

These notes refer to the Health and Social Care (Community Health and Standards) Act 2003 (c.43) which received Royal Assent on 20 November 2003

HEALTH AND SOCIAL CARE (COMMUNITY HEALTH AND STANDARDS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 –Standards

Chapter 3 - Nhs Health Care: Functions of Chai

Healthcare provided by and for NHS bodies

Section 48: Introductory

153. *Section 48* gives the CHAI the function of encouraging improvement in NHS health care by or for all NHS bodies. Under this section, the CHAI will be able to give information or advice to NHS bodies or others who provide NHS health care. It states that the CHAI, in exercising its functions under *sections 49 to 56*, shall be concerned in particular with the availability of and access to, the quality and effectiveness, and the economy and efficiency of health care provided by or for NHS bodies, and with the need to safeguard and promote the rights and welfare of children. CHAI shall also be concerned with the availability and quality of information provided to the public about the health care, such as generic information that is not specific to individual patients or service users, such as leaflets, hospital signage and other patient and service user information, such as information about medical conditions generally.

Section 49: National Performance Data

154. This section enables the CHAI to publish data on the performance of NHS bodies and other persons who provide health care, across NHS bodies in England and Wales.

Section 50: Annual Reviews

155. *Section 50* gives the CHAI the function of undertaking annual reviews, taking the statement of standards (as provided for in *section 46*) into account, of the provision of health care by and for each English NHS body and each cross-border Special Health Authority. Following each annual review of a body, the CHAI will award a performance rating. *Subsections (2) and (3)* provide for the CHAI to devise and publish criteria against which these reviews will be carried out. The Secretary of State will approve such criteria.

Section 51: Reviews: England and Wales

156. This section gives the CHAI a function of conducting reviews across England and Wales of health care generally or of particular kinds of health care, for example, national cancer services. CHAI may undertake such reviews under its own initiative or at the request of the Secretary of State, who must first consult the Assembly before making a request.

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157. *Sections 51(6), 52(7), 53(9), 54(9) and 57(5)* enable the Secretary of State, after consulting the CHAI, to issue regulations making provision as to any procedure that must be followed before the award of any performance rating under section 50 or publication of any report under *sections 52 to 54* in order to give the reviewed body time to comment and for any comments to be considered by CHAI. Such regulations could specify, for example, the numbers of days that NHS bodies would have to respond to draft reports issued by CHAI under differing circumstances, and could in particular require the CHAI to take into account any material observations made by NHS bodies about apparent factual errors in draft reports.

Section 52: Reviews and Investigations: England

158. *Section 52* provides for the CHAI to review or investigate health care provided by or for English NHS bodies and cross-border Special Health Authorities with a view to making a report. The CHAI may also review the arrangements made by such bodies under section 45 to monitor and improve the health care they provide or commission. English NHS bodies may provide health services on behalf of Welsh NHS bodies, and where this occurs the Assembly may review and investigate such services under *section 68*. This also applies in respect of cross-border Special Health Authorities.
159. The CHAI may undertake reviews either under its own initiative or at the request of the Secretary of State.

Section 53: Failings

160. Where the CHAI considers that there are significant failings in the health care provided by or for NHS bodies, *subsections (2), (4) and (6)* oblige the CHAI to make a report to the Secretary of State, the Assembly or the Regulator as appropriate. *Subsections (3), (5) and (7)* enable the CHAI to recommend that the appropriate authority take special measures to improve the health care provided. Such measures could include calling on the CHAI to undertake a re-inspection of the body concerned or other practical assistance or organisational support.

Section 54: Functions relating to the Secretary of State and Assembly

161. *Section 54* places a duty on the CHAI to keep the Secretary of State, in relation to English or cross-border NHS bodies, and the Assembly in relation to Welsh NHS bodies, informed about health care provided by or for NHS bodies.
162. *Subsection (2)* allows for the CHAI, where it considers it timely or appropriate, to give advice to the Secretary of State or the Assembly on any particular changes which it thinks should be made in order to secure improvements in the quality of NHS health care including in relation to the statement of standards referred to in *sections 46 and 47*.

Section 55: Reviews of data

163. This section enables the CHAI to review the quality of any data collected by others on health care provided by and for NHS bodies and to make a report of its findings.

Section 56: Co-ordination of reviews

164. *Section 56* gives the CHAI the function of promoting the effective co-ordination of reviews or assessments by public bodies or other persons which undertakes reviews of the provision of health care by or for English NHS bodies and cross border Special Health Authorities. It is envisaged that the Assembly will perform this function in relation to Welsh NHS bodies under its powers in the 1977 Act.