



Health and Social Care Act 2008

2008 CHAPTER 14

PART 1

THE CARE QUALITY COMMISSION

CHAPTER 3

QUALITY OF HEALTH AND SOCIAL CARE

Reviews and investigations

[^{F1}46 Reviews and performance assessments [^{F2}: registered service providers]

- (1) The Commission must, in respect of such regulated activities and such registered service providers as may be prescribed—
 - (a) conduct reviews of the carrying on of the regulated activities by the service providers,
 - (b) assess the performance of the service providers following each such review, and
 - (c) publish a report of its assessment.
- (2) Regulations under subsection (1) may prescribe—
 - (a) all regulated activities or regulated activities of a particular description;
 - (b) all registered service providers or particular registered service providers;
 - (c) the whole of a regulated activity or a particular aspect of it.
- (3) The assessment of the performance of a registered service provider is to be by reference to whatever indicators of quality the Commission devises.
- (4) The Commission must prepare a statement—
 - (a) setting out the frequency with which reviews under this section are to be conducted and the period to which they are to relate, and

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- (b) describing the method that it proposes to use in assessing and evaluating the performance of a registered service provider under this section.
- (5) The Commission may—
- (a) use different indicators for different cases,
 - (b) make different provision about frequency and period of reviews for different cases, and
 - (c) describe different methods for different cases.
- (6) The Commission must publish—
- (a) any indicators it devises for the purpose of subsection (3), and
 - (b) the statement it prepares for the purpose of subsection (4).
- (7) Before doing so, the Commission—
- (a) must consult the Secretary of State and such other persons, or other persons of such a description, as may be prescribed, and
 - (b) may also consult any other persons it considers appropriate.
- (8) The Commission may from time to time revise—
- (a) any indicators it devises for the purpose of subsection (3), and
 - (b) the statement it prepares for the purpose of subsection (4);
- and, if it does so, it must publish the indicators and statement as revised.
- (9) Subsection (7) applies to revised indicators and a revised statement, so far as the Commission considers the revisions in question to be significant.
- (10) In this section “registered service provider” means a person registered under Chapter 2 as a service provider.
- (11) Consultation undertaken before the commencement of this section is as effective for the purposes of subsection (7) as consultation undertaken after that commencement.]

Textual Amendments

- F1** S. 46 substituted (7.7.2014 for specified purposes, 1.10.2014 in so far as not already in force) by [Care Act 2014 \(c. 23\)](#), **ss. 91(2)**, 127(1); S.I. 2014/1714, arts. 2(b), 4
- F2** Words in s. 46 heading inserted (1.4.2023) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 163(2)**, 186(6); S.I. 2023/371, reg. 2(e)

[^{F3}**46A** **Reviews and performance assessments: local authorities**

- (1) The Commission must, in accordance with this section—
- (a) conduct reviews of the exercise of regulated care functions by English local authorities,
 - (b) assess the performance of those authorities following each such review, and
 - (c) publish a report of its assessment.
- (2) In this section “regulated care functions” means such functions under Part 1 of the Care Act 2014 (functions relating to adult social care in England) as may be prescribed.
- (3) Regulations under subsection (2) may prescribe—

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- (a) all functions of English local authorities under Part 1 of the Care Act 2014 or some of their functions under that Part;
 - (b) the whole of a function or a particular aspect of it.
- (4) The Secretary of State—
 - (a) must set, and may from time to time revise, objectives and priorities for the Commission in relation to the assessment under this section of the performance of English local authorities, and
 - (b) must inform the Commission of the objectives and priorities.
- (5) The Commission—
 - (a) must determine, and may from time to time revise, indicators of quality for the purposes of the assessment under this section of the performance of English local authorities, and
 - (b) must obtain the approval of the Secretary of State in relation to the indicators.
- (6) The Secretary of State may direct the Commission to revise the indicators under subsection (5).
- (7) Different objectives and priorities may be set, and different indicators of quality may be determined, for different cases.
- (8) The Commission—
 - (a) must prepare, and may from time to time revise, a statement—
 - (i) setting out the frequency with which reviews under this section are to be conducted and the period to which they are to relate, and
 - (ii) describing the method that it proposes to use in assessing and evaluating the performance of a English local authority under this section, and
 - (b) must obtain the approval of the Secretary of State in relation to the statement.
- (9) The Secretary of State may direct the Commission to revise the statement under subsection (8).
- (10) The statement may—
 - (a) make different provision about frequency and period of reviews for different cases, and
 - (b) describe different methods for different cases.
- (11) The Commission must publish—
 - (a) the objectives and priorities under subsection (4),
 - (b) the indicators of quality under subsection (5), and
 - (c) the statement under subsection (8).
- (12) For the purposes of this section “English local authority” includes the Council of the Isles of Scilly only so far as references to a local authority in Part 1 of the Care Act 2014 include references to that Council as a result of an order under section 128(4) of that Act.]

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Textual Amendments

F3 S. 46A inserted (1.4.2023) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 163(3)**, 186(6); S.I. 2023/371, reg. 2(e)

[^{F4}46B] Reviews and performance assessments: integrated care system

- (1) The Commission must, in accordance with this section—
 - (a) conduct reviews of—
 - (i) the provision of relevant health care, and adult social care, within the area of each integrated care board, and
 - (ii) the exercise of the functions of the following in relation to the provision of that care within the area of each integrated care board: the board; its partner local authorities; and registered service providers,
 - (b) assess the functioning of the system for the provision of relevant health care, and adult social care, within the area of each integrated care board (taking into account, in particular, how those mentioned in paragraph (a)(ii) work together), and
 - (c) publish a report of its assessment.
- (2) The Secretary of State—
 - (a) must set, and may from time to time revise, objectives and priorities for the Commission in relation to assessments under this section, and
 - (b) must inform the Commission of the objectives and priorities.
- (3) The priorities set by the Secretary of State under subsection (2)(a) must include priorities relating to leadership, the integration of services and the quality and safety of services.
- (4) The Commission—
 - (a) must determine, and may from time to time revise, indicators of quality for the purposes of assessments under this section, and
 - (b) must obtain the approval of the Secretary of State in relation to the indicators.
- (5) The Secretary of State may direct the Commission to revise the indicators under subsection (4).
- (6) Different objectives and priorities may be set, and different indicators of quality may be determined, for different cases.
- (7) The Commission—
 - (a) must prepare, and may from time to time revise, a statement—
 - (i) setting out the frequency with which reviews under this section are to be conducted and the period to which they are to relate, and
 - (ii) describing the method that it proposes to use in assessing and evaluating the functioning of the system for the provision of relevant health care, and adult social care, within the area of an integrated care board, and
 - (b) must obtain the approval of the Secretary of State in relation to the statement.
- (8) The statement may—

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- (a) make different provision about frequency and period of reviews for different cases, and
 - (b) describe different methods for different cases.
- (9) Before preparing or revising a statement under subsection (7) the Commission must consult—
- (a) NHS England, and
 - (b) any other persons it considers appropriate.
- (10) The Secretary of State may direct the Commission to revise the statement under subsection (7).
- (11) The Commission must publish—
- (a) the objectives and priorities under subsection (2),
 - (b) the indicators of quality under subsection (4), and
 - (c) the statement under subsection (7).
- (12) For the purposes of this section—
- “adult social care” means social care for individuals aged 18 or over;
 - “partner local authority”, in relation to an integrated care board, means any English local authority whose area coincides with, or includes the whole or any part of, the area of the integrated care board;
 - “registered service provider” means a person registered under Chapter 2 as a service provider;
 - “relevant health care” means—
 - (a) NHS care, or
 - (b) the promotion and protection of public health.
- (13) Regulations may amend the definition of “relevant health care” to include health care which is provided or commissioned by a public authority (but which does not amount to NHS care).]

Textual Amendments

F4 S. 46B inserted (1.4.2023) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 31(2)**, 186(6); S.I. 2023/371, reg. 2(b)

^{F5}47 **Frequency and period of review**

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Textual Amendments

F5 S. 47 repealed (1.10.2014) by [Care Act 2014 \(c. 23\)](#), **ss. 91(3)**, 127(1); S.I. 2014/1714, art. 4

48 **Special reviews and investigations**

- (1) The Commission may ^{F6}...conduct any special review or investigation, and must do so if the Secretary of State so requests [^{F7}]; but the Commission may not conduct a

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review or investigation under subsection (2)(ba) or (bb) without the approval of the Secretary of State.]

^{F8}(1A)

(2) A special review or investigation is a review (other than [^{F9} a review under section 46][^{F10}, 46A][^{F11} or 46B]) of or an investigation into—

- (a) the provision of NHS care,
- (b) the provision of adult social services,

[^{F12}(ba) the exercise of the functions of [^{F13}NHS England] or [^{F14}an integrated care board] in arranging for the provision of NHS care under the National Health Service Act 2006 [^{F15} or section 117 of the Mental Health Act 1983 (after-care)],]

[^{F16}(bb) the exercise of the functions of English local authorities in arranging for the provision of adult social services,] or

- (c) the exercise of functions by English Health Authorities.

(3) Such a review or investigation may relate—

- (a) to the overall provision of NHS care or adult social services or to the provision of NHS care or adult social services of a particular description;
- (b) to the overall exercise of functions or to the exercise of functions of a particular description;
- (c) to the provision of care or services or the exercise of functions by bodies or persons generally or by particular bodies or persons.

[^{F17}(3A) A review or investigation under subsection (2)(b), in so far as it involves a review or investigation into the arrangements made for the provision of the adult social services in question, is to be treated as a review [^{F18}or investigation] under subsection (2)(bb) (and the requirement for approval under subsection (1) is accordingly to apply).]

(4) Where the Commission conducts a review or investigation under this section, it must publish a report.

(5) The Commission must consider whether the report raises anything on which it ought to give advice to the Secretary of State under section 53(2).

(6) If the review or investigation gives rise to a duty to act under section 50(2) ^{F19}... in respect of an English local authority, subsection (5) does not apply in relation to so much of the report as relates to that local authority.

^{F20}(7)

(8) In this section “English Health Authority” means—

^{F21}(a)

- (b) a Special Health Authority performing functions only or mainly in respect of England.

Textual Amendments

F6 Words in s. 48(1) omitted (1.10.2014) by virtue of [Care Act 2014 \(c. 23\)](#), **ss. 91(4)(a)**, 127(1); S.I. 2014/1714, **art. 4**

F7 Words in s. 48(1) inserted (1.10.2014) by [Care Act 2014 \(c. 23\)](#), **ss. 91(4)(b)**, 127(1); S.I. 2014/1714, **art. 4**

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- F8** S. 48(1A) omitted (1.10.2014) by virtue of Care Act 2014 (c. 23), **ss. 91(5)**, 127(1); S.I. 2014/1714, art. 4
- F9** Words in s. 48(2) substituted (1.10.2014) by Care Act 2014 (c. 23), **ss. 91(6)**, 127(1); S.I. 2014/1714, art. 4
- F10** Word in s. 48(2) inserted (1.4.2023) by Health and Care Act 2022 (c. 31), **ss. 163(4)(a)**, 186(6); S.I. 2023/371, reg. 2(e)
- F11** Words in s. 48(2) inserted (1.4.2023) by Health and Care Act 2022 (c. 31), **ss. 31(3)**, 186(6); S.I. 2023/371, reg. 2(b)
- F12** S. 48(2)(ba) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 158(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F13** Words in s. 48 substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F14** Words in s. 48(2)(ba) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 163**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F15** Words in s. 48(2)(ba) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), ss. 40(6), 306(4), **Sch. 5 para. 158(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F16** S. 48(2)(bb) inserted (1.10.2014) by Care Act 2014 (c. 23), **ss. 91(7)**, 127(1); S.I. 2014/1714, art. 4
- F17** S. 48(3A) inserted (1.10.2014) by Care Act 2014 (c. 23), **ss. 91(8)**, 127(1); S.I. 2014/1714, art. 4
- F18** Words in s. 48(3A) inserted (1.4.2023) by Health and Care Act 2022 (c. 31), **ss. 163(4)(b)**, 186(6); S.I. 2023/371, reg. 2(e)
- F19** Words in s. 48(6) omitted (1.4.2023) by virtue of Health and Care Act 2022 (c. 31), **ss. 165(2)**, 186(6); S.I. 2023/371, reg. 2(g)
- F20** S. 48(7) omitted (1.10.2014) by virtue of Care Act 2014 (c. 23), **ss. 90(2)**, 127(1); S.I. 2014/2473, art. 3(e)
- F21** S. 48(8)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 158(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

Commencement Information

- I1** S. 48 partly in force; S. 48 in force for specified purposes at Royal Assent, see s. 170
- I2** S. 48 in force at 1.4.2009 in so far as not already in force by S.I. 2009/462, art. 2(1), **Sch. 1 para. 17**

F22 49 Power to extend periodic review function

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Textual Amendments

- F22** S. 49 repealed (1.10.2014) by Care Act 2014 (c. 23), **ss. 91(3)**, 127(1); S.I. 2014/1714, art. 4

50 Failings by English local authorities

- (1) This section applies where the Commission conducts a review under section 46 ^{F23}, 46A ^{F24} or 46B ^{F25}..., or a review or investigation under section 48, in respect of an English local authority.
- (2) If the Commission considers that the local authority is failing to discharge any of its adult social services functions to an acceptable standard, then ^{F26}... the Commission must—
 - (a) inform the Secretary of State of that fact, and

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- (b) recommend any special measures which it considers the Secretary of State should take.

[^{F27}(3A) Nothing in subsection (2) prevents a report published under section 46(1)(c), 46A(1)(c), 46B(1)(c) or 48(4) from specifying respects in which the Commission considers a local authority to be failing and making recommendations to the local authority for addressing the failure.]

- (5) If the Commission recommends that the Secretary of State should take special measures in relation to the local authority, the Commission must, if the Secretary of State so requests—
 - (a) conduct a further review under section 48 in relation to the authority, and
 - (b) include in its report under subsection (4) of that section a report on such matters as the Secretary of State may specify.

Textual Amendments

- F23** Word in s. 50(1) inserted (1.4.2023) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 163(5)**, 186(6); S.I. 2023/371, reg. 2(e)
- F24** Words in s. 50(1) inserted (1.4.2023) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 31(4)**, 186(6); S.I. 2023/371, reg. 2(b)
- F25** Words in s. 50(1) omitted (1.10.2014) by virtue of [Care Act 2014 \(c. 23\)](#), **ss. 91(9)(a)**, 127(1); S.I. 2014/1714, art. 4
- F26** Words in s. 50(2) omitted (1.4.2023) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 165(3)(a)**, 186(6); S.I. 2023/371, reg. 2(g)
- F27** S. 50(3A) substituted for s. 50(3)(4) (1.4.2023) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 165(3)(b)**, 186(6); S.I. 2023/371, reg. 2(g)

Commencement Information

- I3** S. 50 in force at 1.4.2009 by S.I. 2009/462, art. 2(1), **Sch. 1 para. 18**

51 Failings by Welsh NHS bodies

- (1) Following a review under section 46 ^{F28}..., or a review or investigation under section 48, the Commission must inform the Welsh Ministers if it considers that—
 - (a) there are significant failings in relation to the provision of health care by or pursuant to arrangements made by a Welsh NHS body,
 - (b) there are significant failings in the running of a Welsh NHS body, or
 - (c) there are significant failings in the running of a body, or the practice of an individual, providing health care pursuant to arrangements made by a Welsh NHS body.
- (2) The Commission may also recommend to the Welsh Ministers that, with a view to remedying those failings, the Welsh Ministers take special measures—
 - (a) in a case falling within subsection (1)(a) or (b), in relation to the Welsh NHS body concerned;
 - (b) in a case falling within subsection (1)(c), in relation to the body or individual concerned (except an English NHS body or a cross-border Special Health Authority).
- (3) In this section “Welsh NHS body” has the same meaning as in Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43).

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Textual Amendments

- F28** Words in s. 51(1) omitted (1.10.2014) by virtue of [Care Act 2014 \(c. 23\)](#), **ss. 91(9)(b)**, 127(1); [S.I. 2014/1714](#), **art. 4**
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Commencement Information

- I4** S. 51 in force at 1.4.2009 for specified purposes by [S.I. 2009/462](#), **art. 2(1)**, **Sch. 1 para. 19**
- I5** S. 51 in force at 11.12.2009 in so far as not already in force by [S.I. 2009/3023](#), **art. 2(f)** (with [arts. 3-17](#)) (as amended (8.2.2010) by [S.I. 2010/47](#), **art. 2**)

Changes to legislation:

There are currently no known outstanding effects for the Health and Social Care Act 2008, Cross Heading: Reviews and investigations.