



# The New Face of Regulation

## New Registration System

A new year, a new registration system! Much concern has been expressed over the new registration regime and so Sarah Harris in our Bristol office has kindly been through the various official information sources and distilled the key advice for our clients:-

The Health and Social Care Act 2008 introduced a new, single registration system that applies to both health services and adult social care. As such those providing regulated activities will be required to register with the Care Quality Commission.

Providers do not have to “de-register”, but registrations made under the Care Standards Act 2000 are not transferable to the new system, so providers will have to apply to be registered under the new system and there will be no automatic “passport” through to the new system.

The specific regulations are still subject to Parliamentary approval, which is anticipated from 1 April 2010.

CQC state that they will work to ensure the new registration system is consistent across the country but most operators will be wary of believing this until it is demonstrated.

## Key dates

**From April 2010**, all NHS trusts (including PCTs as providers) must be registered.

**From October 2010**, all currently registered adult social care and independent healthcare providers must be registered. Applications for registration will be made from 1 April to 30 September 2010. We understand current plans are for providers to be given a four week period in which to submit their registration, so as to stagger applications received by CQC.

**From April 2011**, primary care services that directly provide dentistry (NHS and private) must be registered together with independent ambulance services.



**From April 2012**, primary medical care services (including GP practices and out-of-hours services) must be registered.

## New Essential Standards of Quality and Safety, replacing the NMS

There are Essential Standards of Quality and Safety known as “Section 20 Regulations”, which will replace the National Minimum Standards and the Standards for Better Health. To comply with the new regulations and to register a service provider must demonstrate they meet the new *Essential Standards of Quality and Safety*.

Compliance with the regulations is assessed by service users’ experiences and there are 28 outcomes, each of which relates to one of the Section 20 Regulations and are common to every service provider. Within each Outcome there are Prompts which relate to specific service provider types. CQC has produced a website where you can personalise the outcomes and regulations based on a specific service provision type.

([www.cqcguidanceaboutcompliance.org.uk](http://www.cqcguidanceaboutcompliance.org.uk))

There are 16 Outcomes known as *Core Quality and Safety Standards*. These are key issues such as safeguarding and safety; personalised care, treatment and support; and suitability of staff. When checking a provider’s compliance these are the regulations that CQC will focus on.

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## Spatial requirements

After ten years the minimum spatial requirements for accommodation are to be downgraded in importance. New homes will still need to provide bedrooms that are a minimum of 12 sq m, but day space, bathrooms and WCs will no longer have standards and instead will simply have to be suitable; i.e. physically disabled residents may need more space than frail elderly and so on.



*Life may be easier for quality period conversions under the new rules*

We consider that this is sensible but the key point is not to use this as an excuse to build poorer accommodation but rather it does give some useful flexibility where existing buildings are being converted.

Focusing on outcomes puts the responsibility back with the provider and so long as they can demonstrate they have properly assessed their residents and provided appropriate care and services, all should be well.

## Quality and risk profiles

CQC will develop quality and risk profiles for each registered provider, where they will gather all they know about one provider in one place and develop the information over time. The aim being that these profiles can be used to assess where risks lie and prompt front line activity such as inspections, thereby adopting a more risk-based approach.

## Enforcement

A framework has been developed to enable CQC inspectors to assess compliance and reach judgements about each provider's registration status. The CQC judgement framework is designed to focus on the 16 Core Quality and Safety Standards when checking on a provider's compliance.

The framework is split into four stages:

**Stage 1:** Determining whether there is enough evidence to make a judgement.

**Stage 2:** Checking whether the evidence demonstrates compliance or whether there are concerns about the provider's compliance.

**Stage 3:** If concerns are found at stage 2, making a judgement about the impact on people using services and the likelihood of the impact occurring.

**Stage 4:** Validating the judgement.

The judgement framework may prove a useful tool for providers as Stage 2 contains detailed 'prompts' intended to give CQC staff points to check, for example one of the prompts to judge outcome 17 (Complaints) is "Are people made aware of the complaints system and what to do if they are dissatisfied with the response".

Of course how the judgement framework is implemented in practice and whether the goal of a consistent approach is achieved, only time will tell.

## Changes to CQC's enforcement powers

Prior to CQC being established the Healthcare Commission and CSCI both had enforcement powers under the Care Standards Act 2000. CQC has been given enhanced enforcement powers and these come into force fully in April 2010 for all registered health and adult social care providers (there are some early



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*It will still need to provide the highest quality accommodation*

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Power	CSA 2000	2008 Act
Issue a warning note	x	✓
Impose, vary or remove conditions	✓	✓
Issue a penalty notice in lieu of prosecution	x	✓
Suspend registration	x	✓
Cancel registration	✓	✓
Prosecute for specified offenses	✓	✓

enforcement changes for NHS organisations relating to infection control and prevention).

**Star Ratings**

One question that appears to be still unanswered is the future of star ratings. Reading between the lines it appears that these may be changed rather than abandoned. Our view is that most operators and nearly all social services departments like star ratings and if the system can be improved to be more responsive and perhaps slightly more broad based then the system will continue to grow in relevance.

**Advice and Recommendations**

- Operators have a busy year ahead in going through the registration process;
- Outcomes will be key for both physical and care standards and this is surely a good thing;
- Enforcement in terms of bed blocks and suspensions will continue to be a real threat;
- Builders of new facilities should still aim to build the best facility they can, especially where private fees are desired;
- Star ratings will continue to be important;
- Banks should still be positive for the sector but more than ever focus on the quality of management (and hence care) as well as the location, demographics and building.

**Conclusion**

For care home owners used to the registration system of CSCI this may not seem to be anything new but for those in health care services who have previously not been registered this may well come as a shock. But for all operators it will mean more paperwork and administration. For lenders it means that quality of management is more important than ever,



*Good spatial standards are nothing new to forward thinking operators*

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