



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

2003 CHAPTER 43

PART 2

STANDARDS

CHAPTER 3

NHS HEALTH CARE: FUNCTIONS OF CHAI

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).

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.

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;
 - (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.

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.

Status: This is the original version (as it was originally enacted).

- (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.

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.

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.

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;
 - (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.

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.

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.

Status: This is the original version (as it was originally enacted).

- (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.