



# Health and Social Care Act 2008

## 2008 CHAPTER 14

### PART 1

#### THE CARE QUALITY COMMISSION

### CHAPTER 3

#### QUALITY OF HEALTH AND SOCIAL CARE

#### *<sup>F1</sup>Healthwatch England and Local Healthwatch organisations*

#### **Textual Amendments**

- F1** Ss. 45A-45C and cross-heading inserted (27.3.2012 for specified purposes, 1.10.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), ss. [181\(4\)](#), [306\(1\)\(d\)](#), (4); S.I. 2012/1831, art. 2(2) (with art. 7); S.I. 2013/160, art. 2(2) (with arts. 7-9)

#### **45A Functions to be exercised by Healthwatch England**

- (1) The Commission has the functions set out in subsections (2) to (5), but must arrange for the Healthwatch England committee to exercise the functions on its behalf.
- (2) The function in this subsection is to provide Local Healthwatch organisations with general advice and assistance in relation to—
  - (a) the making of arrangements under section 221(1) of the Local Government and Public Involvement in Health Act 2007 (local care services);
  - (b) the making of arrangements in pursuance of arrangements made under section 221(1) of that Act (see section 222(2B) of that Act);
  - (c) the carrying-on of activities specified in section 221(2) of that Act.

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**Changes to legislation:** *There are currently no known outstanding effects for the Health and Social Care Act 2008, Cross Heading: Healthwatch England and Local Healthwatch organisations. (See end of Document for details)*

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- (3) The function in this subsection is a power to make recommendations of a general nature to English local authorities about the making of arrangements under section 221(1) of that Act.
- (4) The function in this subsection is a power, where the Healthwatch England committee is of the opinion that the activities specified in section 221(2) of that Act are not being carried on properly in an English local authority's area, to give the authority concerned written notice of its opinion.
- (5) The function in this subsection is to provide the persons mentioned in subsection (6) with information and advice on—
- (a) the views of people who use health or social care services and of other members of the public on their needs for and experiences of health and social care services, and
  - (b) the views of Local Healthwatch organisations and of other persons on the standard of provision of health and social care services and on whether or how the standard could or should be improved.
- (6) The persons referred to in subsection (5) are—
- (a) the Secretary of State;
  - (b) [<sup>F2</sup>NHS England];
  - <sup>F3</sup>(c) .....
  - (d) English local authorities.
- (7) A person provided with advice under subsection (5) must inform the Healthwatch England committee in writing of its response or proposed response to the advice.
- (8) The Healthwatch England committee may provide the Commission with information and advice on the matters mentioned in subsection (5)(a) and (b); and the Commission must inform the committee in writing of its response or proposed response to the advice.
- (9) The Commission must publish details of arrangements it makes under subsection (1) (including details of payments of remuneration or other amounts); and inclusion of the details in a report under section 83 is not to be regarded as a discharge of the duty imposed by this subsection.
- (10) In performing functions under this section, the Healthwatch England committee must have regard to such aspects of government policy as the Secretary of State may direct.

#### Textual Amendments

- F2** Words in s. 45A 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)
- F3** S. 45A(6)(c) omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 5 para. 38; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

## 45B Conflicts of interest

- (1) In making arrangements under section 45A(1), the Commission must have regard to any conflicts guidance issued by the Secretary of State.

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- (2) In exercising functions on behalf of the Commission, the Healthwatch England committee must have regard to any conflicts guidance issued by the Secretary of State.
- (3) In this section, “ conflicts guidance ” means guidance about managing conflicts between—
  - (a) the exercise of functions by the Commission, and
  - (b) the exercise of functions by the Healthwatch England committee on the Commission's behalf.

#### **45C Reports**

- (1) As soon as possible after the end of each financial year, the Healthwatch England committee—
  - (a) must make a report to the Commission (whether or not in writing) on the matters mentioned in section 45A(5)(a) and (b), and
  - (b) must publish a report on the way in which it has exercised during the year the functions exercisable by it.
- (2) The committee must—
  - (a) lay before Parliament a copy of each report made under subsection (1)(b), and
  - (b) send a copy of each such report to the Secretary of State and to every Local Healthwatch organisation.
- (3) The committee may publish other reports at such times, and on such matters relating to health or social care, as it thinks appropriate.
- (4) Where a recommendation is made to the committee under section 221(2)(h) of the Local Government and Public Involvement in Health Act 2007 (reports under subsection (3)), the committee must have regard to the recommendation.
- (5) Before publishing a report under subsection (1)(b) or (3), the committee must, so far as practicable, exclude any matter which relates to the private affairs of an individual the publication of which, in the committee's opinion, would or might seriously and prejudicially affect that individual's interests.
- (6) In this section, “ financial year ” means—
  - (a) the period beginning with the date on which the committee is appointed and ending with the following 31 March, and
  - (b) each successive period of 12 months ending with 31 March.]

#### **[<sup>F4</sup>45D Granting licence to use trade mark**

- (1) The Commission may grant a Local Healthwatch organisation a licence authorising the use, in relation to the carrying-on of activities under arrangements made under section 221(1) of the Local Government and Public Involvement in Health Act 2007, of a registered trade mark of which the Commission is the proprietor.
- (2) A licence under this section may not provide for the grant of a sub-licence by the licensee other than a sub-licence authorising the use of the mark by a Local Healthwatch contractor in relation to the carrying-on of activities under Local Healthwatch arrangements.
- (3) In this section—

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“Local Healthwatch arrangements” has the meaning given by section 222 of the Local Government and Public Involvement in Health Act 2007,

“Local Healthwatch contractor” has the meaning given by section 223 of that Act, and

“registered trade mark” and “use” have the same meaning as in the Trade Marks Act 1994.]

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#### **Textual Amendments**

- F4** S. 45D inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 182(11)**, 306(4); [S.I. 2013/160](#), [art. 2\(2\)](#) (with [arts. 7-9](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Health and Social Care Act 2008, Cross  
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