
STATUTORY INSTRUMENTS

2012 No. 2996

**The National Health Service Commissioning
Board and Clinical Commissioning Groups
(Responsibilities and Standing Rules) Regulations 2012**

PART 5

Standing rules: commissioning contract terms

Matters to be included in commissioning contracts

16.—(1) A commissioning contract entered into by a relevant body must contain terms and conditions that prescribe the circumstances in which the health service provider must provide to a relevant person—

- (a) an appropriate apology; and
- (b) the relevant information,

where there has been a patient safety incident.

(2) In this regulation—

“appropriate apology” means a sincere expression of sorrow or regret, given in writing, for the harm that has resulted from a patient safety incident;

“patient safety incident” means an unintended or unexpected incident that occurs in respect of a patient, during and as a result of the provision of health care services, that could have led to, or did lead to, harm to that patient;

“relevant person” means the patient in respect of whom the patient safety incident occurred, or someone lawfully acting on that patient’s behalf;

“relevant information”, in relation to a patient safety incident, means written details of—

- (a) the patient safety incident,
- (b) any investigation that has been carried out into that incident, and any causes of that incident, or other findings, that have been identified as a result of such an investigation, and
- (c) any steps that have been taken to prevent the recurrence of such an incident.

Terms and conditions to be drafted by the Board

17.—(1) The Board must draft—

- (a) terms and conditions making provision for the matters specified in regulation 16; and
- (b) such other terms and conditions as the Board considers are, or might be, appropriate for inclusion in commissioning contracts entered into by a relevant body.

(2) The Board may draft model commissioning contracts which reflect the terms and conditions it has drafted pursuant to paragraph (1).

(3) A relevant body must incorporate the terms and conditions drafted by virtue of paragraph (1)(a) in commissioning contracts entered into by it.

(4) The Board may require CCGs to incorporate the terms and conditions it has drafted pursuant to paragraph (1)(b) in commissioning contracts that a CCG enters into.

(5) If a CCG is required by the Board to incorporate terms and conditions pursuant to paragraph (4), it must do so.

Consultation by the Board

18.—(1) The Board must consult the persons specified in paragraph (2)—

(a) before exercising its functions under regulation 17(1) and (2) for the first time; and

(b) before revising—

(i) terms and conditions it has drafted pursuant to regulation 17(1), or

(ii) a model commissioning contract it has drafted pursuant to regulation 17(2),

in a way which would, in the opinion of the Board, result in a substantial change to those terms and conditions or that contract (as the case may be).

(2) The persons specified for the purposes of paragraph (1) are—

(a) the Care Quality Commission(1);

(b) CCGs;

(c) Healthwatch England(2);

(d) Monitor(3);

(e) the Secretary of State; and

(f) such other persons as the Board considers it is appropriate to consult.

Transitional provision

19.—(1) The requirements in regulations 16 and 17 apply in relation to commissioning contracts entered into on or after 1st February 2013.

(2) Consultation undertaken before the coming into force of this Part is as effective for the purposes of regulation 18 as consultation undertaken after the coming into force of this Part.

(1) The Care Quality Commission is established by section 1 of the Health and Social Care Act 2008 (c. 14) (“the 2008 Act”).

(2) Healthwatch England is established as a committee of the Care Quality Commission by virtue of paragraph 6(1A) of Schedule 1 to the 2008 Act, as amended by section 181(2) of the 2012 Act.

(3) Monitor is the new name given to the Independent Regulator of NHS Foundation Trusts: *see* section 61 of the 2012 Act.