

The Community Health Councils Regulations 2004

The purpose of these Regulations is to make updated provision for the composition, membership, proceedings, staff, premises, finance and functions of Community Health Councils.

Standing Order 11.5

The following points have been identified for reporting under SO 11.5.

There are two discrepancies in the definitions. The definition of “appointing body” refers to “the Assembly” which is a defined term. The corresponding definition of “corff sy’n penodi” refers to “Cynulliad Cenedlaethol Cymru”, ignoring the defined term “y Cynulliad”. They should correspond.

Similarly, the definition of “relevant local authority” refers to “any county council or county borough council” whilst the corresponding “awdurdod lleol perthnasol” refers to “unrhyw awdurdod lleol” (any local authority). Though both are correct, they should correspond.

The word “shall” is generally reflected in Welsh by “rhaid” (must) as its use as a simple expression of a future intention is generally inappropriate in legislation. However, in three places in regulation 2, “bydd” (will) has been used. It is considered that regulation 2(1) should start with “Rhaid penodi aelodau Cyngor-“, and that after the sub-paragraphs the reference to the Assembly should read “rhaid i’r Cynulliad benderfynu”. Similarly regulation 2(2) should start “Rhaid i’r Cynulliad arfer ei bwerau...”.

The wording of regulation 6(1) “having an interest” / “sydd â buddiant” gives rise to the question of how that is decided. It would be clearer if they were replaced by “as it may determine as having a sufficient interest” / “y mae’n penderfynu fod ganddynt fuddiant digonol”.

The wording of regulation 6(2) is unnecessarily cumbersome. The words “with one or more other voluntary organisations” / “ag un neu fwy o gyrff gwirfoddol eraill” and “of those members who are to be appointed by the voluntary organisations” / “sydd i’w penodi gan y cyrff gwirfoddol” could usefully be removed.

In regulation 7(a), the English text refers to “the Assembly’s Code of Practice”. The reference to the Assembly is absent in the Welsh text, which should read “ac yng Nghod Ymarfer y Cynulliad.”

In regulation 9(1), the words “Subject to paragraph (4)” / “Yn ddarostyngedig i baragraff (4)” should be removed as paragraph (4) does not relate to paragraph (1).

Similarly, in regulation 9(2) “(4)” should be replaced by “(3)”, as it is the latter that affects the operation of paragraph (2).

In regulation 11(2) there should be reference to giving “hysbysiad ysgrifenedig” rather than “rhybudd ysgrifenedig” as it is talking about conveying information rather than a warning.

The Welsh text of regulation 14(1) should start “Rhaid i’r Cynulliad ...” rather than “Bydd y Cynulliad” for the reasons given in relation to regulation 2. In the fourth line of that paragraph, “unrhyw un swyddog” should be replaced by “unrhyw swyddog unigol” as it deals with an individual officer rather than a single officer. This is reflected in regulation 25(1).

In the Welsh text of regulation 16(1)(a), the reference to “reoliad 21” should read “reoliad 22”, which is the regulation that deals with independent advocacy.

In regulation 18(1) the words “a relevant NHS body or bodies” / “corff neu gyrff GIG perthnasol” should be replaced by “a relevant NHS body” / “corff GIG perthnasol” as the plural is not used in the regulation.

In regulation 19(1), “relevant” appears at the start of the list of organisations, whilst “perthnasol” appears after the first item, indicating that it only applies to that one. Both the context and the defined terms suggest that it applies to all the organisations listed, and should therefore appear after “Strategol”.

In the Welsh text of regulation 26(2)(a), the reference to “any vehicle” in the English text is missing. There should be inserted after “fangre,” the words “a defnyddio unrhyw gerbyd,”.

The Welsh text of regulation 27(1) refers to “Rheolau Sefydlog” (Standing Orders). However in referring to the “orders so adopted” it refers to the “gorchmynion a fabwysiedir”. Since it is clearly referring to the Standing Orders it should read “rheolau a fabwysiedir”.

Paragraph 5 of the Schedule refers to “a second and casting vote”. The Welsh text refers to “ail bleidlais a phleidlais fwrw”, which suggests two further votes. It would be clearer if the English text read “a second, casting, vote” and the Welsh “ail bleidlais, a honno’n bleidlais fwrw”.

These matters are considered appropriate for correction by means of a Memorandum of Corrections.

Observations

The abolition of Community Health Councils in England may make it clear to those who know about the subject matter that the Regulations only apply to Wales. Nevertheless, it would be of considerable assistance to those considering legislation, especially electronically, if “(Wales)” were included in the title. This is especially the case as there is no application element in regulation 1.

In regulation 20(1)(f) in the English text, the acronym LPS appears, and in the corresponding 20(1)(dd) the Welsh acronym GFfLI appears. The English acronym can be understood by reference to the Act, but that does not assist with the Welsh. Acronyms should be avoided unless they are either defined terms or explained by footnotes. The insertion of footnotes would be an appropriate way to deal with this at this stage in the legislative process.

A number of punctuation and formatting points appropriate for correction on publication have been identified and notified to the drafting lawyer.

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