



Health and Social Care (Community Health and Standards) Act 2003

2003 CHAPTER 43

PART 2

STANDARDS

CHAPTER 3

NHS HEALTH CARE: FUNCTIONS OF CHAI

Healthcare provided by and for NHS bodies

VALID FROM 01/04/2004

48 **Introductory**

- (1) The CHAI has the general function of encouraging improvement in the provision of health care by and for NHS bodies.
- (2) In exercising its functions under subsection (1) and sections 49 to 56 in relation to such provision, the CHAI shall be concerned in particular with—
 - (a) the availability of, and access to, the health care;
 - (b) the quality and effectiveness of the health care;
 - (c) the economy and efficiency of the provision of the health care;
 - (d) the availability and quality of information provided to the public about the health care;
 - (e) the need to safeguard and promote the rights and welfare of children; and

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Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Chapter 3. (See end of Document for details)

- (f) the effectiveness of measures taken for the purpose of paragraph (e) by the body in question and any person who provides, or is to provide, health care for that body.

VALID FROM 01/04/2004

49 National performance data

The CHAI has the function of publishing data relating to the provision of health care by and for NHS bodies.

50 Annual reviews

- (1) In each financial year the CHAI must conduct a review of the provision of health care by and for—
 - (a) each English NHS body, and
 - (b) each cross-border SHA,
 and must award a performance rating to each such body.
- (2) The CHAI is to exercise its function under subsection (1) by reference to criteria from time to time devised by it and approved by the Secretary of State.
- (3) The CHAI must publish the criteria devised and approved from time to time under subsection (2).
- (4) In exercising its functions under this section in relation to any health care the CHAI must take into account the standards set out in statements published under section 46.
- (5) For the purposes of this section the CHAI may, subject to this Part, conduct an inspection of—
 - (a) the body being reviewed; and
 - (b) any person who provides, or is to provide, health care for that body (wherever the health care is or is to be provided).
- (6) The Secretary of State may, after consulting the CHAI, by regulations make provision as to the procedure to be followed in respect of the making of representations to the CHAI before the award of a performance rating under this section.

Commencement Information

II S. 50 partly in force; s. 50 in force at Royal Assent for certain purposes, see s. 199(1)(4)

51 Reviews: England and Wales

- (1) The CHAI has the function of conducting reviews of—
 - (a) the overall provision of health care by and for NHS bodies;
 - (b) the overall provision of particular kinds of health care by and for NHS bodies;
 - (c) the provision of health care, or a particular kind of health care, by and for NHS bodies of a particular description.

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- (2) If the Secretary of State so requests, the CHAI must conduct—
 - (a) a review under subsection (1)(a);
 - (b) a review under subsection (1)(b) of the overall provision of a kind of health care specified in the request; or
 - (c) a review under subsection (1)(c) of the provision of health care, or health care of a kind specified in the request, by or for NHS bodies of a description so specified.
- (3) The Secretary of State must consult the Assembly before making a request under subsection (2).
- (4) In conducting a review under this section in relation to any health care the CHAI must take into account—
 - (a) the standards set out in statements published under section 46, where the health care is provided by or for an English NHS body or cross-border SHA;
 - (b) the standards set out in statements published under section 47, where the health care is provided by or for a Welsh NHS body.
- (5) For the purposes of this section the CHAI may carry out an inspection of—
 - (a) any NHS body; and
 - (b) any person who provides, or is to provide, health care for an NHS body (wherever the health care is or is to be provided).
- (6) Where the CHAI conducts a review under this section it must publish a report.
- (7) The Secretary of State may, after consulting the CHAI, by regulations make provision as to the procedure to be followed in respect of the making of representations to the CHAI before the publication of a report under this section.

Commencement Information

I2 S. 51 partly in force; s. 51 in force at Royal Assent for certain purposes, see s. 199(1)(4)

52 Reviews and investigations: England

- (1) The CHAI has the function of conducting other reviews of, and investigations into, the provision of health care by and for English NHS bodies and cross-border SHAs.
- (2) The CHAI may in particular under this section conduct—
 - (a) a review of the overall provision of health care by and for English NHS bodies and cross-border SHAs;
 - (b) a review of the overall provision of a particular kind of health care by and for English NHS bodies and cross-border SHAs;
 - (c) a review of, or investigation into, the provision of any health care by or for a particular English NHS body or cross-border SHA.
- (3) The CHAI has the function of conducting reviews of the arrangements made by English NHS bodies and cross-border SHAs for the purpose of discharging their duty under section 45.
- (4) If the Secretary of State so requests, the CHAI must conduct—
 - (a) a review under subsection (2)(a);

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- (b) a review under subsection (2)(b) of the overall provision of a kind of health care specified in the request;
 - (c) a review or investigation under subsection (2)(c), or a review under subsection (3), in relation to the provision of such health care by or for such body as may be specified in the request.
- (5) In exercising its functions under this section in relation to any health care the CHAI must take into account the standards set out in statements published under section 46.
- (6) For the purposes of this section the CHAI may carry out an inspection of—
- (a) any English NHS body or cross-border SHA; and
 - (b) any person who provides, or is to provide, health care for such a body (wherever the health care is or is to be provided).
- (7) Where the CHAI conducts a review or investigation under this section it must publish a report.
- (8) The Secretary of State may, after consulting the CHAI, by regulations make provision as to the procedure to be followed in respect of the making of representations to the CHAI before the publication of a report under this section.
- (9) The Secretary of State may by regulations require an NHS body to publish a statement as to the action it proposes to take as a result of any review or investigation conducted under this section in relation to it.
- (10) Regulations under subsection (9) may make provision—
- (a) as to the matters with which a statement under the regulations must deal;
 - (b) as to the time by which any such statement must be published;
 - (c) requiring an NHS body, before publishing any such statement, to obtain the consent of any person specified in the regulations;
 - (d) requiring the NHS body publishing any such statement to send a copy of it to any person so specified.

Commencement Information

I3 S. 52 partly in force; s. 52 in force at Royal Assent for certain purposes, see s. 199(1)(4)

53 Failings

- (1) This section applies where the CHAI conducts—
- (a) a review under section 50 or 51; or
 - (b) a review or investigation under section 52.
- (2) The CHAI must make a report to the Secretary of State if it is of the view that—
- (a) there are significant failings in relation to the provision of health care by or for an English NHS body or cross-border SHA;
 - (b) there are significant failings in the running of an English NHS body or cross-border SHA; or
 - (c) there are significant failings in the running of any body, or the practice of any individual, providing health care for an English NHS body or cross-border SHA.

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- (3) A report made to the Secretary of State under subsection (2) may include a recommendation that, with a view to remedying the failings in question, the Secretary of State take special measures in relation to—
- (a) in a case falling within paragraph (a) or (b) of subsection (2), the English NHS body or cross-border SHA in question;
 - (b) in a case falling within paragraph (c) of that subsection, any person, other than a Welsh NHS body, referred to in that paragraph.
- (4) The CHAI must also report to the Assembly where it is of the view that—
- (a) there are significant failings in relation to the provision of health care by or for a Welsh NHS body;
 - (b) there are significant failings in the running of a Welsh NHS body; or
 - (c) there are significant failings in the running of any body, or the practice of any individual, providing health care for a Welsh NHS body.
- (5) A report made to the Assembly under subsection (4) may include a recommendation that, with a view to remedying the failings in question, the Assembly take special measures in relation to—
- (a) in a case falling within paragraph (a) or (b) of subsection (4), the Welsh NHS body in question; and
 - (b) in a case falling within paragraph (c) of that subsection, any person, other than an English NHS body or cross-border SHA, referred to in that paragraph.
- (6) The CHAI must also make a report to the regulator where it is of the view that—
- (a) there are significant failings in relation to the provision of health care by or for an NHS foundation trust;
 - (b) there are significant failings in the running of an NHS foundation trust; or
 - (c) there are significant failings in the running of any body, or the practice of any individual, providing health care for an NHS foundation trust.
- (7) A report made to the regulator under subsection (6) may include a recommendation that, with a view to remedying the failings in question, the regulator take special measures in relation to the NHS foundation trust in question.
- (8) A report under this section must give the CHAI's reasons for its view and for any recommendation made.
- (9) The Secretary of State may, after consulting the CHAI, by regulations make provision as to the procedure to be followed in respect of the making of representations to the CHAI before the publication of a report under this section.

Commencement Information

I4 S. 53 partly in force; s. 53 in force at Royal Assent for certain purposes, see s. 199(1)(4)

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VALID FROM 01/04/2004

54 Functions relating to Secretary of State and Assembly

- (1) The CHAI is to keep the appropriate authority informed about the provision of health care by and for any NHS body.
- (2) The CHAI may at any time give advice to the appropriate authority on any matter connected with the provision of such health care (including, in particular, advice on any changes which it thinks should be made to the standards under section 46 or 47 for the purpose of securing improvement in the quality of the health care).
- (3) When requested to do so by the appropriate authority, the CHAI must give the authority advice or information on such matters connected with the provision of health care by or for any NHS body as may be specified in the request.
- (4) The CHAI may give advice to the appropriate authority or any NHS body about the establishment or conduct of any inquiry held, or to be held, by the authority or the body in relation to the provision of health care by or for that body.
- (5) In this section, the “appropriate authority” means—
 - (a) the Secretary of State, in relation to the provision of health care by or for an English NHS body or cross-border SHA; or
 - (b) the Assembly, in relation to the provision of health care by or for a Welsh NHS body.

VALID FROM 01/04/2004

55 Reviews of data

- (1) The CHAI may review—
 - (a) the quality of data obtained by others in relation to the provision of health care by and for NHS bodies;
 - (b) the methods used in the collection and analysis of such data; and
 - (c) the validity of conclusions drawn from such data.
- (2) Where the CHAI conducts a review under this section it must publish a report.

VALID FROM 01/04/2004

56 Co-ordination of reviews

The CHAI has the function of promoting the effective co-ordination of reviews or assessments carried out by public bodies or other persons in relation to the provision of health care by or for English NHS bodies and cross-border SHAs.

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Other functions

57 Studies as to economy, efficiency etc

- (1) The CHAI has the function of promoting or undertaking comparative or other studies designed to enable it to make recommendations for improving economy, efficiency and effectiveness in the exercise of any of the functions of an English NHS body, other than a Special Health Authority (whether the functions are exercised by the English NHS body or by another person).
- (2) The CHAI may exercise its function under subsection (1) in relation to a body on the CHAI's own initiative or at the request of the body concerned.
- (3) For the purposes of this section the CHAI may carry out an inspection of—
 - (a) any English NHS body other than a Special Health Authority;
 - (b) any person exercising the functions of such a body.
- (4) The CHAI must publish its recommendations and the result of any studies under this section.
- (5) The Secretary of State may, after consulting the CHAI, by regulations make provision as to the procedure to be followed in respect of the making of representations to the CHAI before the publication of any recommendations or the result of any studies under this section.
- (6) The CHAI's functions under this section may be exercised on its behalf by the Audit Commission, if the Audit Commission and the CHAI so agree.
- (7) Where the Audit Commission exercises functions under subsection (6), it shall do so on such terms, including terms as to payment, as the CHAI and the Audit Commission may agree.

Commencement Information

I5 S. 57 partly in force; s. 57 in force at Royal Assent for certain purposes, see s. 199(1)(4)

58 Additional functions

- (1) The Secretary of State may by regulations provide that the CHAI is to have such additional functions as may be prescribed in relation to—
 - (a) the provision of health care by or for NHS bodies;
 - (b) the improvement of—
 - (i) economy, efficiency and effectiveness in the exercise of the functions of English NHS bodies; and
 - (ii) the financial or other management, or operations, of English NHS bodies.
- (2) The Secretary of State must consult the regulator before making provision under subsection (1) in relation to NHS foundation trusts.
- (3) The Secretary of State must obtain the consent of the Assembly before making provision under subsection (1)(a) in relation to health care provided by or for a Welsh

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NHS body other than health care provided by or for an English NHS body or cross-border SHA.

Commencement Information

I6 S. 58 partly in force; s. 58 in force at Royal Assent for certain purposes, see s. 199(1)(4)

Supplementary

59 Criteria

- (1) The Secretary of State may, after consulting the CHAI, make regulations requiring the CHAI to devise and publish statements of criteria to be used in—
 - (a) the exercise of any of its functions under section 48(1), 49, 51 or 53 in relation to the provision of health care by or for an English NHS body or cross-border SHA;
 - (b) the exercise of any of its functions under section 52, 56, 57 or 58(1)(b).
- (2) The Assembly may, after consulting the CHAI, make regulations requiring the CHAI to devise and publish statements of criteria to be used in the exercise of its functions under section 48(1), 49, 51 or 53 in relation to the provision of health care by or for a Welsh NHS body.
- (3) In relation to any function conferred on the CHAI under subsection (1)(a) of section 58, regulations under that section may provide that any one or more of the following provisions of this section shall have effect as if it included a reference to the exercise of that function—
 - (a) subsection (1)(a);
 - (b) subsection (1)(b);
 - (c) subsection (2).
- (4) Regulations under this section may require the CHAI—
 - (a) to consult any person specified in the regulations before publishing a statement under subsection (1) or (2);
 - (b) to obtain the consent of the Secretary of State before publishing a statement under subsection (1);
 - (c) to obtain the consent of the Assembly before publishing a statement under subsection (2).

Commencement Information

I7 S. 59 partly in force; s. 59 in force at Royal Assent for certain purposes, see s. 199(1)(4)

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VALID FROM 01/04/2004

60 Provision of material

- (1) The CHAI must, on request, provide the Comptroller and Auditor General with any material relevant to a review or investigation under sections 50 to 52 or a study under section 57.
- (2) The CHAI must, on request, provide the regulator with—
 - (a) any material which is relevant to a review or investigation under sections 50 to 52 and relates to the provision of health care by or for an NHS foundation trust;
 - (b) any material which is relevant to a study under section 57 and relates to an NHS foundation trust.

VALID FROM 01/04/2004

61 Co-operation between CHAI and the regulator

- (1) The CHAI and the regulator must co-operate with each other in the exercise of their respective functions under Part 1 and this Chapter.
- (2) In particular, for the purposes of subsection (1)—
 - (a) the CHAI must keep the regulator informed about the provision of health care by and for NHS foundation trusts;
 - (b) the regulator must give to the CHAI any information it has about the provision of health care by or for an NHS foundation trust which it considers would assist the CHAI in the discharge of its functions.

62 Fees

- (1) The CHAI may from time to time make and publish provision—
 - (a) requiring an English NHS body or cross-border SHA to pay a fee in respect of the exercise by the CHAI, in relation to that body or to health care provided by or for that body, of such of its functions under this Chapter as may be prescribed;
 - (b) requiring a person of a prescribed description who provides health care for an English NHS body or cross-border SHA to pay a fee in respect of the exercise by the CHAI, in relation to the health care so provided by that person, of such of its functions under this Chapter as may be prescribed.
- (2) The CHAI may not under subsection (1)(b) require a Welsh NHS body to pay a fee.
- (3) The amount of a fee payable under provision under subsection (1) shall be such as may be specified in, or calculated or determined under, the provision.
- (4) Provision under subsection (1) may include provision—
 - (a) for different fees to be paid in different cases, or classes of case;
 - (b) for different fees to be paid by persons of different descriptions;

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- (c) for the amount of a fee to be determined by the CHAI in accordance with specified factors;
 - (d) for the time by which a fee must be paid.
- (5) Before making any provision under subsection (1) the CHAI must consult such persons as appear to it appropriate.
- (6) The Secretary of State may by regulations make provision as to—
- (a) the manner in which provision under subsection (1) is to be made and published;
 - (b) the matters to be taken into account by the CHAI before making the provision.
- (7) The Secretary of State may by regulations make provision for an independent person or panel to review the amount charged under subsection (1) in any particular case and, if that person or panel thinks fit, to substitute a lesser amount for that amount.
- (8) For the purpose of determining the fee payable by a person or body under subsection (1), the person or body must provide the CHAI with such information, in such form, as the CHAI may require.
- (9) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

Commencement Information

18 S. 62 partly in force; s. 62 in force at Royal Assent for certain purposes, see s. 199(1)(4)

63 Fees: Wales

- (1) The CHAI may from time to time make and publish provision—
- (a) requiring a Welsh NHS body to pay a fee in respect of the exercise by the CHAI, in relation to that body or to health care provided by or for that body, of such of its functions under this Chapter as may be prescribed;
 - (b) requiring a person of a prescribed description who provides health care for a Welsh NHS body to pay a fee in respect of the exercise by the CHAI, in relation to the health care so provided by that person, of such of its functions under this Chapter as may be prescribed.
- (2) The CHAI may not under subsection (1)(b) require an English NHS body or cross-border SHA to pay a fee.
- (3) The amount of a fee payable under provision under subsection (1) shall be such as may be specified in, or calculated or determined under, the provision.
- (4) Provision under subsection (1) may include provision—
- (a) for different fees to be paid in different cases, or classes of case;
 - (b) for different fees to be paid by persons of different descriptions;
 - (c) for the amount of a fee to be determined by the CHAI in accordance with specified factors;
 - (d) for the time by which a fee must be paid.
- (5) Before making any provision under subsection (1) the CHAI must consult such persons as appear to it appropriate.

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- (6) The Assembly may by regulations make provision as to—
- (a) the manner in which provision under subsection (1) is to be made and published;
 - (b) the matters to be taken into account by the CHAI before making the provision.
- (7) The Assembly may by regulations make provision for an independent person or panel to review the amount charged under subsection (1) in any particular case and, if that person or panel thinks fit, to substitute a lesser amount for that amount.
- (8) For the purpose of determining the fee payable by a person or body under subsection (1), the person or body must provide the CHAI with such information, in such form, as the CHAI may require.
- (9) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

Commencement Information

19 S. 63 partly in force; s. 63 in force at Royal Assent for certain purposes, see s. 199(1)(4)

VALID FROM 01/04/2004

64 Reports and information

- (1) The CHAI must make copies of any report published by it under this Chapter available for inspection at its offices by any person at any reasonable time.
- (2) Any person who requests a copy of such a report is entitled to have one on payment of such reasonable fee (if any) as the CHAI considers appropriate.
- (3) The CHAI may charge a person such reasonable fee as it considers appropriate where it provides him, at his request, with any other information relevant to the discharge of the CHAI's functions under this Chapter.

VALID FROM 01/04/2004

65 Co-operation between CHAI and the Audit Commission

The CHAI and the Audit Commission must co-operate with each other in relation to matters in respect of which both have functions.

VALID FROM 01/04/2004

66 Right of entry

- (1) A person authorised to do so by the CHAI may, if the CHAI considers it necessary or expedient for the purposes of this Chapter, at any reasonable time enter and inspect—
 - (a) any premises owned or controlled by an NHS body;

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- (b) any other premises used, or proposed to be used, for any purpose connected with—
 - (i) the provision of health care by or for an NHS body, or
 - (ii) the discharge of any of the functions of an NHS body.
- (2) A person who proposes to exercise any power of entry or inspection conferred by this section must if so required produce some duly authenticated document showing his authority to exercise the power.

VALID FROM 01/04/2004

67 Right of entry: supplementary

- (1) A person authorised by virtue of section 66 to enter and inspect premises may, if he considers it necessary or expedient for the purposes of this Chapter—
 - (a) inspect, take copies of and remove from the premises any documents or records (including personal records);
 - (b) inspect any other item and remove it from the premises;
 - (c) interview in private—
 - (i) any person working at the premises;
 - (ii) any person receiving health care there who consents to be interviewed; and
 - (d) make any other examination into the state and management of the premises and treatment of persons receiving health care there.
- (2) The power in subsection (1)(a) includes—
 - (a) power to require any person holding or accountable for documents or records kept on the premises to produce them; and
 - (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.
- (3) A person authorised by virtue of subsection (1)(a) to inspect any records is entitled to have access to, and to check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question.
- (4) A person authorised by virtue of section 66 to enter and inspect any premises may—
 - (a) require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under section 66 or this section; and
 - (b) take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.
- (5) Any person who without reasonable excuse—
 - (a) obstructs the exercise of any power conferred by section 66 or this section, or
 - (b) fails to comply with any requirement of section 66 or this section,
 is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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VALID FROM 01/04/2004

68 Power to require documents and information etc

- (1) The CHAI may at any time require any person specified in subsection (2) to provide it with any information, documents, records (including personal records) or other items—
 - (a) which relates or relate to—
 - (i) the provision of health care by or for an NHS body, or
 - (ii) the discharge of any of the functions of an NHS body; and
 - (b) which the CHAI considers it necessary or expedient to have for the purposes of this Chapter.
- (2) The persons referred to in subsection (1) are—
 - (a) the NHS body;
 - (b) any person providing health care for, or exercising functions of, the NHS body;
 - (c) a local authority.
- (3) The power in subsection (1) to require the provision of records includes, in relation to records kept by means of a computer, power to require the provision of the records in legible form.
- (4) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

69 Power to require explanation

- (1) The Secretary of State may by regulations make provision requiring prescribed persons to provide to the CHAI, or to persons authorised by it, an explanation of—
 - (a) any documents, records or items inspected, copied or provided under sections 66 to 68,
 - (b) any information provided under those sections, or
 - (c) any matters which are the subject of the exercise of any functions of the CHAI under this Chapter,
 in circumstances where the CHAI considers the explanation necessary or expedient for the purposes of this Chapter.
- (2) Regulations under subsection (1) may require explanations to be provided at such times and places as may be specified by the CHAI.
- (3) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information

I10 S. 69 partly in force; s. 69 in force at Royal Assent for certain purposes, see s. 199(1)(4)

Status:

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Changes to legislation:

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