

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Care standards

Performance ratings

Section 91– Reviews and performance assessments

511. **Section 91** substitutes section 46 (periodic reviews) and amends section 48 (special reviews and investigations) of the 2008 Act. The CQC's duty to conduct periodic reviews, assess performance and publish reports of such assessments (henceforth known as ratings) is to apply in respect of any regulated activities and any registered service providers as may be prescribed in regulations.
512. The substituted section 46 replaces and consolidates the CQC's existing periodic review duty in respect of the provision of healthcare by English NHS providers, the provision of adult social services by English local authorities and the Secretary of State's power to extend the scope of periodic reviews by way of regulations in section 49 of the 2008 Act, which is to be repealed by section 91(3). The new powers in section 46 will allow the Secretary of State to prescribe the particular types of services or providers in relation to whom the CQC should publish performance information so as to enable the public to make informed choices about the quality of services being provided.
513. The CQC is given the responsibility for determining the quality indicators against which services and providers will be assessed (section 46(5)). This may include measures of financial performance and governance in its assessments if the CQC deem this appropriate. The CQC will also prepare a statement setting out the method it will use to assess and evaluate performance and the frequency and period of any reviews (section 46(6)). Different quality indicators, methods and frequency and periods may be used for different types of cases. The CQC may also review the indicators of quality and method statement from time to time as it sees fit (section 46(7) and (8)).
514. The CQC will be required to consult the Secretary of State and any other persons as may be prescribed or CQC considers appropriate before publishing the indicators of quality and the statement on method and frequency and before publishing any subsequent revisions to them which are significant (section 46(9)). Consultation undertaken by CQC on the development of its new performance methodologies before section 91 comes into force is to be as effective as consultation carried out after it comes into force (section 46(11)).
515. The changes to section 48 (special reviews and investigations) make clear that CQC can, subject to the approval of the Secretary of State, undertake special reviews and investigations of the commissioning of adult social services by local authorities as well as the commissioning of NHS services by clinical commissioning groups or the NHS Commissioning Board (known as NHS England). The effect is to retain the requirement to gain relevant Secretary of State approval before CQC undertakes a special review or investigation into the commissioning of services.

516. In parallel, the requirement for CQC to obtain Secretary of State's approval before conducting special reviews or investigations relating to the direct provision of NHS care and adult social services is being repealed (in line with section 90). The regulation of provision is part of CQC's core business and therefore does not need to be subject to ministerial approval.