



## HEALTH AND SOCIAL CARE OMBUDSMAN BODY (CONSTITUTION, ETC.) REGULATIONS 2022

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Statutory Document No. 2022/0214



*Social Services Act 2011*

## HEALTH AND SOCIAL CARE OMBUDSMAN BODY (CONSTITUTION, ETC.) REGULATIONS 2022<sup>1</sup>

*Approved by Tynwald: 21 July 2022*  
*Coming into operation in accordance with regulation 2*

The Department of Health and Social Care makes the following Regulations under section 26A<sup>1</sup> of the Social Services Act 2011.

### 1 Title

These Regulations are the Health and Social Care Ombudsman Body (Constitution, etc.) Regulations 2022.

### 2 Commencement

If approved by Tynwald, these Regulations come into operation the day after they are approved<sup>2</sup>.

### 3 Interpretation

In these Regulations —

**“commissioned service provider”** means a person who has entered into an agreement with —

- (a) Manx Care under section 17 of the Manx Care Act 2021; or
- (b) the Department under the National Health Service Act 2001, Social Services Act 2011 or the Children and Young Persons Act 2001 and novated to Manx Care under section 13(5) of the Manx Care Act 2021;

**“current registered social worker”** means a person whose name is entered in the register referred to in section 39(1) of the Children and Social Work Act 2017 (of Parliament) or in any analogous register of social workers under any other legislative provision.

<sup>1</sup> Section 26A was inserted by SD 2022/0212.

<sup>2</sup> Under section 29 of the Social Services Act 2011 these Regulations shall not have effect unless they are approved by Tynwald.

**“eligible former registered health care professional”** means a person —

- (a) who was a health care professional for the purposes of the Health Care Professionals Act 2014 and whose name was entered into the register established and maintained by the Health Care Professions Council in respect of professions under the Health and Social Work Professions Order 2011 (of Parliament); and
- (b) who, at any time in the 10 years immediately preceding their appointment as a member of the HSCOB, failed to renew their registration in that register and whose name is at the time of such appointment no longer entered in that register for that reason (and not because it has been removed for some other reason);

**“eligible former registered social worker”** means a person —

- (a) whose name was entered into the register referred to in section 39(1) of the Children and Social Work Act 2017 (of Parliament) or in any analogous register of social workers under any other legislative provision; and
- (b) who, at any time in the 10 years immediately preceding their appointment as a member of the HSCOB, failed to renew their registration in that register and whose name is at the time of such appointment no longer entered in that register for that reason (and not because it has been removed for some other reason);

**“the HSCOB”** means the Health and Social Care Ombudsman Body established under section 26A of the Social Services Act 2011;

**“health care professional”** has the meaning given in the Health Care Professionals Act 2014;

**“Manx Care”** means the statutory board established under the Manx Care Act 2021;

**“member”** means member of the HSCOB, as appointed by the Appointments Commission under section 26A(1) of the Social Services Act 2011;

**“secretary”** means an employee of the Public Services Commission whose duties include the provision of secretarial services to the HSCOB;

**“stationed employer”** has the meaning given in the Public Services Commission Act 2015.

## **4 Membership and composition**

(1) The following persons may not be a member of the HSCOB —

- (a) a member of Tynwald;
- (b) a member of a Statutory Board;
- (c) a person whose stationed employer is the Department;
- (d) a member of Manx Care’s staff;

- (e) in relation to a commissioned service provider (as the case may be) —
  - (i) an employee;
  - (ii) where the service provider is a sole proprietor, that proprietor;
  - (iii) where the service provider is a partnership, a partner;
  - (iv) in any other case, a director of the service provider or a person who is responsible for managing the service provider.
- (2) A member shall hold office for a term not exceeding 5 years beginning with the day on which the member is appointed.
- (3) A member may, upon the expiry of their term of office, be re-appointed for a further term not exceeding 5 years.
- (4) At least one of the persons referred to in section 26A(2)(b) of the Social Services Act 2011 must be —
  - (a) a current registered social worker; or
  - (b) an eligible former registered social worker.
- (5) At least one of the persons referred to in section 26A(2)(b) of the Social Services Act 2011 must be —
  - (a) a current registered health care professional; or
  - (b) an eligible former registered health care professional.

## 5 Vice-chairperson

- (1) The members may appoint a vice-chairperson from one of their number.
- (2) The chairperson is not eligible to be appointed as the vice-chairperson under paragraph (1).

## 6 Training

The Department shall provide and arrange for training in respect of the work of the HSCOB, as it and the HSCOB considers appropriate.

## 7 Remuneration, allowances and expenses

- (1) The Department shall pay the following allowances —

	Column 1 Type of Allowance	Column 2 Recipient	Column 3 Rate/amount (£)
A	Attendance allowance	Chairperson of HSCOB	107.40 per hour or part thereof

	in respect of attending meeting of the HSCOB (including any training)	Other members of HSCOB	89.50 per hour or part thereof
B	Travel allowance in respect of travelling on HSCOB business	Member of HSCOB	<p>(a) when travelling by private vehicle, the rates set out in the Schedule to the Payment of Members' Expenses (Travelling Allowances) Order 2022<sup>3</sup> as in force from time to time.</p> <p>(b) when travelling by public transport, an amount equal to the cost of such travel.</p>

- (2) Where a journey undertaken by a member involves a flight from Ronaldsway Airport, the Department shall reimburse the member any airport parking charges incurred by that member in respect of the journey.

## 8 Resignation, etc. of members of the Health and Social Care Ombudsman Body

- (1) A member may resign from the HSCOB by notice in writing to the Appointments Commission.
- (2) The Appointments Commission may terminate the appointment of a member by giving the member notice in writing to that effect if the Appointments Commission is satisfied that the member is unable or unfit to discharge their functions as a member.
- (3) Paragraph (4)<sup>4</sup> applies where a member ("M") is by reason of physical or mental illness or other reasonable cause, for the time being unable to perform the duties of their office whether generally or in relation to any particular proceeding.
- (4) Where this paragraph applies the Appointments Commission may appoint an alternative member for a period —
  - (a) not exceeding 6 months; or
  - (b) in relation to any particular proceedings, the duration of those proceedings.
- (5) An alternative member appointed under paragraph (4) —
  - (a) in relation to particular proceedings, shall have the same powers as M would have had in respect of those proceedings;

<sup>3</sup> SD 2022/0149.

<sup>4</sup> See correction notice dated 19/07/2022.

- (b) for a period not exceeding 6 months, shall have the same powers as M would have had during that period.

## **9 Conflicts of interest or duty**

- (1) Immediately a member becomes aware that they have, or will have, a material conflict of interest or duty in respect of any proceedings of the HSCOB, the member —
  - (a) must declare the nature of their conflict to —
    - (i) the parties to the proceedings; and
    - (ii) the other members involved in the proceedings; and
  - (b) must not take part in, or any further part in, the proceedings in which the conflict arises.

This paragraph is subject to paragraph (2).

- (2) If a member has declared the nature of their conflict of interest or duty as required by paragraph (1)(a) and all the parties to the proceedings consent, the member may, notwithstanding paragraph (1)(b), take part in those proceedings.

**MADE 30 JUNE 2022**

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.