



Care Act 2014

2014 CHAPTER 23

PART 2

CARE STANDARDS

VALID FROM 01/10/2014

Care Quality Commission

86 Restriction on applications for variation or removal of conditions

- (1) Section 19 of the Health and Social Care Act 2008 (applications by registered persons to the Care Quality Commission for variation or removal of conditions, etc.) is amended as follows.
- (2) In subsection (1), after “Except in case A or B” insert “ and subject to subsections (3A) to (3F) ”.
- (3) After subsection (3) insert—
 - “(3A) R may not apply under subsection (1)(a) for the variation of a condition where either subsection (3B) or (3C) applies.
 - (3B) This subsection applies where—
 - (a) the Commission has given R notice under section 26(4)(c) of a proposal to make that variation (or a variation which would have substantially the same effect as that variation), and
 - (b) the Commission has not decided not to take that step.
 - (3C) This subsection applies where—
 - (a) the Commission has given R notice under section 28(3) of its decision to make that variation (or a variation which would have substantially the same effect as that variation), and

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(b) either the time within which an appeal may be brought has not expired or, if an appeal has been brought, it has not yet been determined.

(3D) R may not apply under subsection (1)(a) for the removal of a condition where either subsection (3E) or (3F) applies.

(3E) This subsection applies where—

- (a) the Commission has given R notice under section 26(4)(c) of a proposal to remove that condition, and
- (b) the Commission has not decided not to take that step.

(3F) This subsection applies where—

- (a) the Commission has given R notice under section 28(3) of its decision to remove that condition, and
- (b) either the time within which an appeal may be brought has not expired or, if an appeal has been brought, it has not yet been determined.”

(4) The amendments made by this section do not affect any application made under section 19(1)(a) of the Health and Social Care Act 2008 before the day on which those amendments come into force.

87 Rights of appeal

(1) In section 26 of the Health and Social Care Act 2008 (registration procedure: notice of proposals), after subsection (4) insert—

“(4A) Where a proposal under subsection (4) names an individual and specifies action that the Commission would require the registered person to take in relation to that individual, the Commission must give that individual notice in writing of the proposal.”

(2) In section 28 of that Act (notice of decisions), in subsection (6), for “subsection (7)” substitute “ subsections (7) to (9) ”.

(3) In that section, after subsection (7) insert—

“(8) But in a case where notice of the proposal has been given to an individual under section 26(4A) subsection (7) does not apply unless, by the time the Commission receives the applicant's notification, it has received notification from the individual that he or she does not intend to appeal.

(9) And if the Commission receives notification from the individual after it receives the applicant's notification and before the end of the period mentioned in subsection (6)(a), the decision is to take effect when the Commission receives the individual's notification.”

88 Unitary board

(1) In paragraph 3 of Schedule 1 to the Health and Social Care Act 2008 (membership of the Care Quality Commission), in sub-paragraph (1)—

- (a) after paragraph (a), omit “and”, and
- (b) at the end of paragraph (b) insert “,

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- (c) a chief executive appointed by the members appointed under paragraphs (a) and (b), and
 - (d) other members appointed by the members appointed under paragraphs (a) and (b).”
- (2) After that sub-paragraph, insert—
 - “(1A) The members appointed under sub-paragraph (1)(a) and (b)—
 - (a) are not employees of the Commission, and
 - (b) are referred to in this Schedule as the “non-executive members”.
 - (1B) The members appointed under sub-paragraph (1)(c) and (d)—
 - (a) are employees of the Commission, and
 - (b) are referred to in this Schedule as the “executive members”.
 - (1C) The number of non-executive members must exceed the number of executive members.”
- (3) In sub-paragraph (2) of that paragraph—
 - (a) for “sub-paragraph (1)”, substitute “ sub-paragraph (1)(a) and (b) ”, and
 - (b) for “the members”, substitute “ the non-executive members ”.
- (4) In sub-paragraph (3) of that paragraph, for “any other member”, substitute “ any other non-executive member ”.
- (5) In sub-paragraph (4) of that paragraph—
 - (a) in paragraph (a)—
 - (i) for “other members”, substitute “ other non-executive members ”, and
 - (ii) for “of members who may be appointed”, substitute “ of such members who may be appointed ”,
 - (b) after paragraph (a), omit “and”,
 - (c) in paragraph (b), for “other members”, substitute “ other non-executive members ”, and
 - (d) after paragraph (b), insert—
 - “(c) the limits on the total number of members who may be appointed, and
 - (d) the minimum total number of members who must be appointed.”
- (6) In paragraph 4 of that Schedule (the cross-heading preceding which becomes “ Remuneration and allowances for non-executive members ”), in sub-paragraphs (1) and (2), for “any other member”, substitute “ any other non-executive member ”.
- (7) In paragraph 5 of that Schedule (employees), omit sub-paragraph (1).
- (8) In sub-paragraph (2) of that paragraph, for “such other employees”, substitute “ such employees (in addition to the executive members appointed by the non-executive members) ”.

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