Health Act 2006

2006 CHAPTER 28

PART 2

PREVENTION AND CONTROL OF HEALTH CARE ASSOCIATED INFECTIONS

16 Code of practice: improvement notices

After section 53 of the 2003 Act insert—

"**53A Failings in connection with code under section 47A: improvement notices**

(1) This section applies where, following such a review or investigation as is mentioned in section 53(1), the CHAI—

(a) is of the view that any provisions of a code of practice issued under section 47A and applying to an English NHS body or a cross-border SHA are not being observed in any material respect in relation to the provision of health care by or for the body, but

(b) having regard to all the circumstances, is not of the view that it is required to make a report under section 53(2) (or, if relevant, section 53(6)).

(2) The CHAI may serve a notice under this section (an "improvement notice") on the body in respect of the failure to observe the code, if it considers that serving the notice is the most appropriate course of action for it to take with a view to securing that the failure is remedied.

(3) An improvement notice must—

(a) state that the CHAI has formed the view mentioned in subsection (1)(a) in relation to the provision of health care by or for the body, giving particulars of the material respect in which the CHAI considers that the provisions of the code are not being observed as mentioned in that subsection,

(b) state the CHAI's reasons for its view, and

Changes to legislation: *There are currently no known outstanding effects for the Health Act 2006, Section 16. (See end of Document for details)*

(c) require the body to remedy the failure to observe the code, and to do so within such period as is specified in the notice.

(4) An improvement notice may (but need not) include a recommendation by the CHAI as to the way in which the failure should be remedied.

(5) An improvement notice may relate to more than one failure within subsection (1)(a), and in such a case—

(a) subsections (2) to (4) and section 53B apply separately in relation to each such failure, but

(b) any report required by that section may relate to more than one such failure.

(6) Where the CHAI serves an improvement notice on a body under this section, the CHAI must notify the Secretary of State and—

(a) the regulator, if the body is an NHS foundation trust, and

(b) any relevant Strategic Health Authority, if the body is a Primary Care Trust or an NHS trust.

(7) In this section and section 53B "relevant Strategic Health Authority" means—

(a) in relation to a Primary Care Trust, any Strategic Health Authority whose area includes any part of the Trust's area;

(b) in relation to an NHS Trust (other than one responsible for providing ambulance services), the Strategic Health Authority in whose area all or most of the Trust's hospitals, establishments or facilities are situated;

(c) in relation to an NHS Trust responsible for providing ambulance services, the Strategic Health Authority in whose area the headquarters establishment responsible for the control of those services is situated.

(8) Subsection (9) applies where—

(a) an improvement notice is served on a body in respect of a particular failure to observe a code of practice issued under section 47A, and

(b) a review under section 52(3)(b) is conducted by the CHAI in pursuance of section 53B(4)(a) with a view to assessing the body's compliance with the notice.

(9) In such a case subsection (1)—

(a) does not apply in relation to that review so as to enable the CHAI to serve a further improvement notice on that body in respect of that failure; but

(b) does apply in relation to that review so as to enable the CHAI (if the conditions in subsections (1) and (2) are satisfied) to serve an improvement notice on that body in respect of a different failure to observe the code.

53B Code of practice: action by CHAI following service of improvement notice

(1) This section applies where the CHAI has served an improvement notice on a body under section 53A.

(2) If, before the end of the specified period—

(a) the body requests the CHAI to extend that period, and

(b) the CHAI considers that there are exceptional circumstances which justify its extending that period by a further period of time,

the CHAI may, by a notice served on the body, extend the specified period by that further period.

(3) In this section "the specified period" means—

(a) the period specified under section 53A(3)(c), or

(b) if that period has been extended under subsection (2) above, that period as so extended.

(4) Where the specified period has ended or the body notifies the CHAI before the end of that period that it has complied with the improvement notice, the CHAI must—

(a) conduct a review under section 52(3)(b) with a view to assessing the body's compliance with the notice, and

(b) then comply with subsection (5) or (6);

and the making of any report in accordance with subsection (5) or (6) is to be taken as satisfying the requirement to publish a report under section 52(7) in respect of the review.

(5) If the CHAI—

(a) remains of the view that the relevant provisions of the code are not being observed in any material respect in relation to the provision of health care by or for the body, and

(b) having regard to all the circumstances, is of the view that it is required to make a report under section 53(2) (and, if relevant, section 53(6)),

the CHAI must accordingly make a report under that provision (or, as the case may be, under each of those provisions).

(6) If the CHAI does not make any such report or reports, it must instead make a report—

(a) to the Secretary of State, and

(b) (if the body is an NHS foundation trust) to the regulator,

setting out the matters mentioned in subsection (7) or (8).

(7) If the CHAI is of the view that the relevant provisions of the code are being observed in relation to the provision of health care by or for the body, the matters are—

(a) that the CHAI is of that view, and

(b) its reasons for that view.

(8) If the CHAI is of the view that the relevant provisions of the code are not being so observed in any respect (material or otherwise), the matters are—

(a) that the CHAI is of that view,

(b) its reasons for that view,

(c) if its view is that those provisions are not being observed in any material respect, its reasons for not forming the view mentioned in subsection (5)(b), and

(d) (whether or not paragraph (c) applies) any action which it proposes to take in relation to the body in connection with the failure to observe the code.

(9) The CHAI must send a copy of any report made by it in accordance with subsection (5) or (6) in relation to a Primary Care Trust or an NHS trust to the relevant Strategic Health Authority.

(10) In this section "the relevant provisions of the code" means the provisions of the code in relation to which the CHAI formed the view mentioned in section 53A(1)(a)."

Commencement Information

I1 S. 16 in force at 1.10.2006 by S.I. 2006/2603, **art. 2**

Changes to legislation:
There are currently no known outstanding effects for the Health Act 2006, Section 16.