

1973 No. 2217

**NATIONAL HEALTH SERVICE, ENGLAND AND WALES****The National Health Service (Community Health Councils)****Regulations 1973**

<i>Made</i> - - - -	<i>28th December 1973</i>
<i>Laid before Parliament</i>	<i>31st December 1973</i>
<i>Coming into Operation</i>	<i>21st January 1974</i>

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 7(1), 7(2) and 9(4) of the National Health Service Reorganisation Act 1973(a) and of all other powers enabling them in that behalf, hereby make the following regulations:—

## PART I

## GENERAL

*Citation and commencement*

**1.** These regulations may be cited as the National Health Service (Community Health Councils) Regulations 1973 and shall come into operation on 21st January 1974.

*Interpretation*

**2.—(1)** In these regulations, unless the context otherwise requires:—

“the Act of 1973” means the National Health Service Reorganisation Act 1973;

“appointing body” means, as appropriate, the Secretary of State, a Regional Health Authority, a local authority, and a voluntary organisation;

“appropriate District, County or Borough Council” means, in relation to a Council, the council of a London Borough or of a County (other than a Metropolitan 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 or the Inner London Education Authority, of which the area or part of it is, in each case, included in the Council’s district;

“Area Authority” means an Area Health Authority;

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 (a) 1973 c. 32.

(b) 1972 c. 70.

“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 area or part of the area of an Area Authority or such an area or part together with the area or parts of the areas of other Area Authorities;

“establishing authority” means the Secretary of State or a Regional Health Authority;

“health authority” means a Regional Health Authority, Area Authority or special health authority;

“member” means member of a Council and “members” shall be construed accordingly;

“relevant Area Authority” means any Area Authority determined by the establishing authority by which a Council is established to be a relevant Area Authority in relation to such 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 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;

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

and any other expression to which a meaning is assigned by the National Health Service Act 1946(a) has that meaning in these regulations.

(2) References in these regulations to any enactment shall include references to such enactment as amended by any subsequent enactment, order or regulations.

(3) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(b) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

## PART II

### ESTABLISHMENT AND MEMBERSHIP OF COUNCILS

#### *Exercise of functions relating to Councils*

3.—(1) It shall be the duty of each Regional Health 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 which the Secretary of State may direct, his functions under section 9(1) and 9(2) of the Act of 1973 with respect to the establishment of Councils and under section 9(4) of that Act with respect to the payment of travelling and other allowances to members and any function of an establishing authority under any provision of these regulations.

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(a) 1946 c. 81.

(b) 1889 c. 63.

(2) Each Regional Health Authority shall secure that, except in accordance with the following paragraph of this regulation, the functions of the Secretary of State under section 9(1) and 9(2) of the Act of 1973 with respect to the establishment of Councils or the functions of an establishing authority under any provision of these regulations are not made exercisable by any Area Authority of which the area is included in its region.

(3) Directions may be given by a Regional Health Authority to an Area Authority of which the area is included in its region to exercise functions under section 9(1) and 9(2) of the Act of 1973 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 Area Authority in—

- (a) inviting applications from voluntary organisations in accordance with regulation 7 of these regulations;
- (b) the appointment of officers of a Council under regulation 15 of these regulations;
- (c) administering arrangements made for the provision of accommodation, services and other facilities under regulation 16 of these regulations; and
- (d) the payment of such expenses of a Council as are approved by the establishing authority in accordance with regulation 17 of these regulations.

(4) Each Regional Health Authority shall secure, by directions given by an instrument in writing that, for each Council established by that Authority, a specified relevant Area Authority, shall, in accordance with any directions which may be given by the Secretary of State, exercise the functions under section 9(4) of the Act of 1973 with respect to the payment to members of such travelling and other allowances as the Secretary of State may determine with the consent of the Minister for the Civil Service.

(5) An Area Authority in Wales shall, in accordance with any directions given by the Secretary of State, assist the Secretary of State in—

- (a) inviting applications from voluntary organisations in accordance with regulation 7 of these regulations;
- (b) the appointment of officers of a Council under regulation 15 of these regulations;
- (c) administering arrangements made for the provision of accommodation, services and other facilities under regulation 16 of these regulations;
- (d) the payment of such expenses of a Council as are approved by the Secretary of State in accordance with regulation 17 of these regulations;

and subject to and in accordance with such directions as aforesaid, shall exercise the functions under section 9(4) of the Act of 1973 with respect to the payment to members of such travelling and other allowances as the Secretary of State may determine with the consent of the Minister for the Civil Service.

#### *Number, size and composition of Councils*

4.—(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 after consultation with any appropriate District, County or Borough Council:

Provided that, after consultation as aforesaid, it shall be open to an establishing authority to vary the number of Councils established by that authority and the district for which each such Council is established.

(2) The establishing authority shall determine in relation to each Council established by that authority the relevant Area Authority or Area Authorities and may, at any time, vary such determination.

(3) The number of members of a Council 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 the Council after consultation with each appropriate District, County or Borough Council, by the establishing authority:

Provided that, subject as aforesaid and after such consultation as aforesaid, it shall be open to an establishing authority at any time to vary the total membership and composition of a Council.

(4) The establishing authority shall secure as respects each Council that at least one member of the Council is appointed by each relevant local authority of which the area or part of it is included in the Council's district and that at least half of the members of a Council shall consist of persons appointed by those local authorities.

(5) The establishing authority shall secure that at least one-third of the members of a Council are appointed, in accordance with the provisions of regulation 7 of these regulations, by voluntary organisations.

(6) Any member of a Council other than a member appointed by a relevant local authority or a voluntary organisation, shall be appointed by the establishing authority after consultation, in England with the council of any metropolitan district, non-metropolitan county or London Borough or the Common Council of the City of London, or in Wales the council of any county, of which the area or part of the area is in each case included in the district of the Council and with such other bodies as the establishing authority may consider appropriate.

#### *Term of office of members*

5.—(1) Subject to the following provisions of this regulation the term of office of members shall be 4 years expiring on 30th June in any year.

(2) Where a Council is established before 1st July 1974 such of the original members as the appointing bodies may agree, or in default of such agreement, as the establishing authority may determine; being one half (as near as may be) of the original members appointed by the relevant local authorities, one half (as near as may be) of the original members appointed by voluntary organisations and one half (as near as may be) of the members appointed by the establishing authority; shall be appointed for a period ending on 30th June 1976 and the remainder shall be appointed for a period ending on 30th June 1978.

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

6.—(1) Where the number of members to be appointed to a Council by local authorities allows for such members to be appointed in addition to the one member to be appointed by each 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) Members appointed by local authorities may be, but need not be, a member of the appointing body but, if a person appointed is a member of an appointing body, he shall cease to be a member upon ceasing to be a member of the appointing body unless he ceases to be a member of that body by reason of retirement and had been re-elected a member thereof not later than the day of his retirement.

#### *Appointment of members by voluntary organisations*

7.—(1) The establishing authority shall, by notice advertised at least once in two local newspapers circulating in the district of the Council and in such other manner, if any, as appears to the establishing authority to be desirable for giving publicity to the notice, invite applications from any voluntary organisation with an interest in the health service in the district of the Council for inclusion in the list of such organisations by which members are to be appointed to the Council.

(2) The establishing authority, shall, not less than one month after applications by voluntary organisations have been invited in accordance with the foregoing paragraph of this regulation, determine, after consultation with each appropriate District, County or Borough Council, which voluntary organisations should be invited to take part in appointing members of the Council.

(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:

Provided that, in default of unanimous agreement, by such date as the establishing authority may determine 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*

8.—(1) Subject to the following provisions of this regulation and to regulation 9 of these regulations, 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 two consecutive terms of office 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 such re-appointment.

*Disqualification for membership*

9. A person shall be disqualified for appointment to or being a member of a Council if he is a member of a Regional Health Authority, an Area Authority or a Family Practitioner Committee.

*Termination of membership*

10.—(1) A member may resign at any time during the period for which he was appointed on giving notice in writing to the officer appointed to act as Secretary of the Council who shall forthwith notify the appointing body by which that member was appointed and the establishing authority.

(2) If a member has not attended a meeting of the Council to which he belongs or a committee thereof for a period of six months the Council should report his absence to the appointing body by which he was appointed and to the establishing authority, and the appointing body by which he was appointed shall, if it sees fit, declare that his place on the Council has become vacant and, on such declaration being notified to the establishing authority, that person shall cease to be a member.

*Variation of Councils and of membership thereof*

11.—(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 the proviso to regulation 4(1) of these regulations or where the membership of a Council is varied at any time in accordance with the proviso to regulation 4(3) of these regulations, the establishing authority may terminate the appointment of any member of a Council as established immediately prior to such variation and 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 on 30th June in any year, as the establishing authority shall, in each case determine.

(2) Subject to the foregoing paragraph of this regulation, 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.

## PART III

## CONSTITUTION AND PROCEEDINGS OF COUNCILS

*Election of chairman and vice-chairman*

12.—(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 of the Council 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 of the Council 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 officer appointed to act as Secretary of the Council, 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*

**13.—**(1) 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 such committees may consist wholly or partly of persons who are members of the Council:

Provided that, 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.

(2) 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 such Councils.

*Meetings and proceedings*

**14.—**(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 which shall be responsible for convening the meeting.

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

(3) After the first meeting the chairman may call a meeting of the Council at any time and, if he refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of members, has been presented to him, or if, without so refusing, the chairman does not call a meeting within ten days after such requisition has been presented to him, such one-third or more members may forthwith call a meeting.

(4) Before each meeting of a Council a notice of the meeting, specifying the business proposed to be transacted thereat, and signed by the officer appointed to act as Secretary of the Council or by some other officer of the Council authorised to sign on his behalf, shall be delivered to every member, or sent by post to the usual place of residence of such member, so as to be available to such member at least seven clear days before the meeting:

Provided that want of service of such notice on any member shall not affect the validity of a meeting: and

Provided also that, 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.

- (5) (a) At any meeting of a Council the chairman, if present, shall preside.
- (b) If the chairman is absent from the meeting the vice-chairman, if present, shall preside.
- (c) If the chairman and vice-chairman are absent, such one of their number as the members present shall choose shall preside.
- (6) No business shall be transacted at a meeting unless one-third of the whole number of members are present.
- (7) Every question at a meeting shall be determined by a majority of votes of 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.
- (8) The names of members present at any meeting shall be recorded and the minutes of the proceedings of each 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 thereat.

#### *Officers of Councils*

**15.—**(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 in such manner and for such a period as may be agreed between the establishing authority and the Council and the persons so appointed 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 1 to the Act of 1973 and their services shall be made available to the Council by the employing authority for the period of the appointment.

#### *Premises and other facilities for Councils*

**16.—**(1) It shall be the duty of the establishing authority to provide a Council with such office and other accommodation as that authority considers necessary to enable the Council to perform its functions and 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 services as aforesaid 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 Health Service Acts 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 of Councils*

17.—(1) It shall be the duty of the establishing authority to approve such expenses as that authority considers may reasonably be incurred by a Council for the purpose of performing functions conferred on the Council by virtue of the Act of 1973 and to make arrangements for the payment of sums equal to such expenses as have been approved by such authority.

(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 and that authority may approve such estimates with or without modification or subject to such conditions as it thinks fit and may at any time vary such approval or conditions.

*Reports by Councils*

18.—(1) It shall be the duty of a Council as soon as practicable after the completion of one year from the date of the establishment of such Council and thereafter as soon as reasonably practicable after the completion of each successive year to make a report to the establishing authority on the performance of its functions during the preceding year and to furnish copies of such reports to each relevant Area Authority and to take such steps, as appear to the Council to be necessary, to secure that the report is made known to the public in its district.

(2) Upon receipt of the report each relevant Area Authority shall furnish to the Council comments on such report and shall include in such comments a record of any steps taken by that Area Authority in consequence of advice given or proposals made by the Council, and it shall be the duty of an Area Authority 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*

19. 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 such service or otherwise advise any relevant Area Authority upon such matters relating to the operation of the health service within its district as the Council thinks fit.

*Consultation of Councils by relevant Area Authority*

20.—(1) It shall be the duty of each relevant Area Authority to consult a Council on any proposals which the authority 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:

Provided that this regulation shall not apply to any proposal on which the Area Authority 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 Area Authority shall notify the Council immediately of the decision taken and the reason why no consultation has taken place.

(2) An Area Authority may specify a date by which comments on any such proposals as are referred to in the foregoing paragraph of this regulation should be made by the Council to be taken into consideration by the Area Authority and in any case where a Council is not satisfied that sufficient time has been allowed or that consultation on any such proposal has been adequate, the establishing authority shall have power to require the Area Authority to carry out such further consultations with the Council as the establishing authority considers appropriate and the Area Authority shall reconsider any decision taken on the proposals having regard to such further consultations.

*Information to be furnished by relevant Area Authority*

**21.**—(1) It shall be the duty of a relevant Area Authority to provide the Council with such information about the planning and operation of health services in the area of that Authority as the Council may reasonably require in order to carry out its duties:

Provided that confidential information about the diagnosis and treatment of individual patients or any personnel matters relating to individual officers employed by a health authority should not be given to any Council or member or officer of such Council and, subject to the provisions of the next following paragraph of this regulation, an Area Authority may refuse to disclose to a Council any other information which the Authority regards as confidential.

(2) In the event of a relevant Area Authority refusing to disclose to a Council information requested, the Council may appeal to the establishing authority by which the Council was established 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 Area Authority may regard the information as confidential shall be final for the purposes of this regulation.

*Inspection of premises by Councils*

**22.** A Council shall have the right to enter and inspect any premises controlled by a relevant Area Authority at such times and subject to such conditions as may be agreed between the Council and the Area Authority or, in default of such agreement, as may be determined by the establishing authority:

Provided that—

- (a) premises or parts 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 Area Authority*

**23.** It shall be the duty of each relevant Area Authority to arrange, not less than once every year, a meeting between members of that Authority, being not

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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 Area Authority.

*Keith Joseph,*  
Secretary of State for Social Services.

21st December 1973.

*Peter Thomas,*  
Secretary of State for Wales.

28th December 1973.

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**EXPLANATORY NOTE**

*(This Note is not part of the Regulations.)*

These Regulations make provision as to the establishment of Community Health Councils and the performance of functions by such Councils and for their membership, proceedings, staff, premises and expenses.

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