
STATUTORY INSTRUMENTS

2009 No. 410

NATIONAL HEALTH SERVICE, ENGLAND

**The Care Quality Commission
(Additional Functions) Regulations 2009**

Made - - - - 24th February 2009
Laid before Parliament 5th March 2009
Coming into force - - 1st April 2009

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 59(1) and 161(3) of the Health and Social Care Act 2008⁽¹⁾.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care Quality Commission (Additional Functions) Regulations 2009 and shall come into force on 1st April 2009.

(2) In these Regulations—

“the 2000 Directions” means the Safety and Security in Ashworth, Broadmoor and Rampton Hospitals Directions 2000⁽²⁾;

“High Secure Hospital” means Ashworth Hospital, Broadmoor Hospital or Rampton Hospital.

Review of decision to withhold an item brought to a High Secure Hospital for a patient

2.—(1) The Care Quality Commission shall review a decision made under paragraph 19 of the 2000 Directions (items brought to hospital premises for patients)⁽³⁾ to withhold an item if an application to review that decision is made by the intended recipient of the item within six months of that person receiving the information set out in paragraph 19(b) of those Directions.

(2) On an application under paragraph (1) the Care Quality Commission may direct that the item which is the subject of the application shall not be withheld.

(1) 2008 c.14. See the definition of “regulations” in section 97(1).

(2) These Directions have been amended by the Ashworth, Broadmoor and Rampton Hospitals Amendment Directions 2001, the Ashworth, Broadmoor and Rampton Hospitals Amendment Directions 2002, the Ashworth, Broadmoor and Rampton Hospitals Amendment (No.2) Directions 2002, the Safety and Security in Ashworth, Broadmoor and Rampton Hospitals Amendment Directions 2003 and the Safety and Security in Ashworth, Broadmoor and Rampton Hospitals Amendment Directions 2009. All the Directions are available at www.dh.gov.uk.

(3) Paragraph 19 of the 2000 Directions has been amended by the Safety and Security in Ashworth, Broadmoor and Rampton Hospitals Amendment Directions 2009.

Review of decision to withhold internal post in High Secure Hospitals

3.—(1) The Care Quality Commission shall review a decision made under paragraph 23 of the 2000 Directions (internal patient-to-patient post)(4) to withhold internal post or an item included in such post if an application to review that decision is made by the sender or the intended recipient of the post or item within six months of that person receiving the information set out in paragraph 23(2)(b) of those Directions.

(2) On an application under paragraph (1) the Care Quality Commission may direct that the post or item which is the subject of the application shall not be withheld.

Review of decisions to record and monitor telephone calls in High Secure Hospitals

4.—(1) The Care Quality Commission shall review a decision made under paragraph 29(1) of the 2000 Directions (monitoring telephone calls)(5) to record and monitor a patient's telephone calls if an application to review that decision is made by the patient within six months of that person receiving the information set out in paragraph 29(2)(b) of those Directions.

(2) On an application under paragraph (1) the Care Quality Commission may direct that the recording and monitoring of the patient's telephone calls shall cease.

Transitional provision

5.—(1) An application to the Mental Health Act Commission under paragraph 19(c) of the 2000 Directions made before 1st April 2009 but not finally determined by that date, shall be treated, on and after 1st April 2009, as an application made to the Care Quality Commission under regulation 2(1) of these Regulations.

(2) An application to the Mental Health Act Commission under paragraph 23(2)(c) of the 2000 Directions made before 1st April 2009 but not finally determined by that date, shall be treated, on and after 1st April 2009, as an application made to the Care Quality Commission under regulation 3(1) of these Regulations.

(3) An application to the Mental Health Act Commission under paragraph 29(2)(c) of the 2000 Directions made before 1st April 2009 but not finally determined by that date, shall be treated, on and after 1st April 2009, as an application made to the Care Quality Commission under regulation 4(1) of these Regulations.

Signed by authority of the Secretary of State for Health.

24th February 2009

Phil Hope
Minister of State,
Department of Health

(4) Paragraph 23 of the 2000 Directions has been amended by the Safety and Security in Ashworth, Broadmoor and Rampton Hospitals Amendment Directions 2009.

(5) Paragraph 29 was amended by the Safety and Security in Ashworth, Broadmoor and Rampton Hospitals Amendment Directions 2003 and the Safety and Security in Ashworth, Broadmoor and Rampton Hospitals Amendment Directions 2009.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give the Care Quality Commission additional functions, namely a duty upon application to review a decision to:

- (a) withhold an item brought to a patient in a High Secure Hospital;
- (b) withhold internal post sent by a patient in a High Secure Hospital to another patient in the same hospital; or
- (c) monitor and record a telephone conversation made by a patient in such a hospital.

These functions were previously carried out by the Mental Health Act Commission which is abolished as of 1st April 2009⁽⁶⁾.

Regulation 5 makes transitional provision so as to treat applications for such reviews made to the Mental Health Act Commission prior to 1st April 2009 that have not been finally determined by that date as applications to the Care Quality Commission for reviews.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

⁽⁶⁾ See section 1(2) of the Health and Social Care Act 2008.