

**2003 No. 2124**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The Patients' Forums (Functions) Regulations 2003**

*Made* - - - - - *13th August 2003*

*Laid before Parliament* *14th August 2003*

*Coming into force* - - *1st September 2003*

The Secretary of State for Health, in exercise of the powers conferred on him by sections 15 (7), 17(1) to (3), 19(1) and (2)(j) to (p) and 38(5) to (7) of, and paragraph 12(1) and (2) of Schedule 6 to, the National Health Service Reform and Health Care Professions Act 2002(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the Patients' Forums (Functions) Regulations 2003 and shall come into force on 1st September 2003.

(2) These Regulations apply to England only.

(3) In these Regulations—

“the Act” means the National Health Service Reform and Health Care Professions Act 2002;

“the 1977 Act” means the National Health Service Act 1977(b);

“the 2001 Act” means the Health and Social Care Act 2001(c);

“the Commission” means the Commission for Patient and Public Involvement in Health established under section 20 of the Act;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

**Joint exercise of functions and co-operation**

2.—(1) Where a PCT Patients' Forum exercises functions in relation to services provided by an NHS trust under arrangements made by the Primary Care Trust for which the Forum is established, the PCT Patients' Forum and the Patients' Forum of that NHS trust shall co-operate with each other in the exercise of those functions.

(2) Where an NHS trust provides services under arrangements made by more than one Primary Care Trust, the Patients' Forums established for the NHS trust and the Primary Care Trusts shall co-operate with each other in the exercise of their functions in relation to those services.

(3) Patients' Forums which have agreed that co-operation or joint exercise of functions would assist them in the exercise of their functions and would be in the interests of the health service, shall co-operate with each other or exercise functions jointly as agreed.

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(a) 2002 c. 17.  
(b) 1977 c. 49.  
(c) 2001 c. 15.

(4) PCT Patients' Forums shall co-operate with each other in determining how best to provide or arrange for the provision of independent advocacy services. Where they agree that it is appropriate, two or more of them shall act jointly in providing or arranging for the provision of those services.

(5) In acting in accordance with paragraphs (1) to (4), Patients' Forums shall have regard to any advice given to them by the Commission.

### **Entry and inspection of premises**

3.—(1) Subject to the following paragraphs of this regulation, persons authorised in writing by a Patients' Forum may at any reasonable time enter and inspect premises owned or controlled by—

- (a) in the case of a PCT Patients' Forum, those mentioned in paragraph (3);
- (b) in the case of a Patients' Forum established for an NHS trust, that NHS trust, and, except where, in the opinion of those persons or bodies, this would compromise the effective provision of health services or patients' safety, privacy or dignity, and without prejudice to paragraph (2), those persons and bodies shall comply with any request for entry.

(2) Each person authorised by a Patients' Forum under paragraph (1) shall be furnished with written evidence of his authority and, on making a request for entry to any premises referred to in paragraph (1) for the purposes specified in that paragraph, if so requested by the owner or occupier of those premises or a person acting on either of their behalf, shall produce that evidence.

(3) Those referred to in paragraph (1)(a) are—

- (a) Primary Care Trusts;
- (b) Local Health Boards;
- (c) local authorities;
- (d) NHS trusts;
- (e) persons providing services under Part 2 of the 1977 Act or under arrangements under section 28C of that Act;
- (f) persons providing piloted services under pilot schemes established under section 28 of the 2001 Act, or providing services under an LPS scheme established under Schedule 8A to the 1977 Act; or
- (g) persons who own or control premises where services as mentioned in (e) or (f) are provided.

(4) A person authorised by a Patients' Forum under paragraph (1) may not enter any premises or part of premises used as residential accommodation—

- (a) by persons employed by any of the bodies referred to in paragraphs (3)(a) to (d); or
- (b) by persons referred to in paragraphs (3) (e) to (g), without first having obtained the consent of those persons.

(5) In exercising rights of entry and inspection under this regulation, a Patients' Forum shall have regard to the need to safeguard patients' safety, privacy and dignity, the need not to compromise the effective provision of health services, and to any advice given to it by the Commission.

### **Annual accounts**

4.—(1) A Patients' Forum shall prepare and keep annual accounts in respect of each financial year which shall give a true and fair view of any income and expenditure and cash flows of the Patients' Forum for that financial year.

(2) The accounts shall be—

- (a) prepared in a form agreed with the Commission;
- (b) included in the Patients' Forum's annual report.

(3) A Patients' Forum shall send a copy of its annual accounts for each financial year to the Commission no later than 31st May after the end of that financial year and the Commission shall include a summary of all Patients' Forums' annual accounts in its annual accounts.

### **Obtaining information**

5.—(1) Subject to regulation 6 (restrictions on disclosure of information to a Patients' Forum), a Patients' Forum may require those mentioned in paragraph (3) to produce any information which appears to the Patients' Forum to be necessary for the effective carrying out of its functions and those mentioned in paragraph (3) shall comply promptly and in any event no later than the twentieth working day following the date the requirement was made.

- (2) A requirement made under paragraph (1) shall be in writing.
- (3) Those referred to in paragraph (1) are—
  - (a) a Strategic Health Authority;
  - (b) an NHS trust;
  - (c) a Primary Care Trust;
  - (d) the Commission;
  - (e) a person providing independent advocacy services (within the meaning given by section 19A of the 1977 Act); and
  - (f) another Patients' Forum.

### **Restrictions on disclosure of information to a Patients' Forum**

6.—(1) A person shall not be required to produce information under regulation 5 (obtaining information) which—

- (a) is confidential and relates to a living individual, unless at least one of the conditions specified in paragraph (2) applies; or
  - (b) is prohibited from disclosure by or under any enactment or is protected by the common law, unless paragraph (3) applies.
- (2) The conditions referred to in paragraph (1)(a) are—
- (a) the information can be disclosed in a form from which the identity of the individual cannot be ascertained; or
  - (b) the individual consents to the information being disclosed.
- (3) This paragraph applies where—
- (a) the prohibition of the disclosure of information arises because the information is capable of identifying an individual; and
  - (b) the information can be disclosed in a form from which the identity of the individual cannot be ascertained.

(4) In a case where the information falls within paragraph (1)(a) or (3)(b), a Patients' Forum may require the person holding the information to disclose the information in a form from which the identity of the individual concerned cannot be ascertained.

### **Referrals to Overview and Scrutiny Committees**

7.—(1) Where a Patients' Forum considers that the NHS trust or Primary Care Trust for which it is established is not carrying out its duty under section 11 of the 2001 Act, or is not doing so in a satisfactory manner, it may refer the matter to a relevant overview and scrutiny committee (within the meaning given by section 15(9) of the Act).

(2) A Patients' Forum shall not refer any matter under paragraph (1) until it has made all reasonable efforts to resolve the matter with the NHS trust or Primary Care Trust concerned and it considers that those efforts have failed.

### **Annual and other reports**

8.—(1) At the conclusion of each review carried out under section 15(3)(a) of the Act, a Patients' Forum shall prepare and produce a report to the Primary Care Trust or NHS trust for which the Forum is established.

- (2) A report referred to in paragraph (1) shall include—
  - (a) an explanation of the methods used by the Patients' Forum to obtain the views of patients and their carers on the services reviewed; and
  - (b) a list of the Patients' Forum's members and, where appropriate and subject to their consent, of other participants involved in the review.

- (3) A copy of the report referred to in paragraph (1) shall be provided to—
- (a) any body or person, other than the NHS trust or Primary Care Trust for which the Forum is established, that provided the services reviewed;
  - (b) the provider of any independent advocacy services mentioned in the report;
  - (c) the Strategic Health Authority responsible for the performance management of the NHS trust or Primary Care Trust to which the report relates;
  - (d) any other Patients' Forum which had a role in carrying out the review;
  - (e) the Commission; and
  - (f) any other person or body requesting a copy of the report.

(4) Where a Patients' Forum requests a response from the NHS trust or Primary Care Trust for which it is established and to whom it has made a report or recommendation, that trust shall respond in writing to the Patients' Forum promptly and in any event no later than the twentieth working day following the date the request was made giving an explanation of—

- (a) any actions it intends to take; or
- (b) why it does not intend to take any action.

(5) If the trust from whom a response has been requested under paragraph (4) fails to respond in accordance with that paragraph, or the Patients' Forum is not satisfied that appropriate action has been or will be taken by that trust following such a response, it may refer the matter to—

- (a) the Strategic Health Authority responsible for the performance management of that trust; and
- (b) a relevant overview and scrutiny committee (within the meaning given in section 15(9) of the Act).

(6) A Patients' Forum shall not refer any matter under paragraph (5) until it has made all reasonable efforts to resolve the matter with the NHS trust or Primary Care Trust concerned and it considers that those efforts have failed.

(7) A copy of any response made by a trust under paragraph (4) may be published by the Patients' Forum in whichever way the Forum considers most appropriate.

(8) A copy of a Patients' Forum's annual report shall be provided to any member of the public on request.

Signed by authority of the Secretary of State for Health

*Rosie Winterton*  
Minister of State,  
Department of Health

13th August 2003

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision in relation to the functions of Patients' Forums established under section 15 of the National Health Service Reform and Health Care Professions Act 2002.

The Regulations make provision in relation to the exercise of Patients' Forums' functions in England. In particular, they make provision for joint exercise of functions and co-operation (regulation 2), rights of entry and inspection of premises (regulation 3), annual accounts (regulation 4), the provision of information to Patients' Forums (regulations 5 and 6), referrals to overview and scrutiny committees (regulation 7), and annual and other reports (regulation 8).

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