



# Care Act 2014

## 2014 CHAPTER 23

### PART 2

#### CARE STANDARDS

##### *Quality of services*

#### **85 Trust special administration: objective, consultation and reports**

- (1) In section 65DA of the National Health Service Act 2006 (objective of trust special administration), in subsection (1), after paragraph (a) (but before the following “and”) insert—
  - “(aa) that the services whose continuous provision is secured as mentioned in paragraph (a) are of sufficient safety and quality to be provided under this Act.”.
- (2) After subsection (5) of that section insert—

“(5A) Before publishing guidance under subsection (4)(c), the regulator must consult the Care Quality Commission.”
- (3) In section 65F of that Act (administrator's draft report), in subsection (2)—
  - (a) omit the “and” preceding paragraph (b), and
  - (b) after that paragraph insert “, and
  - (c) the Care Quality Commission.”
- (4) In subsection (5) of that section, in paragraph (a), for “65DA” substitute “ 65DA(1)(a) ”.
- (5) After that subsection insert—

“(5A) Nor, in the case of an NHS foundation trust, may the administrator provide the draft report to the regulator under subsection (1) without having obtained from the Care Quality Commission a statement that it considers that the

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recommendation in the draft report would achieve that part of the objective set out in section 65DA(1)(aa).”

- (6) In subsection (6) of that section—
- (a) after “Where the Board” insert “ or the Care Quality Commission ”,
  - (b) for “to that effect” substitute “ to the effect mentioned in subsection (5) or (5A) ”, and
  - (c) after “, the Board” insert “ or (as the case may be) the Commission ”.
- (7) In section 65G of that Act (consultation plan), in subsection (4), in paragraph (a), for “65DA” substitute “ 65DA(1)(a) ”.
- (8) After that subsection insert—
- “(4A) Nor may the administrator make a variation to the draft report following the consultation period without having obtained from the Care Quality Commission a statement that it considers that the recommendation in the draft report as so varied would achieve that part of the objective set out in section 65DA(1)(aa).”
- (9) In subsection (5) of that section—
- (a) after “Where the Board” insert “ or the Care Quality Commission ”,
  - (b) for “to that effect” substitute “ to the effect mentioned in subsection (4) or (4A) ”, and
  - (c) after “, the Board” insert “ or (as the case may be) the Commission ”.
- (10) In section 65H of that Act (consultation requirements)—
- (a) in subsection (7), after paragraph (b) insert—
    - “(ba) the Care Quality Commission;”, and
  - (b) in subsection (9), after “subsection (7)(b),” insert “ (ba), ”.
- (11) In section 65KB of that Act (Secretary of State's response to regulator's decision), in subsection (1), after paragraph (c) insert—
- “(ca) that the Care Quality Commission has discharged its functions for the purposes of this Chapter,”.
- (12) In subsection (2) of that section, in paragraph (b), after “the regulator” insert “ and the Care Quality Commission ”.
- (13) In section 65KD of that Act (Secretary of State's response to re-submitted final report), in subsection (3), for “(8)” substitute “ (8A) ”.
- (14) After subsection (8) of that section insert—
- “(8A) If the notice states that the Care Quality Commission has failed to discharge a function—
- (a) the Care Quality Commission is to be treated for the purposes of this Act as having failed to discharge the function, and
  - (b) the failure is to be treated for those purposes as significant (and section 82 of the Health and Social Care Act 2008 applies accordingly).”
- (15) In paragraph 15(4) of Schedule 14 to the Health and Social Care Act 2012 (abolition of NHS trusts in England: consequential amendments to section 65F of the National Health Service Act 2006)—

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- (a) in the new subsection (2A) to be inserted by paragraph 15(4), in paragraph (a), for “65DA” substitute “ 65DA(1)(a) ”,
- (b) after that new subsection, insert—
  - “(2AA) Nor may the administrator provide the draft report to the regulator under subsection (1) without having obtained from the Care Quality Commission a statement that it considers that the recommendation in the draft report would achieve that part of the objective set out in section 65DA(1)(aa).”, and
- (c) in the new subsection (2B) to be inserted by paragraph 15(4)—
  - (i) after “Where the Board” insert “ or the Care Quality Commission ”,
  - (ii) for “to that effect” substitute “ to the effect mentioned in subsection (2A) or (2AA) ”, and
  - (iii) after “, the Board” insert “ or (as the case may be) the Commission ”.

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**Commencement Information**

**II** S. 85 in force at 15.7.2014 by S.I. 2014/1714, [art. 3\(2\)\(b\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 15(2)-(3B) substituted for s. 15(2)(3) by [2022 c. 31 s. 166\(2\)](#)
- s. 26(1)-(2A) substituted for s. 26(1)(2) by [2022 c. 31 s. 166\(4\)](#)