a year (regulation 22(2)).

There are also other minor or consequential amendments.

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