



Health Act 1999

1999 CHAPTER 8

PART I

THE NATIONAL HEALTH SERVICE

Quality etc

18 Duty of quality

- (1) It is the duty of each Health Authority, Primary Care Trust and NHS trust to put and keep in place arrangements for the purpose of monitoring and improving the quality of health care which it provides to individuals.
- (2) The reference in subsection (1) to health care which a body there mentioned provides to individuals includes health care which the body provides jointly with another person to individuals.
- (3) The Secretary of State may by regulations extend the duty in this section to Special Health Authorities of any particular description.
- (4) In this section—
 - “health care” means services for or in connection with the prevention, diagnosis or treatment of illness,
 - “illness” has the meaning given by section 128(1) of the 1977 Act.

19 The Commission for Health Improvement

- (1) There is to be a body corporate known as the Commission for Health Improvement.
- (2) The Commission is to have the functions conferred on it by or under sections 20 to 22.
- (3) Schedule 2 makes further provision in relation to the Commission.

20 Functions of the Commission

- (1) The Commission has the following functions—
 - (a) the function of providing advice or information with respect to arrangements by Primary Care Trusts or NHS trusts for the purpose of monitoring and improving the quality of health care for which they have responsibility,
 - (b) the function of conducting reviews of, and making reports on, arrangements by Primary Care Trusts or NHS trusts for the purpose of monitoring and improving the quality of health care for which they have responsibility,
 - (c) the function of carrying out investigations into, and making reports on, the management, provision or quality of health care for which Health Authorities, Primary Care Trusts or NHS trusts have responsibility,
 - (d) the function of conducting reviews of, and making reports on, the management, provision or quality of, or access to or availability of, particular types of health care for which NHS bodies or service providers have responsibility, and
 - (e) such functions as may be prescribed relating to the management, provision or quality of, or access to or availability of, health care for which prescribed NHS bodies or prescribed service providers have responsibility.
- (2) The Secretary of State may by regulations make provision—
 - (a) as to the times at which, the cases in which, the manner in which, the persons in relation to which or the matters with respect to which any functions of the Commission are to be exercised,
 - (b) as to the matters to be considered or taken into account in connection with the exercise of any functions of the Commission,
 - (c) as to the persons to whom any advice, information or reports are to be given or made,
 - (d) as to the publication of reports and summaries of reports,
 - (e) as to the recovery from prescribed persons of amounts in respect of the expenditure incurred by the Commission in the exercise of any of its functions, and
 - (f) for or in connection with the exercise of functions of the Commission in conjunction with the exercise of statutory functions of other persons.
- (3) The Secretary of State may give directions with respect to the exercise of any functions of the Commission.
- (4) The Commission must comply with any directions under this section.
- (5) For the purposes of this section a person has responsibility for health care—
 - (a) if he provides or is to provide that care to individuals, or
 - (b) if another person provides or is to provide that care to individuals—
 - (i) at his direction,
 - (ii) on his behalf, or
 - (iii) in accordance with an agreement or arrangements made by him with that other person.
- (6) References in subsection (5) to the provision of care include references to the provision of care jointly with another person.
- (7) In this section—

- “health care” has the meaning given by section 18(4),
“NHS body” means a Health Authority, Special Health Authority, Primary Care Trust or NHS trust,
“prescribed” means prescribed by regulations made by the Secretary of State,
“service provider” means a person who provides services—
(a) in accordance with arrangements under section 28C of the 1977 Act, or
(b) under Part II of that Act,
“statutory function” means a function conferred by or under any enactment.

21 Arrangements with the Audit Commission.

- (1) If requested to do so by the Commission in any particular case, the Audit Commission may join with the Commission in exercising—
 - (a) the Commission’s functions under section 20(1)(b) or (d), or
 - (b) any functions of the Commission—
 - (i) which are conferred under section 20(1)(e),
 - (ii) which correspond to its functions under section 20(1)(b), and
 - (iii) which relate to Health Authorities or Special Health Authorities.
- (2) If requested to do so by the Audit Commission in any particular case, the Commission may assist the Audit Commission in the exercise of its functions under section 33(1) of the Audit Commission Act 1998 so far as they relate to any body specified in section 98(1) of the 1977 Act.
- (3) For the purposes of subsection (1), the Commission’s functions under paragraph (b) or (d) of section 20(1) are to be treated as including the function of conducting and making reports on studies designed to improve—
 - (a) economy, efficiency and effectiveness in the performance of any functions of the persons mentioned in that paragraph, and
 - (b) the management of those persons.
- (4) For the purposes of subsection (1), the Commission’s functions mentioned in subsection (1)(b) are to be treated as including the function of conducting and making reports on studies designed to improve—
 - (a) economy, efficiency and effectiveness in the performance of any functions of the bodies mentioned in subsection (1)(b)(iii) to which those functions of the Commission relate, and
 - (b) the management of those bodies.
- (5) Any report prepared by virtue of subsection (1) is to be prepared by the Commission acting in conjunction with the Audit Commission.
- (6) The Audit Commission may not act as mentioned in subsection (1) unless, before it does so, the Commission has agreed to pay the Audit Commission an amount equal to the full costs incurred by the Audit Commission in so acting.
- (7) The Commission may not act as mentioned in subsection (2) unless, before it does so, the Audit Commission has agreed to pay the Commission an amount equal to the full costs incurred by the Commission in so acting.

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

- (8) Any reference in subsection (5) or (6) to subsection (1) is a reference to that subsection as read with subsections (3) and (4).
- (9) In this section “the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales.

22 Arrangements with Ministers

- (1) Arrangements may be made between the Commission and a Minister of the Crown—
 - (a) for the Commission to perform any of its functions in relation to any prescribed health scheme for which the Minister has responsibility, or
 - (b) for the Commission to provide services or facilities in so far as they are required by the Minister in connection with any such health scheme.
- (2) Arrangements may be made between the Commission and a Northern Ireland Minister—
 - (a) for the Commission to perform on behalf of the Minister any functions of the Minister which—
 - (i) correspond to any functions of the Commission, and
 - (ii) relate to the Northern Irish health service, or
 - (b) for the Commission to provide services or facilities in so far as they are required by the Minister in connection with the exercise by him of any such functions.
- (3) Arrangements under this section may be made on such terms and conditions as may be agreed between the parties to the arrangements.
- (4) Those terms and conditions may include provision with respect to the making of payments to the Commission in respect of the cost to the Commission of performing or providing any functions, services or facilities under the arrangements.
- (5) Any arrangements under subsection (2)(a) are not to affect the responsibility of the Northern Ireland Minister on whose behalf any functions are exercised.
- (6) In this section—
 - “health scheme” means any scheme which appears to the Secretary of State to be a health or medical scheme paid for out of public funds,
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975,
 - “Northern Ireland Minister” includes the First Minister, the deputy First Minister and a Northern Ireland department,
 - “Northern Irish health service” means any of the health services under any enactment which extends to Northern Ireland and which corresponds to section 1(1) of the 1977 Act,
 - “prescribed” means prescribed by regulations made by the Secretary of State.

23 Obtaining information etc

- (1) The Secretary of State may by regulations make provision—

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

- (a) conferring a right on persons authorised by the Commission to enter NHS premises at such times, in such cases, for such purposes and on such conditions as may be prescribed in order—
 - (i) to inspect those premises, or
 - (ii) to inspect and take copies of prescribed documents held by prescribed persons on those premises,
 - (b) requiring prescribed persons at such times, at such places, in such cases and for such purposes as may be prescribed to produce prescribed documents or information, or make reports, to the Commission or to persons authorised by the Commission,
 - (c) requiring prescribed persons at such times, at such places, in such cases and for such purposes as may be prescribed to provide to the Commission, or to persons authorised by the Commission, an explanation of—
 - (i) any matters which are the subject of the exercise of any functions of the Commission, or
 - (ii) any documents or information inspected, copied or produced as mentioned in paragraph (a) or (b).
- (2) Regulations under this section may not make provision with respect to the disclosure of confidential information which relates to and identifies a living individual unless one or more of the following conditions is satisfied—
- (a) the information is disclosed in a form in which the identity of the individual cannot be ascertained,
 - (b) the individual consents to the information being disclosed,
 - (c) the individual cannot be traced despite the taking of all reasonable steps,
 - (d) in a case where the Commission is exercising its functions under section 20(1)(c)—
 - (i) it is not practicable to disclose the information in a form in which the identity of the individual cannot be ascertained,
 - (ii) the Commission considers that there is a serious risk to the health or safety of patients arising out of the matters which are the subject of the exercise of those functions, and
 - (iii) having regard to that risk and the urgency of the exercise of those functions, the Commission considers that the information should be disclosed without the consent of the individual.
- (3) Regulations under this section may not make provision with respect to the disclosure of information if that disclosure would be prohibited by or under any other enactment; but where information is held in a form in which the prohibition operates by reason of the fact that the information is capable of identifying an individual, regulations under this section may make provision with respect to the disclosure of the information in a form in which the identity of the individual cannot be ascertained.
- (4) Any person who without reasonable excuse—
- (a) obstructs a person authorised by the Commission in the exercise of any right conferred by virtue of subsection (1)(a), or
 - (b) fails to comply with any requirement imposed by virtue of subsection (1)(b) or (c),
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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

- (5) In this section any reference to documents includes a reference to information held by means of a computer or in any other electronic form; and in the case of information so held, regulations under this section may make provision for it to be made available or produced in a visible and legible form.
- (6) In this section—
- “confidential information” means information which is held subject to a duty of confidence, and includes information contained in a health record,
- “health record” has the meaning given by section 68(2) of the Data Protection Act 1998,
- “NHS premises” means premises owned or controlled by a Health Authority, Special Health Authority, Primary Care Trust or NHS trust,
- “prescribed” means prescribed by regulations made by the Secretary of State.

24 Restrictions on disclosure of information

- (1) A person who, without lawful authority, knowingly or recklessly discloses information which—
- (a) falls within section 23(2), and
 - (b) has been obtained by the Commission in accordance with any condition mentioned in section 23(2),
- is guilty of an offence if the disclosure is made during the lifetime of the individual to whom the information relates.
- (2) A person who, without lawful authority, knowingly or recklessly discloses information which—
- (a) relates to and identifies an individual,
 - (b) has been obtained by the Commission on terms or in circumstances requiring it to be held in confidence, and
 - (c) does not fall within subsection (1),
- is guilty of an offence if the disclosure is made during the lifetime of that individual.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (4) It is not an offence under this section—
- (a) to disclose information in a form in which the individual to whom the information relates is not identified, or
 - (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (5) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence—
- (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise, or

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

- (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (6) For the purposes of this section a disclosure of information is to be regarded as made with lawful authority if, and only if, it is made—
- (a) with the consent of the individual to whom the information relates,
 - (b) for the purpose of facilitating the exercise of any functions of the Commission,
 - (c) for the purpose of facilitating the conduct of any investigation under the Health Service Commissioners Act 1993,
 - (d) in accordance with any enactment or order of a court,
 - (e) in connection with the investigation of a serious arrestable offence,
 - (f) for the purposes of criminal proceedings in any part of the United Kingdom,
 - (g) in a case where the information appears to the Commission to reveal—
 - (i) that the performance of a health professional in his capacity as such has or may have fallen substantially below that which is expected,
 - (ii) that a health professional has or may have been guilty of serious professional misconduct, or
 - (iii) that the fitness of a health professional to practise as such is or may be seriously impaired by reason of his physical or mental condition,and the person to whom the information is disclosed is a person to whom the Commission considers that it should be disclosed in order for appropriate action to be taken, or
 - (h) in a case where—
 - (i) the information reveals that a person is likely to constitute a threat to the health or safety of individuals, and
 - (ii) the person to whom it is disclosed is a person to whom the Commission considers that the information should be disclosed in the interests of the health and safety of individuals.
- (7) For the purposes of subsection (2), information obtained by the Commission is to be regarded as identifying an individual if the individual can be identified—
- (a) from that information, or
 - (b) from that information and from other information obtained by the Commission.
- (8) For the purposes of subsection (4)(a), information disclosed by a person is not to be regarded as being in a form in which an individual is not identified if the individual can be identified—
- (a) from that information, or
 - (b) from that information and from other information disclosed—
 - (i) by the Commission, or
 - (ii) by any member or employee of the Commission.
- (9) Any reference in subsection (1), (2), (7) or (8)(b)(i) to the Commission includes a reference to any person authorised by the Commission under section 23.
- (10) In this section—
- “health professional” has meaning given by section 69(1) of the Data Protection Act 1998,
 - “serious arrestable offence”—

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

- (a) in relation to England and Wales, is to be construed in accordance with section 116 of the Police and Criminal Evidence Act 1984,
- (b) in relation to Scotland, means an offence which is triable on indictment,
- (c) in relation to Northern Ireland, is to be construed in accordance with Article 87 of the Police and Criminal Evidence (Northern Ireland) Order 1989.

25 Abolition of Clinical Standards Advisory Group

The Clinical Standards Advisory Group is to cease to exist.