

20 March 2020

Dear Colleague

COVID-19: Interim Methodology for Second Opinions

Due to the present COVID-19 pandemic, CQC is reducing visits to hospitals to minimise risk to patients, staff, and the public.

This document sets out a procedure for remote working for Mental Health Act Second Opinion Appointed Doctors (SOADs) which is operative with immediate effect.

Summary of the procedure:

1. We are asking mental health services to provide a summary of the patient's current issues to CQC when submitting a second opinion request, which SOADs will use instead of visiting the hospital to examine care records.
2. Consultations with professionals, including with the responsible clinician, will be undertaken by telephone or video (Skype or Microsoft teams).
3. Following telephone consultations, we will ask services to support patients who agree to speak with SOADs to have access to telephones or technology to support a video call with the SOAD.
4. SOADs will not be asked to post original copies of certificates. We encourage services to accept electronic copies of certificates and act on that. The Government may lift the requirement for a paper copy, and we will issue further communications once this is confirmed.

The revised procedure for remote working

- *We are asking mental health services to provide a summary of the patient's current issues to CQC when submitting a second opinion request.*

After submitting a second opinion request, please send by secure email or as an encrypted attachment a summary document outlining the current issues.

We do not expect any new document to be created but ask that one of the following may be used to provide this information:

- a tribunal or managers' report;
- a recent admission summary; or
- a CPA report

We are also asking for a summary or copy of any documents that give key information on physical health and risk issues showing any significant positives or negatives.

These documents can be emailed securely from an nhs.net or CJSJ account to:
cqc.soadteam@cqc.cjsj.net

If you do not have an nhs.net or CJSJ account you can send these as encrypted attached documents sending the password separately to:
SOAD_Requests@cqc.org.uk

The SOAD will use these data as a proxy for the clinical notes which they would otherwise have accessed on a visit.

- *Consultations with professionals, including with the responsible clinician, will be undertaken by telephone.*

It is now the expectation that these consultations take place by telephone, including any exploration with the Approved or Responsible Clinician.

- *Following such telephone consultations, we ask services to enable patients who wish to do so to have an arranged telephone (or skype) conversation with the SOAD.*

Providers are asked to arrange for a telephone or, where possible, skype consultation for any patients who wish to consult a SOAD. If the patient refuses this means of contact, it will be at the discretion of the SOAD as to whether or not to proceed with the second opinion, as is the situation in normal circumstances where the patient may decline to see the SOAD.

- *We encourage services to accept an emailed electronic copy of a certificate as sufficient for action.*

We recognise that there is a debate as to the legal validity of electronic signatures in MHA statutory documents, however it is anticipated that Government may shortly lift the requirement for paper copies.

We are not expecting SOADs to go to post offices or use Royal Mail postal services for the duration of the emergency. We ask that services accept an emailed electronic copy of the SOADs original wet ink signed paper copy as sufficient for action.

SOADs will continue to produce and retain the paper copies and we will notify services as soon as we have a clear position on this.

Where the revised procedures cannot be implemented.

There may be circumstances where SOADs are unable to obtain the information necessary to reach a justifiable legal decision regarding certification of treatment. If this happens then **we will review the information available to CQC and assess if either 1) a visit may be possible to complete the process or 2) whether we advise** services to consider provisions for emergency treatment under section 62 or 64 of the MHA, or alternatives through emergency legislation. (Appendix 1).

If you have any questions about this process or make suggestions about changes please email: soadenquiries@cqc.org.uk.

Yours sincerely



Kevin Cleary
**Deputy Chief Inspector of Hospitals
(Mental Health)**



Simon Wood
Principal SOAD

Appendix 1

Urgent cases where certificates are not required (sections 62, 64B, 64C and 64E)

Sections 57, 58 and 58A do not apply in urgent cases where treatment is immediately necessary (section 62). Similarly, a part 4A certificate is not required in urgent cases where the treatment is immediately necessary (sections 64B, 64C and 64E).

This applies only if the treatment in question is immediately necessary to:

- a) save the patient's life
- b) prevent a serious deterioration of the patient's condition, and the treatment does not have unfavourable physical or psychological consequences which cannot be reversed
- c) alleviate serious suffering by the patient, and the treatment does not have unfavourable physical or psychological consequences which cannot be reversed and does not entail significant physical hazard, or
- d) prevent patients behaving violently or being a danger to themselves or others, and the treatment represents the minimum interference necessary for that purpose, does not have unfavourable physical or psychological consequences which cannot be reversed and does not entail significant physical hazard.

If the treatment is ECT (or medication administered as part of ECT) only the first two categories above apply.

Providers and clinicians will need to consider two options where attendance of a SOAD is either not possible or not desirable and treatment must be continued;

- a) **If the patient already has a T certificate in place, but the certificate does not authorise a new/different treatment then s62(1) may apply.** That is what most provider clinicians will be familiar with – completion of a locally-generated s62 form. It will not be necessary to generate a new s62 form for every dose, most especially if (c) or (d) above apply. The need for a continued s62 should be reviewed, and documented in the notes, on a regular basis e.g. ward round/MDT's or other review meeting.
- b) **If the patient does not have a T certificate in place but has reached the end of the '3 month rule', then s62(2) may be applicable.** This will allow the continuation of an existing plan of treatment until the 'certificate requirements' can be met, when a SOAD can review the treatment or until the patient's condition improves such that they can and do consent and a T2 can be completed.

In the event that s62(2) is deemed applicable, no special form is necessary – it will be sufficient for the AC/RC to record in the notes that the treatment is being continued past the 3 month period under s62(2), together with the justification (either (c) or (d) above) and the reason – unavailability of SOAD due to COVID19.



Regular review of the continuing need should take place and be documented as described above.