

Regulatory Impact Assessment

The Community Health Councils Regulations 2004

1. Purpose and Intended Effect

Unlike in England, the Welsh Assembly Government decided some time ago to retain and strengthen Community Health Councils (CHCs) in Wales as it believes that CHCs are ideally positioned to be at the heart of community involvement on matters relating to the Health Service. The decision was widely supported and the Assembly subsequently sought powers in the Health (Wales) Act 2003 to enable it to make regulations setting out arrangements for and functions of CHCs in Wales. These draft regulations are the first relating to CHCs to be made following Royal Assent and Commencement of the Health (Wales) Act 2003. Much of the content of the new regulations is similar to the existing Community Health Councils 1996 regulations, but with the addition of new provisions relating to membership, complaints advocacy, powers of entry and a new all-Wales body set up to support and advise CHCs on their functions.

2. Risk assessment

It is not considered that the implementation of these regulations will have any significant impact. Nevertheless, because the regulations give CHCs a new power to visit any premises where NHS care is provided and this could potentially include private nursing homes, officials have considered whether the new power given to CHCs will place any undue burden on the care home sector. This sector is already subject to inspection by the Care Standards Inspectorate for Wales (CSIW) and there were concerns that allowing another "inspection-type" body to enter these premises would cause too much disruption to an already fragile sector. Discussions have been held with representatives from the care home sector and CSIW. It was agreed that CHCs would work to an agreed protocol, and, wherever practicable conduct joint visits. In addition, it was agreed that CHCs' role is not to duplicate the efforts of existing inspectorate bodies, but to specifically represent the patient and public and, in that respect, residents of care homes were as entitled as anyone else in the community to this type of representation. An amendment has been made to Regulation 20 to require CHCs to co-operate with other inspectorate bodies, thus minimising the burdens on any one sector.

3. Options

The following options were identified:

- Option 1: Leave things as they are and do not give CHCs the power to enter private care home settings;
- Option 2: Give CHCs completely open powers to enter private care home settings at any time;

Option 3: Give CHCs the power to enter private care home settings, but seek to minimise the impact on the sector by co-ordinating the visits with existing inspectorate bodies.

4. Benefits/disadvantages

Option 1: Care home sector would be relieved of the burden of having to host CHC visits to their premises. However, CHCs would not then be able to represent the interests of those members of the community living in such accommodation.

Option 2: This ensures that patients living in the care home sector can be represented by CHCs but open-ended access has implications for the ability of the sector to cope with demands for information and staff time in order to host visits.

Option 3: This has the benefits of Option 2, but ensures that a sensible approach is taken to co-ordinating visits with existing inspectorate bodies, thus minimising the burdens placed on the sector.

5. Costs

Additional costs to the care home sector for accommodating CHC visits are estimated to be negligible, because of the arrangements set out above.

6. Issues of equity or fairness

These regulations ensure that CHCs can represent all sectors of the community. They also mean that CHCs can examine the NHS care being provided to all sectors of the community and that recommendations or representations can be made to NHS commissioners of that care, in the interests of patients.

7. Consultation

There has already been a 12-week consultation on the regulations and these issues were explored as part of that consultation.

8. Review

The Welsh Assembly Government will be able to monitor the impact of the new regulations through the all-Wales body set up.

9. Summary

Three options were considered. Option 3 was thought to achieve the correct balance between representing the public and addressing the concerns of the care home sector.