



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

2003 CHAPTER 43

PART 2

STANDARDS

CHAPTER 4

NHS HEALTH CARE: FUNCTIONS OF NATIONAL ASSEMBLY FOR WALES

VALID FROM 01/04/2004

Reviews and investigations

70 **Reviews and investigations relating to Wales**

- (1) The Assembly has the function of conducting reviews of, and investigations into, the provision of health care by and for Welsh NHS bodies.
- (2) The Assembly may in particular under this section conduct—
 - (a) a review of the overall provision of health care by and for Welsh NHS bodies;
 - (b) a review of the overall provision of a particular kind of health care by and for Welsh NHS bodies;
 - (c) a review of, or investigation into, the provision of any health care by or for a particular Welsh NHS body.
- (3) The Assembly has the function of conducting reviews of the arrangements made by Welsh NHS bodies for the purpose of discharging their duty under section 45.

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(4) In exercising its functions under this section in relation to any health care the Assembly 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 financial or other management of the health care and the economy and efficiency of its provision;
- (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
- (f) the effectiveness of measures taken for the purpose specified in paragraph (e) by the body in question and any person who provides, or is to provide, health care for that body,

and must take into account the standards set out in statements published under section 47.

(5) For the purposes of this section the Assembly may carry out an inspection of—

- (a) any Welsh NHS body;
- (b) any other person who provides, or is to provide, health care for a Welsh NHS body (in Wales or elsewhere).

(6) Where the Assembly conducts a review under this section it must publish a report.

71 Reporting to Secretary of State and regulator

(1) The Assembly must report to the Secretary of State where, after conducting a review or investigation under section 70, 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.

(2) A report under subsection (1) may include a recommendation that, with a view to remedying the failings, the Secretary of State take special measures in relation to—

- (a) the English NHS body or cross-border SHA; and
- (b) in a case falling within paragraph (c) of subsection (1), any person, other than a Welsh NHS body, referred to in that paragraph.

(3) The Assembly must report to the regulator where, after conducting a review or investigation under section 70, 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.

(4) A report under subsection (3) may include a recommendation that, with a view to remedying the failings, the regulator take special measures in relation to the NHS foundation trust.

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- (5) A report under this section must give the Assembly's reasons for its view and for any recommendation made.

Ancillary powers

VALID FROM 01/04/2004

72 Right of entry

- (1) A person authorised to do so by the Assembly may, if the Assembly 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 a Welsh 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 a Welsh NHS body; or
 - (ii) the discharge of any of the functions of a Welsh 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

73 Right of entry: supplementary

- (1) A person authorised by virtue of section 72 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

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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 72 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 72 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 72 or this section, or
 - (b) fails to comply with any requirement of section 72 or this section,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

VALID FROM 01/04/2004

74 Power to require documents and information

- (1) The Assembly 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 a Welsh NHS body; or
 - (ii) the discharge of any of the functions of a Welsh NHS body; and
 - (b) which the Assembly considers it necessary or expedient to have for the purposes of this Chapter.
- (2) The persons referred to in subsection (1) are—
- (a) the Welsh NHS body;
 - (b) any person providing health care for, or exercising functions of, the Welsh NHS body;
 - (c) a local authority in Wales.
- (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.

75 Power to require explanation

- (1) The Assembly may by regulations make provision requiring prescribed persons to provide to the Assembly, or to persons authorised by it, an explanation of—
- (a) any documents, records or items inspected, copied or provided under sections 72 to 74,

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- (b) any information provided under those sections, or
- (c) any matters which are the subject of the exercise of any function of the Assembly under section 70, and

in circumstances where the Assembly 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 Assembly.
- (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

II S. 75 partly in force; s. 75 in force at Royal Assent for certain purposes, see s. 199(1)(4)

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