2002 No. 3007

NATIONAL HEALTH SERVICE, ENGLAND

The Commission for Patient and Public Involvement in Health (Functions) Regulations 2002

Made - - - - -	*5th December 2002*
Laid before Parliament	*5th December 2002*
Coming into force - -	*1st January 2003*

The Secretary of State for Health, in exercise of the powers conferred on him by sections 20(2)(a), (b), (c) and (g), (8) to (10) and 38(5) to (7) of 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 Commission for Patient and Public Involvement in Health (Functions) Regulations 2002 and shall come into force on 1st January 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;

"financial year" means a period of twelve months ending with 31st March.

Annual work programme

2.—(1) Before the beginning of each financial year the Commission must prepare a work programme setting out the activities the Commission is to undertake in that year in the exercise of its functions in relation to England under section 20 of the Act.

(2) Each work programme shall include—

(a) any particular matters with respect to which the Commission is to provide advice on arrangements for public involvement, on arrangements for the provision of independent advocacy services, or on the views of others as respects those arrangements, under section 20(2)(a), (b) and (c) of the Act;

(b) proposals as to the matters, arising from Patients' Forums' annual reports, in relation to which the Commission is to conduct reviews and make reports under section 20(5) of the Act; and

(c) proposals as to arrangements to be made by the Commission for—

(i) providing staff to PCT Patients' Forums;

(ii) providing advice and assistance to Patients' Forums and providers of independent advocacy services;

(**a**) 2002 c.17.

(iii) facilitating the co-ordination of Patients' Forums' activities;

(iv) setting quality standards for Patients' Forums and independent advocacy services, monitoring how successfully those standards are met and making recommendations for improvements;

(v) promoting public involvement as described in section 20(3) of the Act; and

(vi) reporting matters of concern in accordance with section 20(6) of the Act.

(3) The work programme shall be subject to approval by the Secretary of State.

(4) The work programme may be varied—

(a) with the agreement of the Secretary of State; or

(b) as the Secretary of State may determine.

(5) Subject to the following regulations the Commission shall exercise its functions in any financial year in accordance with the work programme relating to that year.

Persons to be advised by the Commission

3. For the purposes of section 20(2)(a) of the Act the prescribed bodies are—

(a) the Commission for Health Improvement(**a**);

(b) the National Care Standards Commission(**b**); and

(c) the National Patient Safety Agency(**c**).

4. For the purposes of section 20(2)(b) of the Act the prescribed bodies are—

(a) the Commission for Health Improvement;

(b) the National Care Standards Commission;

(c) the National Patient Safety Agency;

(d) the Health Service Commissioner(**d**); and

(e) the National Health Service Litigation Authority(**e**).

5. For the purposes of section 20(2)(c) of the Act the prescribed bodies are—

(a) the Commission for Health Improvement;

(b) the National Care Standards Commission;

(c) the National Patient Safety Agency;

(d) the Health Service Commissioners; and

(e) the National Health Service Litigation Authority.

6. It is also the function of the Commission to provide advice and information about the arrangements referred to in section 20(2)(a) and (b), and about the views referred to in section 20(2)(c), of the Act to such other persons or bodies as it thinks fit.

Charging for advice and services

7.—(1) The Commission's power to make such charges as it thinks fit for the provision of advice and other services is subject to the limitations set out in paragraphs (2) to (4)(**f**).

(2) The Commission may not make any charge for advice provided under section 20(2)(a), (b), (c), (d) or (e) of the Act, or for any service provided in the course of exercising its functions under section 20(5) of the Act, to—

(a) Patients' Forums,

(b) providers of independent advocacy services; or

(c) the bodies prescribed in regulations 3, 4 and 5 above.

(3) The Commission may not charge for services (including the provision of staff) provided under section 20(2)(d),(e) or (f) of the Act to—

(a) Patients' Forums; or

(**a**) *See* section 19 of, and Schedule 2 to, the Health Act 1999 (c.8) (Schedule 2 was amended by section 14 of the Act).
(**b**) *See* section 6 of the Care Standards Act 2000.
(**c**) *See* section 11 of the National Health Service Act 1977 (the "1977 Act") and S.I. 2001/1743.
(**d**) *See* section 1 of the Health Service Commissioners Act 1993.
(**e**) *See* section 11 of the 1977 Act and S.I. 1995/2800.
(**f**) *See* section 20(8) of the Act.

(b) providers of independent advocacy services.

(4) The Commission may not make any charges for unsolicited advice or services provided under section 20(6) of the Act or regulation 6 above.

Obtaining information

8.—(1) Subject to regulation 8, the Commission, or a member or employee authorised by the Commission in writing, may require a body to which paragraph (2) applies to produce any information which appears to the Commission, or to the authorised person, to be necessary for the effective carrying out of the Commission's functions under section 20(2), (3), (5) and (6) of the Act.

(2) The bodies referred to in paragraph (1) are—

(a) a Strategic Health Authority;

(b) a Special Health Authority;

(c) an NHS Trust;

(d) a Primary Care Trust;

(e) a Patients' Forum; and

(f) a provider of independent advocacy services.

Restrictions on disclosure of information to the Commission

9.—(1) A person shall not be required to produce information under regulation 7(1) which—

(a) is confidential and relates to and identifies 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, unless paragraph (3) applies.

(2) The conditions referred to in paragraph (1)(a) are—

(a) the information is or 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 on the disclosure of information arises because the information is capable of identifying an individual; and

(b) the information is or can be disclosed in a form from which the identity of the individual cannot be ascertained.

(4) In a case where the disclosure of information is prohibited by paragraph (1), the Commission, or a person authorised by the Commission under regulation 8(1), may require the person holding the information to put the information in a form from which the identity of the individual concerned cannot be identified, in order that the information may be disclosed.

Signed by Authority of the Secretary of State for Health

David Lammy
Parliamentary Under Secretary of State for Health
Department of Health

5th December 2002

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the functions of the Commission for Patient and Public Involvement in Health established under section 20 of the National Health Service Reform and Health Care Professions Act 2002 ("the Commission").

The Regulations make provision in relation to the exercise of the Commission's functions in England. In particular, they make provision for an annual work programme (regulation 2), the provision of advice with respect to arrangements for public involvement, independent advocacy services and with respect to the views of certain interested bodies on these arrangements (regulations 3 to 6), limitations on charges for advice and services provided by the Commission (regulation 7) and the provision of information to the Commission (regulations 8 and 9).

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