

A new system of registration

Guide for providers of healthcare
or adult social care



Introduction

About the Care Quality Commission

The Care Quality Commission is the independent regulator of health and adult social care services in England. We also protect the interests of people whose rights are restricted under the Mental Health Act.

Whether services are provided by the NHS, local authorities, private companies or voluntary organisations, we make sure that people get better care. We do this by:

- Driving improvement across health and adult social care.
- Putting people first and championing their rights.
- Acting swiftly to remedy bad practice.
- Gathering and using knowledge and expertise, and working with others.

This publication gives an overview of the new system of registration for health and adult social care in England. It describes the main features of the new system and highlights the key dates involved.

Subject to legislation, from 1 April 2010, NHS trusts that provide regulated activities (including primary care trusts as providers) must be registered with the Care Quality Commission. Providers of adult social care and independent healthcare must be registered with us under the new system from 1 October 2010 (with their registration under the Care Standards Act 2000 continuing until then). Dental services will need to be registered by April 2011 and GP practices by April 2012.

To be registered by us, a provider must show that it is meeting new essential standards of quality and safety across all of its regulated activities.

The legal background

The Health and Social Care Act 2008 requires all providers of a regulated service to be registered with the Care Quality Commission. A service is regulated if it appears in a list of activities described in legislation (see pages 8 and 9).

The Standards for Better Health for NHS trusts and the existing regulations made under the Care Standards Act 2000, together with the National Minimum

Standards for providers of adult social care and independent healthcare, are all being replaced by new essential standards of quality and safety across the care sector. These are set out in the draft Health and Social Care Act 2008 (Regulated Activities) Regulations 2009 (available at www.opsi.gov.uk/si/dsis2009), which are currently before Parliament.

How the new registration system will improve people's care

Under the new system, people who use services will be able to expect that all registered providers meet the same set of essential standards of quality and safety, and respect their dignity and rights. All services will have to meet the same standards of quality and safety – whether they are provided in a person's home, in the community or in a hospital, and irrespective of how the care is funded and whether it is acute care or longer-term residential care.

It also marks a change from regulation that has focused on the systems, processes and policies that providers follow, to regulation based on outcomes for people in terms of a quality experience of care.

We will continually monitor and check compliance with the new standards, to make sure that potential problems are identified early, with quick action taken if a service is failing the people who use it.

The new system will also make it easier for people to compare one provider with another, and for different providers to work together more effectively in delivering care.

What's different about the new system

Registration will apply to **all** providers of regulated health and adult social care services. This includes, for the first time, NHS trusts and dental and GP practices.

Also, providers will be registered for each of the regulated activities they provide (for example 'personal care'), rather than for their individual services (such as a care home or a hospital).

The new essential standards of quality and safety, and our guidance about compliance with them that we will produce, focus on people's experiences of care. This means that providers must focus on positive outcomes for people who use their services when demonstrating to us that they are meeting the standards.

After a provider has been registered by us, we will monitor them to make sure they continue to comply with the standards. If we find that they are not meeting them, we will use our new wider range of enforcement powers to make sure that action is taken quickly.

We will pay particular attention to what people say about the services that they use and put greater emphasis on people's actual experiences of services.

Because of all these changes, providers' existing registrations under the Care Standards Act 2000 cannot be transferred to the new system. Providers will need to make a new application for registration. We want to make the registration process as easy as possible for providers, but there will be no automatic 'passporting' through to the new system.

Providers that need to register

A provider can be an individual, a partnership or an organisation (for example, a company, a charity, an NHS trust or a local authority).



It is the legal entity that provides the service to people (whether this is an individual, partnership or organisation) that must register as the provider. Individual locations, such as care homes within a corporate group, will not register separately.

Where a corporate provider is a subsidiary of a bigger group, it will need to register as a provider in its own right if it is the legal entity responsible for the regulated activity.

The regulations on the scope of registration are currently before Parliament and have yet to be approved. Broadly, subject to this legislation, registration will apply to the following types of provider:

- All NHS trusts (including primary care trusts as providers), from April 2010.

- All currently registered adult social care and independent healthcare providers, from October 2010, other than:
 - providers of non-surgical laser and intense pulsed light services
 - domiciliary care agencies and nursing agencies that purely provide staff to other registered providers
 - Shared Lives schemes that do not arrange placements for people with personal care needs.
- Primary care services that directly provide dentistry (NHS and private), and independent ambulance services, from April 2011.
- Primary care services that directly provide GP services (NHS), from April 2012.

A number of services are also under review for possible inclusion in registration, including day care services, doctors in independent practice (who are currently exempted by practice in an NHS trust), independent midwives and forensic medical examiners.

For more details on which types of providers need to be registered, please read our document *The scope of registration*, available at www.cqc.org.uk/scopeofregistration.

Activities that must be registered

The draft regulations contain a list of the “regulated activities” – those health or social care activities that require registration.

A provider must register for each of the regulated activities it provides, rather than for each of its individual services. So, for example, a corporate provider does not have to register each of its residential care homes – instead, it has to apply to register for the regulated activity it carries out, such as “accommodation for people who require nursing or personal care”.

The categories of regulated activities are:

- Personal care
- Accommodation for people who require nursing or personal care
- Accommodation for people who require treatment for substance misuse
- Accommodation and nursing or personal care in the further education sector
- Treatment of disease, disorder or injury
- Assessment or medical treatment for people detained under the Mental Health Act 1983
- Surgical procedures
- Diagnostic and screening procedures

- Management of supply of blood and blood derived products
- Transport services, triage and medical advice provided remotely
- Maternity and midwifery services
- Termination of pregnancies
- Services in slimming clinics
- Nursing care
- Family planning services.

A provider may be registered for any number of regulated activities and it will be common to register for more than one.



A number of activities are treated as exempt from registration. These include any unpaid health or social care carried out by family carers as well as first aid and ‘good Samaritan’ acts. Also exempt are care schemes that the general public do not have direct access to, such as occupational health schemes.

Adults arranging their own care (whether through public money or paying for it themselves) are able to decide whether they wish to purchase care from a registered provider, or spend their money elsewhere. Any body or individual providing personal care will need to register, except where they are:

- Only carrying out the service for family members or friends, without commercial consideration; or

- Employed directly by the person receiving the service.

For more detail on all the regulated and exempt activities, please read our document *The scope of registration*, available at www.cqc.org.uk/scopeofregistration.



The list of regulated activities will be confirmed once the regulations have been approved by Parliament, and it is likely to be amended and updated from time to time.

Timetable for applications

The new system comes into force in April 2010, and this is the date by which NHS trusts need to be registered with us. Providers of adult social care and independent healthcare must be registered under the new system from October 2010, when the Care Standards Act 2000 that currently applies to them ceases to be in force.

Key dates (subject to legislation):

Early December 2009: we publish our updated guidance about compliance with the essential standards of quality and safety, and our judgement framework (which sets out how we will judge compliance).

Between 4 and 29 January 2010: NHS trusts apply for registration.

February and March 2010: we may talk to NHS trusts about their applications and ask them to supply more evidence to support them.

From 1 April 2010: NHS trusts must be registered with us.

From April 2010 (exact date to be confirmed): adult social care and independent healthcare providers apply for registration.

Between April 2010 and September 2010 (exact dates to be confirmed): we may talk to adult social care and independent healthcare providers about their

applications and ask them to supply more evidence to support them.

From 1 October 2010: adult social care and independent healthcare providers must be registered with us under the Health and Social Care Act 2008, and the Care Standards Act 2000 will be repealed.

NHS trusts that provide services already registered under the Care Standards Act 2000

NHS trusts must apply, in January 2010, to register any regulated activities that are not currently registered by us under the Care Standards Act 2000.

Examples of activities that may be registered under the Care Standards Act 2000 include nursing or domiciliary care services provided by primary care trusts, mental health trusts or learning disability trusts. These will continue to be so until October 2010, and they should not be included in the January application.

If NHS trusts have any activities that fall into this category, they will need to submit another application in summer 2010 for when the Care Standards Act 2000 ceases to apply on 1 October 2010. To make this process as easy as possible, they will be able to reuse some information from their January application.



Registration fees

Existing providers, including NHS trusts and those independent healthcare and adult social care providers that are already registered under the Care Standards Act 2000, will not have to pay a 'joining' fee for being brought into the new system. However, all providers will pay an annual registration fee, starting with the year from 1 April 2010 to 31 March 2011.

We are consulting on our proposed fee structure for NHS trusts for the first year of registration, so that providers and stakeholders have the opportunity to submit formal responses to our policy. To view our consultation document, visit www.cqc.org.uk/getinvolved/consultations.cfm. The consultation ends in January 2010.

We will consult in early 2010 on the fees that will apply to social care and independent healthcare providers from October 2010 to March 2011. However, we have signalled that we will only make technical changes at that stage to reflect the new legislation, and the actual fee levels will not change.

We will introduce an ongoing, long-term approach to fees from April 2011. This will also be applied to any providers entering the registration system for the first time from that date. We will consult on this approach in late 2010.

Demonstrating compliance with the new standards

Guidance for providers

To be registered, providers must show that they are meeting the new essential standards of quality and safety for each regulated activity they provide at each location. By law, we are required to produce guidance about compliance which makes it clear to providers what they need to do to comply with these standards.

In our guidance, we have focused primarily on outcomes – what constitutes a quality experience for people who use services – rather than on the policies, systems and processes that are used to deliver care. We held a public consultation on a draft of the guidance between June and August 2009, and we will publish our updated guidance in early December 2009 (based on the draft regulations, which are currently before Parliament).

Our guidance about compliance will have a clear legal status. Registered providers are required to “have regard to” the guidance for the purposes of demonstrating compliance. They must take it into account when considering their own compliance. The guidance is also admissible as evidence in criminal or civil proceedings.

We will use our guidance about compliance to decide whether:

- We should register a provider.
- A provider that is already registered can continue to keep its registration.
- Concerns about the provider should lead to them being required to make improvements.
- We need to use our more formal powers to bring about improvement, including restricting, suspending or, in the most serious cases, removing a provider’s registration.

We also want to make sure that people who use services, and their carers and advocates, are empowered to use the guidance and for it to be a tool for them to help improve services.

The regulation that deals with the prevention and control of healthcare-associated infections is one of the regulations that forms the essential standards of quality and safety. The Department of Health issues the guidance about compliance with this particular regulation (the *Code of Practice for the NHS on the prevention and control of healthcare associated infections and related guidance*, available from the Department of Health’s website), so you will need to use this to help you make your decisions about compliance with the regulation.

Involving people who use services

The views and experiences of groups that represent people who use services will inform our decision about whether a provider meets the essential standards of quality and safety and so can be registered with us.

These groups include local involvement networks, overview and scrutiny committees, foundation trust boards of governors, learning disability partnership boards and local safeguarding children boards.

Monitoring compliance

Registration is not just about the initial application for registration. We will monitor whether providers continue to comply with the essential standards of quality and safety. If they do not, we will use our new wider enforcement powers to make sure that swift action is taken.

We will use different methods for different providers, depending on the regulated activities they provide and the information that is available to us about their activities and performance. However, our judgements about compliance will be consistent across different types of provider and different sectors.

We will hold a profile for each registered provider, containing all the information that we have on the provider that is relevant to its compliance. This information will be organised in a way that allows us to determine the risk of the provider not meeting the standards of quality and safety in the future.

We will analyse and screen the data we collect about providers on an ongoing basis, so that we can see if we need to take any action. The information will include:

- **Notifications:** These are incidents that providers must tell us about by law. They include deaths, serious injury, allegations of abuse and so on.
- **Other information from providers:** Providers will be able to use 'provider compliance assessments' to

check themselves against the regulations. We may ask providers to submit these to us so that we can see what they are doing to comply with the regulations and to ensure that they are going to sustain their performance. This process will not be a 'one size fits all' approach – it will be targeted and proportionate according to the level of information we already hold about a service, and our level of concern.

- **Information from partner organisations:** We have developed information-sharing agreements with a range of other regulators and organisations. Wherever possible, we will not ask providers to send us information that they have already had to provide to another agency. This will help to reduce any unnecessary burden on providers.
- **Information from people who use services:** We invite feedback from groups representing people who use services, their families and carers. We are working towards a dedicated website for structured feedback and we will regularly consider other feedback sites. We will also draw on information from the Parliamentary and Health Service Ombudsman about complaints.



In addition, our teams will spend time gathering local intelligence about the views and experiences of people using services. This may be through site visits and interviews with people. We will talk to representative groups such as LINKS and local charities and voluntary organisations.

We also receive feedback directly from people who use services and members of the public.

Analysing risk

Our local assessors and inspectors will regularly review the providers they work with and will be alerted when new information is added to the provider's profile.



They will use our guidance about compliance, our judgement framework and the Department of Health's *Code of Practice for the NHS on the prevention and control of healthcare associated infections and related guidance* to assess the risk that the provider might not be complying with the regulations. Where this is the case, we will take further action. This may include making further enquiries to the provider or partner organisations and making a site visit.

We will be responsive in the way we regulate. We will use information as we get it, making real-time decisions and taking action quickly where we need to.

However, we will also consider a provider's level of compliance across all of the essential standards of safety and quality. We will do this through a 'planned review of compliance', which will be carried out at least every two years. The exact frequency of these reviews will depend on the nature of the services provided, the people who use them and the amount of information we routinely receive from the provider.

Making judgements

Our judgements will relate to registration, and to whether we need to impose conditions on a provider's registration or vary their conditions or registration, or whether other types of enforcement action are needed. If we identify non-compliance with any of the regulations, we will take further action. If the provider recognises their non-compliance and is already taking steps to address the problem, and there is no significant immediate risk to people using the service, then we will be proportionate in our response. If we have confidence in a provider's ability to make improvements themselves, we will not automatically take enforcement action.

Taking enforcement action

If a provider's non-compliance is more serious or they have not completed previous action plans to improve performance, then we will take proportionate enforcement action. This could include warning notices, imposition or variation of conditions, suspension of registration to provide certain services, fines, prosecution or cancellation of registration.

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Need help?

If you have any questions about registration or you need more information, you can:

- Look at our website: www.cqc.org.uk.
- Speak to your local **assessment team** or **relationship manager**.
- Call our National Contact Centre on **03000 616161**.
- Email us at enquiries@cqc.org.uk.
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