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## Background

From April 2010, providers that run healthcare or adult social care services must be registered with the Care Quality Commission (CQC), who will only register services if they meet essential common standards of safety and quality.

The Government will set the 'registration requirements' in law. The CQC are producing guidance that makes clear to providers what they will need to do to meet these requirements.

This guidance is important; whether someone uses health or adult social care services, or are involved in providing them, they will be affected by this guidance. Therefore the CQC are trying to get feedback from as many people and organisations as possible – they say that those views will influence what the guidance for providers says, and how they will decide if providers are meeting registration requirements

The consultation (on the guidance) runs for 12 weeks from 1 June 2009, with **comments due back to the CQC by 24 August 2009**. The following CQC web page:

[Consultation on New Registration Standards](#)

... will take you to the consultation pack, which includes:

- Introduction to the consultation
- The consultation questionnaire (with the facility to complete on-line)
- Impact assessments
- The draft Guidance
- A link to a consultation summary in easy-to-read, large print, audio & video formats.

This document is intended to provide an overview of the guidance and associated documentation.

### **INTRODUCTION TO THE CONSULTATION**

This document provides a brief introduction to the guidance consultation, explaining what the CQC are consulting on, how they are consulting, and how feedback can be given.

In relation to confidentiality, the document says that information provided in response to the consultation, including personal information, may be published or disclosed in accordance with the access to information regimes.

If a respondent wishes the information that they provide to be treated as confidential ... it would be helpful if they could provide an explanation as to why they regard the information to be confidential.

If the CQC receive a request for disclosure of the information, they will take account of the respondent's explanation, but can give no assurances that confidentiality can be maintained in all circumstances. Personal data will not, in most circumstances, be disclosed to third parties. (p8)

### ***TELL US YOUR VIEWS***

This is a pdf document provided by the CQC to enable responses to the consultation to be provided.

### ***IMPACT ASSESSMENT***

Existing standards, including the National Minimum Standards (NMS), are being replaced by the new Health and Social Care Act 2008 (Registration Requirements) Regulations 2009, which are essential standards of safety and quality across the care sector.

For adult social care providers, the Care Standards Act and associated regulations and NMS will remain in force until the end of September 2010. **Providers will need to apply to register in the new system from April 2010.** By 1 October 2010 all providers of adult social care services will need to be registered with the Care Quality Commission (CQC). (p6)

The geographic coverage of the registration model, compliance monitoring and enforcement is England. (p10)

The impact assessment is concerned with incremental cost; that is the cost of the changes above the costs incurred for complying with current standards. Pages 14 and 15 of the impact assessment provide details of anticipated costs and benefits.

With regard to cost of fees to providers, **work on the CQC's fee policy is currently in progress.** (p14)

On the whole the guidance is unlikely to have an adverse impact on race, disability, gender, sexual orientation, religion or belief and age equality for providers or people who use services. There are several exceptions to this in relation to disability equality ... (p20)

... there is some potential risk in one area of the guidance about compliance, which requires people who want to register to carry out regulated activities, or become a manager at a provider, to be 'physically and mentally fit'. This could place a person with a disability at a disadvantage. (p21)

There is a recommendation that the CQC should consider making it a requirement for providers to collect and monitor information by reference to race, disability, gender, sexual orientation, religion or belief and age, as part of its review processes, about the following:

- Complaints from people who use services – to determine whether they come from particular groups.
- Incidents – to determine whether any particular groups are adversely affected.
- Staff – to determine whether any particular groups are under-represented.
- Health, welfare and safety of people who use services. (p22)

### ***THE DRAFT GUIDANCE***

This is the main document of the consultation, running to 250+ pages, and having the following structure:

Part A: About the guidance

Part B: Generic guidance about compliance

Part C: Specific guidance about compliance

Appendices

#### **Part A: About the guidance**

This part of the guidance provides an introduction to:

- The CQC and what they do. (p5)
- Registration and how it will be approached. (p6)
- The guidance and who it is for. (p8)
- The approach taken to develop the guidance. (p8)

- How decisions will be made about the registration of providers against the guidance using the following principles (p10):
  - Providers are responsible for delivering services to the required quality set out in the registration requirements.
  - The CQC will focus their attention on people's views and experiences of using services.
  - They will work with others to share information.
- Structure for the guidance. (p11)

## **Part B: Generic guidance about compliance**

This part of the guidance is a revised version of an earlier consultation document, focusing on generic guidance that will apply to services, regardless of type.

It is split into 6 themed sections, covering each of the 6 requirements of the Health and Social Care Act 2008, which follow the various steps in the pathway of care that a person may follow when they begin to use a service, i.e.:

- Section 1 – Involvement and information
- Section 2 – Personalised care, treatment and support
- Section 3 – Safeguarding and safety
- Section 4 – Suitability of staffing
- Section 5 – Quality and management
- Section 6 – Suitability of management

Each of the 6 sections follows the same structure:

- A summary of what the section covers – details of regulations the section covers.
- The expected outcome – what people who use services should experience when providers are compliant with the law, detailing:
  - What this means for people who use services.
  - What providers who are compliant with the law will do.
  - What the CQC expect providers to do: the detailed guidance about compliance.

As an example:

Under Section 1, Involvement and Information

There are 3 Outcomes

The first of these is 'Respecting and involving people who use services';  
(Regulation 15 applies):

People using the service:

- are involved in decisions about their care, treatment & support
- have their privacy, dignity and independence respected ...

Because providers who are compliant with the law will:

- maintain people's privacy, dignity and independence
- involve people who use services in decisions about their care
- be considerate and respectful to the person
- encourage people to care for themselves
- encourage people to be involved in how the service is run

This is followed by detailed lists of what providers are expected to do.

The regulations referred to are currently at draft stage and have been the subject of a recent DoH consultation; the final version will be submitted for Parliamentary approval later this year. (p12)

Page 13 provides a table showing outcomes to which each of the regulations relates.

This part of the guidance isn't particularly easy to follow, although it has been improved, with better referencing than the earlier consultation referred to.

To help appreciate the structure, I've produced a matrix of the Themes, Outcomes, what people should experience, what providers are legally required to do, and what providers are expected to do. This is embedded here (but please refer to the guidance itself for further details):



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### **Part C: Specific guidance about compliance**

This part sets out guidance that is in addition to the generic guidance set out in Part B, and relates to certain types of service; **the provider will establish which one applies to them during the registration process.** (p119)

Within each type of service, there will firstly be general guidance that applies to all services within that service type; there may also be further guidance that only relate to certain groups of people who use the service. Both the general guidance and further guidance are linked to the outcome in Part B that it relates to.

The aim of this approach is that each provider registered by the CQC will only need to review one section of the specific guidance in Part C.

Guidance in this part is provided for 18 types of service, including:

- 8. Services provided by a care home.
- 10. Services provided by a domiciliary care service.
- 11. Services provided by a supported living service.
- 12. Services provided by Shared Lives (formerly known as adult placement).

Page 121 provides a table that sets out the service types for which specific guidance has been produced. It shows the regulated activities that each service type would usually be expected to be registered under, to help providers to identify whether specific guidance applies to them. The table includes the following:

Section	Service	Personal care	Accommodation for persons who require nursing or personal care	Accommodation for persons who require treatment for substance misuse
8	Care home		✓✓	✓
10	Domiciliary care service	✓✓		
11	Supported living service	✓✓		
12	Shared Lives	✓✓		

**Key:** Two ticks indicate that the service would usually be expected to be registered under this regulated activity. A single tick indicates that the service type might be registered under this regulated activity.

Each section provides specific guidance for the type of service to which it relates, structured around the relevant outcomes and regulations. What follows here is a brief reference to that guidance – please refer to the guidance itself for further information.

It should be remembered that these sets of specific guidance are in addition to the generic guidance outlined in Part B (and referred to in the matrix embedded above).

### **SECTION 8: Services provided by a care home (p 171-178)**

Key characteristics of this type of service: A care home is a place where personal care and accommodation are provided together. People may live in the service for a short or long period of time. For many people, as their sole place of residence, it will become their home.

There is further guidance available from the CQC about the differences between a care home and a person's home where they receive care.

#### **Outcome 1 (Regulation 15 – Respecting and involving people who use services)**

People who use services are involved in decisions about the way the service is run.

#### **Outcome 5 (Regulation 12 – Meeting nutritional needs)**

People who use services are able to make choices about when to eat, where to eat, whether to eat alone, or with company.

#### **Outcome 6 (Regulation 22 – Co-operating with other providers)**

People who use services are able to register with (health services) of their choice.

#### **Outcome 7 (Regulation 9 – Safeguarding vulnerable people who use services)**

People who use services in a care home know that **the service will seek authorisation under the Mental Capacity Act deprivation of liberty safeguards** when it is in their interest to deprive them of their liberty. This will happen only when they lack capacity ...

People who use services know that, where the service looks after their money ...

- Individualised records are kept ...
- It is not used by the service ...
- The manager becomes their agent only when there is no other person ...

People who use services know that staff are unable to:

- Be involved in ... wills or bequests.
- Accept gifts or cash.
- Benefit financially by inappropriate gaining form money ...
- Use their property for personal use ...
- Borrow money from, or lend money to, people ...
- Sell or dispose of goods belonging to people ... for their own gain.

#### **Outcome 8** (Regulation 11 – Management of medicines and medical devices)

People who use services receive care, treatment and support that follows clear procedures in practice, that are monitored and reviewed, for medicines management following their death.

#### **Outcome 9** (Regulation 13 –Safety and suitability of premises)

People who use the service have:

- Bedrooms that (environmental specifications provided) ...
- Access to communal rooms ...
- Access to toilets, baths and showers ...
- Access to outdoor space ...

#### **Outcome 11** (Regulations 19, 20 & 21 – Fitness of workers, staffing, supporting staff)

People who use services receive care, treatment and support from staff who have undertaken induction that follows standards produced by Skills for Care, and training that satisfies the learning outcomes in the SFC knowledge and skills set in adult protection, dementia (where relevant), and learning disability (where relevant).

#### **Outcome 16** (Regulation 28 – Notification of incidents)

- In relation to **deaths**; inform the CQC without delay of any death of a person who uses the service including (details ...).
- In relation to **applications to a supervisory body to deprive a person of their liberty**; inform the CQC without delay of any application ... including (details ...).
- In relation to **outbreaks of infectious disease**; inform the CQC without delay when there is an outbreak of serious infectious disease ... including (details ..., together with a list of disease that should be notified to the CQC).

- In relation to **serious injury**; inform the CQC without delay when a person using the service is seriously injured ... including (details ..., together with a list of serious injuries that should be notified to the CQC).
- In relation to **events that affect the ability of a registered person to ensure the well-being of people who use the service**; in addition to events shown in Part B, inform the CQC without delay of failures of premises, utilities or equipment ... fires and floods ...
- In relation to a person detained in a hospital or subject to a supervised community treatment order under a section of the Mental Health Act 1983; inform the CQC without delay of such a person's unexplained absence from the service including (details ...).

**Outcome 20** (Regulation 6 – Registered person – General requirements and training)

People who use services benefit from a manager who has a care and management qualification equivalent to NVQ level 4 and has a registered manager award, or is working towards it ...

*Further guidance about care, treatment and support provided by a care home to people with a learning disability:*

**Outcome 4** (Regulation 7 – Care and welfare of people who use services)

People who use services are supported to have a Health Action Plan developed by their GP if they want one, in a way they can understand.

**Outcome 7** (Regulation 9 – Safeguarding vulnerable people who use services)

People who use services are confident that staff who will be required to use restrictive physical interventions have received specialist training, and that trainers are selected with reference to the BILD code of practice.

*Further guidance is then provided about care, treatment and support provided by these services to people who require treatment of substance misuse.*

**SECTION 10: Services provided by a domiciliary care service** (p 187-190)

Key characteristics of this type of service: A domiciliary care service provides personal care for persons living in their own homes. The needs of the people using the service may vary greatly but will have been assessed by the agency, and can be met in their own home.

**Outcome 7** (Regulation 9 – Safeguarding vulnerable people who use services)

People who use services know that staff are unable to:

- Be involved in ... wills or bequests.
- Accept gifts or cash.
- Benefit financially by inappropriate gaining form money ...
- Use their property for personal use ...
- Borrow money from, or lend money to, people ...
- Sell or dispose of goods belonging to people ... for their own gain.#
- Take responsibility for looking after belongings ...
- Take any unauthorised person (including children) or pets into the service user's home without permission ...

**Outcome 8** (Regulation 11 – Management of medicines and medical devices)

People who use services receive care, treatment and support from staff who ensure they make a record of any medication taken or prompted where this is part of the plan of care.

**Outcome 10** (Regulation 14 – Safety, availability and suitability of equipment)

People are safe when using equipment in the homes of people who use services because staff raise concerns in a timely manner where they have identified any concerns around the safety of the equipment.

**Outcome 11** (Regulations 19, 20 & 21 – Fitness of workers, staffing, supporting staff)

People who use services receive care, treatment and support from staff who have undertaken induction that follows standards produced by Skills for Care, and training that satisfies the learning outcomes in the SFC knowledge and skills set in adult protection, dementia (where relevant), and learning disability (where relevant).

**Outcome 16** (Regulation 28 – Notification of incidents)

- In relation to **deaths**; inform the CQC without delay of any death of a person who uses the service including (details ...).
- In relation to **outbreaks of infectious disease**; inform the CQC without delay when there is an outbreak of serious infectious disease ... including (details ..., together with a list of disease that should be notified to the CQC).
- In relation to **serious injury**; inform the CQC without delay when a person using the service is seriously injured ... including (details ..., together with a list of serious injuries that should be notified to the CQC).
  
- In relation to **events that affect the ability of a registered person to ensure the well-being of people who use the service**; in addition to events shown in Part B, inform the CQC without delay of failures of premises, utilities or equipment ... fires and floods ...
- In relation to a person detained in a hospital or subject to a supervised community treatment order under a section of the Mental Health Act 1983; inform the CQC without delay of such a person's unexplained absence from the service including (details ...).

**Outcome 20** (Regulation 6 – Registered person – General requirements and training)

People who use services benefit from a manager who has a management qualification equivalent to NVQ level 4 or higher, or must have started working towards the qualification ...

**SECTION 11: Services provided by a supported living service** (p 191-195)

Key characteristics of this type of service: A supported living service is where a person lives in their own home and receives care and/or support in order to promote their independence. The care they receive is regulated by the CQC, but the accommodation is not. People supported are usually young adults, for example people with learning disabilities. The regulated activity is led by the people using the service.

**Outcome 5** (Regulation 12 – Meeting nutritional needs)

People who use services are able to make choices about when to eat, where to eat, whether to eat alone, or with company.

**Outcome 6** (Regulation 22 – Co-operating with other providers)

People who use services are able to register with (health services) of their choice.

**Outcome 7** (Regulation 9 – Safeguarding vulnerable people who use services)

People who use services know that, where the service looks after their money ...

- Individualised records are kept ...
- It is not used by the service ...
- The manager becomes their agent only when there is no other person ...

People who use services know that staff are unable to:

- Be involved in ... wills or bequests.
- Accept gifts or cash.
- Benefit financially by inappropriate gaining from money ...
- Use their property for personal use ...
- Borrow money from, or lend money to, people ...
- Sell or dispose of goods belonging to people ... for their own gain.
- Take any unauthorised person (including children) or pets into the service user's home without permission ...

**Outcome 8** (Regulation 11 – Management of medicines and medical devices)

People who use services receive care, treatment and support that follows clear procedures in practice, that are monitored and reviewed, for medicines management following their death.

**Outcome 11** (Regulations 19, 20 & 21 – Fitness of workers, staffing, supporting staff)

People who use services receive care, treatment and support from staff who have undertaken induction that follows standards produced by Skills for Care, and training that satisfies the learning outcomes in the SFC knowledge and skills set in adult protection, dementia (where relevant), and learning disability (where relevant).

**Outcome 16** (Regulation 28 – Notification of incidents)

- In relation to **deaths**; inform the CQC without delay of any death of a person who uses the service including (details ...).
- In relation to **outbreaks of infectious disease**; inform the CQC without delay when there is an outbreak of serious infectious disease ... including (details ..., together with a list of disease that should be notified to the CQC).
- In relation to **serious injury**; inform the CQC without delay when a person using the service is seriously injured ... including (details ..., together with a list of serious injuries that should be notified to the CQC).
- In relation to a person detained in a hospital or subject to a supervised community treatment order under a section of the Mental Health Act 1983; inform the CQC without delay of such a person's unexplained absence from the service including (details ...).
- In relation to **events that affect the ability of a registered person to ensure the well-being of people who use the service**; in addition to events shown in Part B, inform the CQC without delay of failures of premises, utilities or equipment ... fires and floods ...

**Outcome 20** (Regulation 6 – Registered person – General requirements and training)

People who use services benefit from a manager who has a management qualification equivalent to NVQ level 4 or higher, or must have started working towards the qualification ...

*Further guidance about care, treatment and support provided by a care home to people with a learning disability:*

**Outcome 4** (Regulation 7 – Care and welfare of people who use services)

People who use services are supported to have a Health Action Plan developed by their GP if they want one, in a way they can understand.

**DG COMMENT:** *Note the differentiation between a domiciliary care service and a supported living service, i.e.:*

*A domiciliary care service provides personal care for persons living in their own homes. The needs of the people using the service may vary greatly but will have been assessed by the agency, and can be met in their own home.*

*A supported living service is where a person lives in their own home and receives care and/or support in order to promote their independence. The care they receive is regulated by the CQC, but the accommodation is not. People supported are usually*

*young adults, for example people with learning disabilities. The regulated activity is led by the people using the service.*

*Noted that, although both types of service refer to people living in their own homes, the former refers specifically to personal care, whilst the latter refers to:*

- *Promoting independence.*
- *Accommodation is not regulated by the CQC.*
- *Young adults ... for example people with learning disabilities.*
- *Regulated activity being led by the people using the service.*

*An interpretation of this could be that the former refers to services that were deregistered as care homes, the latter to newly registered services that we currently refer to as domiciliary care – or services for people with less complex needs.*

## **SECTION 12: Services provided by Shared Lives (formerly known as adult placement) (p 196-199)**

Key characteristics of this type of service: Shared Lives is usually accommodation with care or support provided by ordinary individuals or families in the local community who have been approved and trained for this role. It can provide kinship support without accommodation, however the CQC would only regulate this if it included personal care.

### **Outcome 6 (Regulation 22 – Co-operating with other providers)**

People who use services are able to register with (health services) of their choice.

### **Outcome 7 (Regulation 9 – Safeguarding vulnerable people who use services)**

People who use services know that, where the service looks after their money ...

- Individualised records are kept ...
- It is not used by the service ...
- The manager becomes their agent only when there is no other person ...

People who use services know that staff are unable to:

- Be involved in ... wills or bequests.
- Accept gifts or cash.
- Benefit financially by inappropriate gaining from money ...
- Use their property for personal use ...
- Borrow money from, or lend money to, people ...
- Sell or dispose of goods belonging to people ... for their own gain.

### **Outcome 11 (Regulations 19, 20 & 21 – Fitness of workers, staffing, supporting staff)**

People who use services receive care, treatment and support from staff who have undertaken induction that follows standards produced by Skills for Care, and training that satisfies the learning outcomes in the SFC knowledge and skills set in adult protection, dementia (where relevant), and learning disability (where relevant).

### **Outcome 16 (Regulation 28 – Notification of incidents)**

- In relation to **deaths**; inform the CQC without delay of any death of a person who uses the service including (details ...).
- In relation to **outbreaks of infectious disease**; inform the CQC without delay when there is an outbreak of serious infectious disease ... including (details ..., together with a list of disease that should be notified to the CQC).
- In relation to **serious injury**; inform the CQC without delay when a person using the service is seriously injured ... including (details ..., together with a list of serious injuries that should be notified to the CQC).
- In relation to **events that affect the ability of a registered person to ensure the well-being of people who use the service**; in addition to events shown in Part B, inform the CQC without delay of failures of premises, utilities or equipment ... fires and floods ...
- In relation to a person detained in a hospital or subject to a supervised community treatment order under a section of the Mental Health Act 1983; inform the CQC without delay of such a person's unexplained absence from the service including (details ...).

**Outcome 20** (Regulation 6 – Registered person – General requirements and training)

People who use services benefit from a manager who has a care and management qualification equivalent to NVQ level 4.

*Further guidance about care, treatment and support provided by Shared Lives to people with a learning disability:*

**Outcome 4** (Regulation 7 – Care and welfare of people who use services)

People who use services are supported to have a Health Action Plan developed by their GP if they want one, in a way they can understand.

**Appendices**

Appendix A provides a Glossary (p221-240)

Appendix B provides a Schedule of Applicable Guidance (p241-250)

Appendix C lists the Health and Social Care Act 2008 (Regulated Activities) Regulations 2009 (Draft)

Dave Glover , United Response  
9<sup>th</sup> June 2009