

Guidance about compliance

# Essential standards of quality and safety



What providers should do to comply with the section 20  
regulations of the Health and Social Care Act 2008

March 2010

## **About the Care Quality Commission**

The Care Quality Commission is the independent regulator of health and adult social care services in England. We also protect the interests of people whose rights are restricted under the Mental Health Act.

Whether services are provided by the NHS, local authorities, private companies or voluntary organisations, we make sure that people get better care. We do this by:

- Driving improvement across health and adult social care.
- Putting people first and championing their rights.
- Acting swiftly to remedy bad practice.
- Gathering and using knowledge and expertise, and working with others.

# How to use this guide

This guide is designed to help providers of health and adult social care to comply with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 and the Care Quality Commission (Registration) Regulations 2009.

It has two main parts, both of which you need to read:

## Part 1: Preparing to use our guidance

### Step 1



Read "About this guide", which explains why we produced this guide, who it is for and how the guidance in part 2 is structured

### Step 2



Select the service types that apply to you

### Step 3



Read our definitions of key terms that appear in the guidance in part 2

## Part 2: Guidance

- Outcomes 1-28
- Prompts that all providers should consider
- Additional prompts that apply to different service types

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# Part 1: Preparing to use our guidance

These are the steps you need to take in order to be able to use the guidance set out in part 2 of this document.



# Step 1: About this guide



## A new system of registration

As the regulator of health and adult social care in England, we make sure that the care that people receive meets essential standards of quality and safety and we encourage ongoing improvements by those who provide or commission care.

The new registration system for health and adult social care will make sure that people can expect services to meet essential standards of quality and safety that respect their dignity and protect their rights. The new system is focused on outcomes rather than systems and processes, and places the views and experiences of people who use services at its centre.

We will continuously monitor compliance with essential standards as part of a new, more dynamic, responsive and robust system of regulation. Our assessors and inspectors will frequently review all available information and intelligence we hold about a provider. We will seek information from patients and public representative groups, and from organisations such as other regulators and the National Patient Safety Agency.

If we have concerns that a provider is not meeting essential standards of quality and safety, we will act quickly, working closely with commissioners and others, and using our new enforcement powers if necessary.

## Promoting improvement

In addition to the assurance about compliance with essential standards that registration will provide, we have an important function in promoting improvement by providing independent, reliable and timely information about the quality of care in providers above essential standards, and about the quality of care secured by commissioners for their local communities, which we describe as assessments of quality.

These assessments include: our periodic reviews of the performance of all health and adult social care providers, and of councils and primary care trusts as commissioners of care; and our special reviews and studies of particular aspects of care, on economy, efficiency and effectiveness, and information issues.

## The aim of this guide

This guide is designed to help providers of health and adult social care to comply with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010, and the Care Quality Commission (Registration) Regulations 2009. These regulations describe the essential standards of quality and safety that people who use health and adult social care services have a right to expect.

Part 2 of this guide contains the guidance – consisting of outcomes and prompts – that



we have developed to help you comply with the regulations. Our guidance is based on the outcomes that we expect people using a service will experience when the provider is meeting the essential standards.

When developing the outcomes and prompts, we have focused on people's experiences of care, and the quality of the treatment and support that they receive. People who use services tell us that this is what matters most to them, rather than the systems, policies and processes needed to deliver their care.

The guidance does not cover the standards that individual professionals should achieve in their day-to-day practice, because these standards are set and enforced by their professional registration bodies. For example, the General Medical Council and the Nursing and Midwifery Council provide such guidance for doctors and nurses.

### Why we produced the guidance

Section 23(1) of the Health and Social Care Act 2008 requires us to produce guidance for providers of health and adult social care, to help them comply with the regulations within the Act that govern their activities.

The Act, the regulations and this guidance are part of a wider regulatory framework that includes regulation of professionals such as nurses, doctors and social workers. The framework is designed to ensure that people who use services are protected and receive the care, treatment and support they need.

This guidance only relates to providers of services that carry on "regulated activities". These are defined in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010, which are reproduced in appendix C.

If you are a provider that carries out any regulated activities, the framework requires you to be registered with the Care Quality

Commission before you carry out these activities. The guidance in part 2 of this guide describes the outcomes that people using your services should be experiencing if you are meeting the essential standards required for us to register you.

We will use the guidance to decide whether to register individual providers, and also when we monitor their services afterwards to check that they are continuing to meet the regulations. We will also refer to the guidance when using our powers of enforcement to bring about improvement in poor services, or to prevent a provider from carrying out regulated activities.

### Who this guide is for

First and foremost, this guide is for people working in those health and adult social care services that must be registered with us before they can legally operate.

Many of our own staff will also use this guide in their day-to-day work. In addition, courts and tribunals will take account of part 2 (our guidance about compliance) when making decisions about our enforcement activities.

Other groups with an interest in the quality of health and social care may find the guidance helpful – for example, people who use services, other regulators, MPs and the general public. We will also produce related information for the public about the standards that people should be able to expect from services that are registered by us.

**Commissioners of services:** When councils or NHS primary care trusts commission (buy) health or adult social care services for the community, this is not a "regulated activity" under the regulatory framework. This means that our guidance **does not** apply directly to councils and primary care trusts as commissioners of care services. However, because of its emphasis on outcomes for people, we hope that the guidance will help them to make decisions about which providers to buy services from.

### How we developed the guide

We have developed this guide with the help of people who use health and social care services, those who provide these services, other regulators, and organisations that represent people who use services or providers, or that work in the wider system of health and social care.

We carried out a large-scale public consultation, asking people what they thought about the draft guidance, the way we explained it and the overall structure of the document.

When producing the final version of the guidance – part 2 of this document – we have:

- Continued to focus on the outcomes, experiences and human rights of people who use health and social care services.
- Used plain English wherever we can.
- Stayed within the scope of the regulations.
- Applied common standards across both health and adult social care services wherever possible.
- Provided additional prompts for certain types of providers to help them comply with aspects of the regulations that relate only to them.
- Taken account of relevant legislation and standards set by other regulators.
- Set out the standards against which we will take enforcement action to protect people from poor standards of care, treatment and support.
- Built on the progress made under the existing laws and standards governing health and social care in England.
- Applied the Government's principles for better regulation.

### Following our guidance

The detailed outcomes and prompts we provide for each regulation indicate what you should be doing to meet the requirements of the regulations.

However, you are not legally bound to use these. But if you decide to follow alternative arrangements, regulation 26 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 requires you to be able to demonstrate that you have taken account of the outcomes and prompts in this document when judging your compliance with the regulations in your day-to-day activities. We must be sure that your services are meeting the essential standards of quality and safety before we can register you.

If you choose not to use the prompts, you will still need to be able to show us that you are meeting the needs of people using your services, and to the standards that the regulations require. If you do not do so, we will ask you to explain why.

If you feel you cannot follow our prompts because your services are particularly innovative and the evidence you will want to provide will be different from that which the prompts indicate, we will work with you to confirm that your services are reaching the essential standards of quality and safety.

### How we have structured the guidance

Before developing the outcomes expected for compliance with each of the regulations, we grouped the regulations into six key areas. These are:

- Involvement and information
- Personalised care, treatment and support
- Safeguarding and safety
- Suitability of staffing
- Quality and management
- Suitability of management.

The guidance in part 2 contains a section for each area, containing:

- A summary of the area and the regulations that it includes.
- For each regulation:

- the text of the regulation
- what we think people who use services should experience when providers comply with the regulation (the definition of the outcome). This is what we will focus on when we check that providers are meeting essential standards
- detailed prompts to help providers achieve this outcome, divided into sub-sections to make it easier to follow. We do not expect providers to use these prompts as a checklist, but they can help providers to identify if they are meeting the outcome.

Before you read any of the detailed prompts, make sure that you have read step 2 (page 13) so that you can identify and record which ‘service types’ your regulated activities fall under. You need to follow this step because the detailed prompts are of two types:

- Prompts that apply to **all** providers.
- **In addition**, prompts that only apply to specific service types.

### **Do I need to read all of the outcomes?**

In some instances, our expectations for an outcome may apply to a number of other outcomes. For example, Outcome 14 about supporting workers is the main part of the guidance that addresses staff training. But for providers to achieve the outcomes needed for, say, nutrition or safeguarding, they may need to meet staff training requirements in these areas.

Therefore, we strongly recommend that you read all of the outcomes relevant to you in part 2.

### **What type of evidence do I need to provide?**

The outcomes that we set out in the guidance are the same for all providers within each service type. However, the way that providers demonstrate that they are achieving these outcomes may differ according to their size, structure and governance. Your evidence may be influenced by:

- The size of your service.
- The range and complexity of the services you provide.
- The needs and number of people who use your services.
- The range of staff you employ and how they work together to meet the needs of people who use your service.
- The systems you have to produce information, for example computer systems, audit processes or being part of a national or regional structure.

**You will not routinely need to provide evidence for the prompts. These are supplied to help you comply with the regulations.**

## **The regulations that govern your registration**

When we refer to “the Act” in this document, we mean the Health and Social Care Act 2008.

The specific regulations that govern your registration are the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 and the Care Quality Commission (Registration) Regulations 2009.

Section 23 of the Act requires us to produce guidance about some of these regulations. These are called ‘section 20 regulations’ and this guidance only relates to those. However, we have reproduced all of the regulations in appendices C and D.

The table on pages 10-11 shows how the regulations and the outcomes link together in the guidance.

### **The legal status of our guidance for providers**

Although we must take it into account when making decisions about a provider’s compliance with the regulations and in tribunals and courts, the guidance is not enforceable in its own right.

## Part 1: Preparing to use our guidance

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### **Regulation of the requirement to prevent or control healthcare-associated infections**

The Care Quality Commission is not required by the Act to produce guidance about legislation governing the prevention or control of healthcare-associated infections (regulation 12 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010). This guidance is available in the Department of Health's publication: *The Code of Practice for health and adult social care on the prevention and control of infections and related guidance*.

### **Other relevant legislation**

The Act allows us to take account of a provider's compliance with any other legislation that we believe is relevant to registration. In our prompts, we specify other legislation that we consider to be of particular importance, but we have not included all relevant legislation.

As a provider of care, you are responsible for knowing what other legislation is relevant to your service and making sure that you comply with it. We may consider your compliance with such legislation as part of the way we monitor and check your services.

As well as making sure that you are aware of other relevant legislation, you should read the Schedule of Applicable Publications in appendix B.