



National Health Service Reform and Health Care Professions Act 2002

2002 CHAPTER 17

PART 1

NATIONAL HEALTH SERVICE, ETC

Quality

11 Duty of quality

In section 18 of the 1999 Act (duty of quality), in subsection (4), at the end of the definition of “health care” there is inserted “, and the environment in which such services are provided”.

12 Further functions of the Commission for Health Improvement

(1) Section 20 of the 1999 Act (functions of the Commission for Health Improvement) is amended as provided in subsections (2) to (4).

(2) In subsection (1)—

(a) in paragraph (d), for “particular types of health care” there is substituted “health care”,

(b) the “and” at the end of paragraph (d) is omitted, and

(c) after paragraph (d) there is inserted—

“(da) the function of conducting reviews of, and making reports on, the quality of data obtained by others relating to the management, provision or quality of, or access to or availability of, health care for which NHS bodies or service providers have responsibility, the validity of conclusions drawn from such data, and the methods used in their collection and analysis,”.

(3) After subsection (1) there is inserted—

“(1A) The functions of conducting reviews and of carrying out investigations include—

- (a) the collection and analysis of data, and
- (b) the assessment of performance against criteria.

(1B) Subject to any regulations under paragraph (d) of subsection (2), the Commission must publish at least a summary of each report it makes in the exercise of the functions conferred on it by or under this section and sections 21 and 22.”

(4) In subsection (2), for paragraph (d) there is substituted—

“(d) as to cases or classes of case in which the Commission must publish reports (and not just summaries),”.

(5) In section 33 of the Audit Commission Act 1998 (c. 18) (studies for improving economy etc in services), in subsection (6)(c), after “Secretary of State” there is inserted “, the Commission for Health Improvement”.

13 Commission for Health Improvement: inspections and investigations

(1) In section 20 of the 1999 Act (functions of the Commission for Health Improvement)

(a) in subsection (1), after the paragraph (da) inserted by section 12 there is inserted—

“(db) the function of carrying out inspections of NHS bodies and service providers, and persons who provide or are to provide health care for which NHS bodies or service providers have responsibility, and making reports on the inspections, and”, and

(b) after the subsections (1A) and (1B) inserted by section 12 there is inserted—

“(1C) The inspections referred to in paragraph (db) of subsection (1) are to be carried out only in connection with the function referred to in paragraph (d) of that subsection.

(1D) If after carrying out—

- (a) a review under subsection (1)(b),
- (b) an investigation under subsection (1)(c),
- (c) any function equivalent to one referred to in paragraph (a) or (b) prescribed under subsection (1)(e), or
- (d) an inspection under subsection (1)(db),

the Commission is of the view referred to in subsection (1E) as to a body, service provider or other person reviewed, investigated or inspected (taking account, if appropriate, of any other relevant information the Commission may have), the Commission must make a report of its view to the Secretary of State.

(1E) The view referred to is that—

Status: This is the original version (as it was originally enacted).

- (a) the health care for which the body or service provider in question has responsibility is of unacceptably poor quality (whether generally or in particular areas), or
 - (b) there are significant failings in the way the body, service provider or other person is being run (including, where the service provider or other person is an individual, the way his practice is being run).
- (1F) In its report, the Commission may recommend to the Secretary of State that he take special measures in relation to the body or service provider in question with a view to improving the health care for which it is responsible or the way the body, service provider or other person (or, as mentioned in subsection (1E)(b), his practice) is being run.
- (1G) The report must give the Commission’s reasons for its view, and for any recommendation under subsection (1F).”
- (2) In section 23 of that Act (powers of the Commission to obtain information)—
 - (a) in subsection (1)(a), for “NHS premises” there is substituted “relevant premises”,
 - (b) in subsection (2)(d), after “section 20(1)(c)” there is inserted “, (d) or (db), or any functions equivalent to those under section 20(1)(c) prescribed under section 20(1)(e)”, and
 - (c) in subsection (6)—
 - (i) the definition of “NHS premises” is omitted, and
 - (ii) after the definition of “prescribed” there is inserted—

““relevant premises” means—

 - (a) premises owned or controlled by an NHS body,
 - (b) premises owned or controlled by a Local Health Board,
 - (c) premises owned or controlled by a service provider and used for purposes connected with the services provided,
 - (d) any other premises used for any purpose connected with the provision of health care for which an NHS body, a service provider or a Local Health Board has responsibility,

(and terms used in this definition have the meaning given by section 20(7) (disregarding section 20(8)(b))).”

14 Commission for Health Improvement: constitution

- (1) Schedule 2 to the 1999 Act (the Commission for Health Improvement) is amended as follows.
- (2) After paragraph 5 there is inserted—

“5A (1) The Secretary of State may direct a Special Health Authority to exercise—

 - (a) his function of appointing the chairman and the other members referred to in paragraph 4(c), and
 - (b) any functions conferred on him by regulations under paragraph 5 in relation to the appointment or tenure of office of the chairman and those other members.

Status: This is the original version (as it was originally enacted).

- (2) The National Assembly for Wales may direct a Special Health Authority to exercise—
- (a) its function of appointing the member referred to in paragraph 4(b), and
 - (b) any functions conferred on it by regulations under paragraph 5 in relation to the appointment or tenure of office of that member.
- (3) If the Secretary of State or the Assembly gives such directions, the 1977 Act has effect as if—
- (a) the directions were directions under section 16D of that Act, and, accordingly,
 - (b) the functions were exercisable by the Special Health Authority under section 16D.”
- (3) In paragraph 7 (employees)—
- (a) in sub-paragraph (2), the words after “Commission” are omitted, and
 - (b) sub-paragraphs (6) and (7) are omitted.
- (4) In paragraph 8 (delegation of functions)—
- (a) the existing text is renumbered as sub-paragraph (1) of that paragraph,
 - (b) in that sub-paragraph (1) (as so renumbered), for “a committee” to the end there is substituted—
 - “(a) a committee, sub-committee, member or employee of the Commission, or
 - (b) any other person.”, and
 - (c) after sub-paragraph (1) there is inserted—
 - “(2) If the Commission arranges for the discharge of any function falling within section 20(1A) of this Act by one or more committees or sub-committees of the Commission, the persons by whom those functions are to be discharged are to be known collectively as “the Office for Information on Health Care Performance”.
 - (3) If the Commission arranges for the discharge of any function as mentioned in sub-paragraph (1)(b), the arrangements may include provision with respect to the payment of remuneration and allowances to, or amounts in respect of, such persons.”
- (5) In paragraph 12—
- (a) in sub-paragraph (1), for “the exercise of its functions” there is substituted “the way in which the Commission has exercised its functions”, and
 - (b) after sub-paragraph (1) there is inserted—
 - “(1A) As soon as possible after the end of each financial year, the Commission must also make a report to the Secretary of State and the National Assembly for Wales on what it has found in relation to NHS bodies and service providers in the course of exercising its functions during the year.
 - (1B) The Secretary of State must lay before Parliament any reports he receives under sub-paragraphs (1) and (1A).

(1C) The National Assembly for Wales must publish any report it receives under sub-paragraph (1A).”