



National Health Service Reform and Health Care Professions Act 2002

2002 CHAPTER 17

PART 1

NATIONAL HEALTH SERVICE, ETC

Patient and public involvement

15 Establishment of Patients' Forums

- (1) The Secretary of State shall establish a body to be known as a Patients' Forum—
 - (a) for each NHS trust all or most of whose hospitals, establishments and facilities are situated in England, and
 - (b) for each Primary Care Trust.
- (2) The members of each Patients' Forum are to be appointed by the Commission for Patient and Public Involvement in Health.
- (3) A Patients' Forum must—
 - (a) monitor and review the range and operation of services provided by, or under arrangements made by, the trust for which it is established,
 - (b) obtain the views of patients and their carers about those matters and report on those views to the trust,
 - (c) provide advice, and make reports and recommendations, about matters relating to the range and operation of those services to the trust,
 - (d) make available to patients and their carers advice and information about those services,
 - (e) in prescribed circumstances, perform any prescribed function of the trust with respect to the provision of a service affording assistance to patients and their families and carers,
 - (f) carry out such other functions as may be prescribed.

- (4) In providing advice or making recommendations under subsection (3)(c), a Patients' Forum must have regard to the views of patients and their carers.
- (5) If, in the course of exercising its functions, a Patients' Forum becomes aware of any matter which in its view—
- (a) should be considered by a relevant overview and scrutiny committee, the Forum may refer that matter to the committee,
 - (b) should be brought to the attention of the Commission for Patient and Public Involvement in Health, it may refer that matter to the Commission.
- (6) Subsection (5) does not prejudice the power of a Patients' Forum to make such other representations or referrals as it thinks fit, to such persons or bodies as it thinks fit, about matters arising in the course of its exercising its functions.
- (7) Patients' Forums must in prescribed circumstances—
- (a) co-operate with each other in the exercise of their functions,
 - (b) exercise functions jointly with one or more other Forums.
- (8) References in subsection (3) to services are references to—
- (a) services provided as part of the health service in England,
 - (b) services provided in England in pursuance of section 31 arrangements in relation to the exercise of health-related functions of a local authority, and
 - (c) services provided elsewhere (and not as part of the health service in England) in pursuance of section 31 arrangements with a local authority in England.

- (9) In this section—

“carer”, in relation to a patient, means a person who provides care for the patient, but who is not employed to do so by any body in the exercise of its functions under any enactment,

“the health service” has the same meaning as in the 1977 Act,

“patient” includes (as well as a patient within the meaning of that Act) a person who receives services provided in pursuance of section 31 arrangements in relation to the exercise of health-related functions of a local authority,

“prescribed” means prescribed by regulations made by the Secretary of State,

“relevant overview and scrutiny committee”, in relation to a Patients' Forum, means any overview and scrutiny committee in relation to which the Primary Care Trust or NHS trust for which the Forum is established is a local NHS body by virtue of regulations made under section 7(4) of the Health and Social Care Act 2001 (c. 15) (including that provision as read with section 8(5) and as applied by section 10(2) of that Act),

“section 31 arrangements” means arrangements under regulations under section 31 of the 1999 Act (arrangements between NHS bodies and local authorities).

16 Additional functions of PCT Patients' Forums

- (1) A Patients' Forum established for a Primary Care Trust (a “PCT Patients' Forum”) has the following additional functions—

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- (a) providing independent advocacy services to persons in the Trust's area or persons to whom services have been provided by, or under arrangements with, the Trust,
 - (b) making available to patients and their carers advice and information about the making of complaints in relation to services provided by or under arrangements with the Trust, and
 - (c) representing to persons and bodies which exercise functions in relation to the area of the Trust (including, in particular, any relevant overview and scrutiny committee) the views of members of the public in the Trust's area about matters affecting their health.
- (2) In subsection (1), references to services have the meaning given by section 15(8).
- (3) It is also the function of a PCT Patients' Forum—
- (a) to promote the involvement of members of the public in the area of the Trust in consultations or processes leading (or potentially leading) to decisions by those mentioned in subsection (4), or the formulation of policies by them, which would or might affect (whether directly or not) the health of those members of the public,
 - (b) to make available advice and information to such members of the public about such involvement,
 - (c) to advise those mentioned in subsection (4) about how to encourage such involvement (including, in the case of bodies mentioned in subsection (4) to which section 11 of the Health and Social Care Act 2001 (c. 15) applies, advising them how to comply with the requirements of that section in relation to the area of the Primary Care Trust), and
 - (d) to monitor how successful those mentioned in subsection (4) are at achieving such involvement.
- (4) Those referred to in subsection (3) are—
- (a) Strategic Health Authorities whose areas include any part of the area of the Primary Care Trust,
 - (b) the Primary Care Trust itself,
 - (c) NHS trusts which provide services to patients in the area of the Primary Care Trust,
 - (d) other public bodies, and
 - (e) others providing services to the public or a section of the public.
- (5) In section 12 of the Health and Social Care Act 2001 (which inserts a new section 19A concerning independent advocacy services into the 1977 Act), in that new section 19A, after subsection (6) there is inserted—
- “(7) The Secretary of State may direct a Patients' Forum established for a Primary Care Trust to exercise any of his functions under this section so far as they relate to independent advocacy services provided to persons in the area of the Primary Care Trust or persons to whom services have been provided by, or under arrangements with, the Trust; and if he does so—
- (a) the functions of that Patients' Forum are to be taken to include those functions, but
 - (b) the Patients' Forum may not make any arrangements with itself under this section.”

(6) In this section—

- “carer” and “patient” have the same meaning as in section 15,
- “independent advocacy services” means services provided under section 19A of the 1977 Act (independent advocacy services),
- “relevant overview and scrutiny committee” has the same meaning as in section 15.

17 Entry and inspection of premises

(1) The Secretary of State may make regulations requiring—

- (a) Strategic Health Authorities,
- (b) Primary Care Trusts,
- (c) Health Authorities,
- (d) Local Health Boards,
- (e) local authorities,
- (f) NHS trusts,
- (g) persons providing services under Part 2 of the 1977 Act or under arrangements under section 28C of that Act, or
- (h) persons providing piloted services under pilot schemes established under section 28 of the Health and Social Care Act 2001 (c. 15), or providing LP Services under an LPS scheme established under Schedule 8A to the 1977 Act,

to allow members of a Patients' Forum authorised by or under the regulations to enter and inspect, for the purposes of any of the Forum's functions, premises owned or controlled by those referred to in paragraphs (a) to (h).

(2) The Secretary of State may also make regulations requiring any other person who owns or controls premises where services are provided as mentioned in subsection (1) (g) or (h) to allow members of a Patients' Forum authorised by or under the regulations to enter and inspect the premises for the purposes of any of the Forum's functions.

(3) The regulations may in particular make provision as to—

- (a) cases and circumstances in which access is to be permitted,
- (b) limitations or conditions to which access is to be subject.

(4) In subsection (1), “local authorities” has the same meaning as in section 31 of the 1999 Act (arrangements between NHS bodies and local authorities).

18 Annual reports

(1) Every Patients' Forum must—

- (a) prepare a report in relation to its activities in each financial year, and
- (b) as soon as possible after the end of each financial year, send a copy of its report for that year to the trust for which it is established, and to the persons mentioned in subsection (2).

(2) Those persons are—

- (a) the Secretary of State,
- (b) the Commission for Patient and Public Involvement in Health,
- (c) each Strategic Health Authority whose area includes—

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- (i) any part of the area of the Primary Care Trust for which the Forum is established, or
 - (ii) all or most of the hospitals, establishments and facilities of the NHS trust for which the Forum is established,
- (d) any relevant overview and scrutiny committee within the meaning given by section 15.
- (3) A report under this section relating to any year must include details of the arrangements maintained by the Forum in that year for obtaining the views of patients.
- (4) In this section, “financial year”, in relation to a Patients' Forum, means—
 - (a) the period beginning with the date on which the Forum is established and ending with the next 31st March, and
 - (b) each successive period of 12 months ending with 31st March.

19 Supplementary

- (1) The Secretary of State may by regulations make further provision in relation to Patients' Forums.
- (2) The regulations may in particular make provision as to—
 - (a) the appointment of members,
 - (b) any qualification or disqualification for membership,
 - (c) terms of appointment,
 - (d) circumstances in which a person is to cease to be a member or may be suspended,
 - (e) the proceedings of Patients' Forums,
 - (f) the discharge of any function of a Patients' Forum by a committee of the Forum or by a joint committee appointed with another Forum,
 - (g) the appointment, as members of a committee or joint committee, of persons who are not members of the Forum or Forums concerned,
 - (h) the funding of Patients' Forums and the provision of premises, other facilities and staff,
 - (i) the payment of travelling and other allowances to members of a Patients' Forum or of a committee of a Forum or a joint committee of two or more Forums (including attendance allowances or compensation for loss of remunerative time),
 - (j) the preparation by a Patients' Forum of annual accounts, and their inclusion in accounts of the Commission for Patient and Public Involvement in Health,
 - (k) the provision of information (including descriptions of information which are or are not to be provided) to a Patients' Forum by an NHS trust, a Primary Care Trust, a Strategic Health Authority, the Commission for Patient and Public Involvement in Health or a person providing independent advocacy services (within the meaning given by section 19A of the 1977 Act),
 - (l) the provision of information by a Patients' Forum to another person (including another Forum),
 - (m) the referral of matters by a Patients' Forum to a relevant overview and scrutiny committee (within the meaning given by section 15),
 - (n) the preparation and publication of reports by Patients' Forums (including the publication of reports under section 18),

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- (o) matters to be included in any such report,
 - (p) the furnishing and publication by NHS trusts, Primary Care Trusts and Strategic Health Authorities of comments on reports or recommendations of Patients' Forums.
- (3) The regulations must secure that the members of a Patients' Forum include—
- (a) at least one person who is a member or representative of a voluntary organisation whose purpose, or one of whose purposes, is to represent the interests of—
 - (i) persons for whom services are being provided under the 1977 Act, or
 - (ii) persons who provide care for such persons, but who are not employed to do so by any body in the exercise of its functions under any enactment, and
 - (b) at least one person for whom services are being or have been provided by the trust for which the Patients' Forum is established.
- (4) The regulations must also secure that the members of a Patients' Forum established for a Primary Care Trust also include—
- (a) at least one member of the Patients' Forum established for each NHS trust all or most of whose hospitals, establishments and facilities are situated in the area of the Primary Care Trust, and
 - (b) if it appears to the Commission for Patient and Public Involvement in Health that there is a body which represents members of the public in the Primary Care Trust's area in matters relating to their health, at least one person who is a member or representative of that body (or, if there is more than one such body, of any of those bodies).
- (5) The regulations may include provision applying, or corresponding to, any provision of Part 5A of the Local Government Act 1972 (c. 70) (access to meetings and documents), with or without modifications.
- (6) In section 134 of the Mental Health Act 1983 (c. 20) (correspondence of patients), in subsection (3)(e), after “Community Health Council” there is inserted “, a Patients' Forum”.
- (7) In Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities for the purposes of the Act), in Part 3 (National Health Service), after paragraph 41 there is inserted—
- “41A A Patients' Forum established under section 15 of the National Health Service Reform and Health Care Professions Act 2002.”

20 The Commission for Patient and Public Involvement in Health

- (1) There shall be a body corporate to be known as the Commission for Patient and Public Involvement in Health (“the Commission”) to exercise the functions set out in subsections (2) to (5) (in addition to its function of appointing members of Patients' Forums).
- (2) The Commission has the following functions—
- (a) advising the Secretary of State, and such bodies as may be prescribed, about arrangements for public involvement in, and consultation on, matters relating to the health service in England,

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- (b) advising the Secretary of State, and such bodies as may be prescribed, about arrangements for the provision in England of independent advocacy services,
 - (c) representing to the Secretary of State and such bodies as may be prescribed, and advising him and them on, the views, as respects the arrangements referred to in paragraphs (a) and (b), of Patients' Forums and those voluntary organisations and other bodies appearing to the Commission to represent the interests of patients of the health service in England and their carers,
 - (d) providing staff to Patients' Forums established for Primary Care Trusts, and advice and assistance to Patients' Forums and facilitating the co-ordination of their activities,
 - (e) advising and assisting providers of independent advocacy services in England,
 - (f) setting quality standards relating to any aspect of —
 - (i) the way Patients' Forums exercise their functions, and
 - (ii) the services provided by independent advocacy services in England, monitoring how successfully they meet those standards, and making recommendations to them about how to improve their performance against those standards,
 - (g) such other functions in relation to England as may be prescribed.
- (3) It is also the function of the Commission to promote the involvement of members of the public in England in consultations or processes leading (or potentially leading) to decisions by those mentioned in subsection (4), or the formulation of policies by them, which would or might affect (whether directly or not) the health of those members of the public.
- (4) The decisions in question are those made by—
- (a) health service bodies,
 - (b) other public bodies, and
 - (c) others providing services to the public or a section of the public.
- (5) It is also the function of the Commission—
- (a) to review the annual reports of Patients' Forums made under section 18, and
 - (b) to make, to the Secretary of State or to such other persons or bodies as the Commission thinks fit, such reports or recommendations as the Commission thinks fit concerning any matters arising from those annual reports.
- (6) If the Commission—
- (a) becomes aware in the course of exercising its functions of any matter connected with the health service in England which in its opinion gives rise to concerns about the safety or welfare of patients, and
 - (b) is not satisfied that the matter is being dealt with, or about the way it is being dealt with,
- the Commission must report the matter to whichever person or body it considers most appropriate (or, if it considers it appropriate to do so, to more than one person or body).
- (7) Bodies to whom the Commission might report a matter include—
- (a) the regulatory body for the profession of a person working in the health service,
 - (b) the Commission for Health Improvement.

- (8) The Commission may make such charges as it thinks fit for the provision of advice and other services (but this is subject to any prescribed limitation).
- (9) The Secretary of State may by regulations make further provision in relation to the Commission.
- (10) The regulations may, in particular, make provision as to the provision of information (including descriptions of information which are or are not to be provided) to the Commission by a Strategic Health Authority, a Special Health Authority, an NHS trust, a Primary Care Trust, a Patients' Forum or a provider of independent advocacy services.
- (11) Schedule 6 (which makes further provision about the Commission) is to have effect.
- (12) In this section—
 - “carer” and “patient” have the same meaning as in section 15,
 - “the health service” has the same meaning as in the 1977 Act, except that it includes services provided in pursuance of section 31 arrangements in relation to the exercise of health-related functions of a local authority,
 - “health service bodies” means Strategic Health Authorities, Primary Care Trusts and NHS trusts,
 - “independent advocacy services” means services provided under section 19A of the 1977 Act (independent advocacy services),
 - “prescribed” means prescribed by regulations made by the Secretary of State,
 - “section 31 arrangements” means arrangements under regulations under section 31 of the 1999 Act (arrangements between NHS bodies and local authorities).

21 Overview and scrutiny committees

In section 7 of the Health and Social Care Act 2001 (c. 15) (health-related functions of overview and scrutiny committees), in subsection (3)(b), at the end there is inserted “or to the relevant authority”.

22 Abolition of Community Health Councils in England

- (1) The Community Health Councils established for districts in England under section 20 of the 1977 Act are abolished.
- (2) That section shall cease to have effect in its application to the area of any Health Authority established for an area in England and to any Community Health Council established for a district in England.
- (3) The Association of Community Health Councils for England and Wales (“ACHCEW”) established under paragraph 5 of Schedule 7 to the 1977 Act is also abolished.
- (4) The National Assembly for Wales has as respects Wales the same power under that paragraph as it would have if no such body had been established.
- (5) The Secretary of State may by order make provision—

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- (a) as to the transfer to a person falling within subsection (6), on or after the abolition of a Community Health Council by subsection (1), of any of the rights or liabilities of a person as a member or former member of the Council,
 - (b) as to the transfer to a person falling within subsection (6) or to the National Assembly for Wales, on or after the abolition of ACHCEW, of any of the property held, rights enjoyed or liabilities incurred in respect of the functions of ACHCEW by a person as a member or former member of a Community Health Council which was a member of ACHCEW.
- (6) The following fall within this subsection—
 - (a) the Secretary of State,
 - (b) a Health Authority established for an area in England,
 - (c) a Special Health Authority,
 - (d) an NHS trust,
 - (e) a Primary Care Trust.
- (7) Before exercising the power conferred by subsection (5)(b) the Secretary of State must consult the National Assembly for Wales.
- (8) If section 1 comes into force before this section—
 - (a) the references to Health Authorities in section 20 of and Schedule 7 to the 1977 Act are to be construed (until this section comes into force) as including references to Strategic Health Authorities, and
 - (b) the references in this section to Health Authorities established for areas in England are to have effect as references to Strategic Health Authorities.
- (9) If this section comes into force before section 1, the reference in subsection (6)(b) to a Health Authority established for an area in England is to be construed, after section 1 comes into force, as a reference to a Strategic Health Authority.