

## KEELING SCHEDULE

### The Local Authority Social Services and National Health Service Complaints (England) (Amendment) Regulations 2017

This Schedule includes only those amendments which amend existing provisions in regulation 2, 6 and 18.

<p><u>Regulation 2</u></p> <p>Insert new definitions of:</p>	<p><b>2 Interpretation</b></p> <p>In these Regulations—</p> <p>“the 1993 Act” means the Health Service Commissioners Act 1993;</p> <p>“the 2004 Regulations” means the National Health Service (Complaints) Regulations 2004;</p> <p>“the 2006 Act” means the National Health Service Act 2006;</p> <p>“the 2006 Regulations” means the Local Authority Social Services Complaints (England) Regulations 2006;</p> <p>“ACO” means a body known as an accountable care organisation, having been so designated by the Board because it is providing or arranging the provision of services under the 2006 Act under contractual arrangements which—</p> <p>(a) have the objective of integrating care and having a single, systematic approach to using the resources for a local population to improve quality and health outcomes; and</p> <p>(b) allow a single provider organisation to make most decisions about how to allocate resources and design care for its local population;</p> <p>“ACO provider” means an ACO which provides services under the 2006 Act (whether or not it also arranges the provision of services under the 2006 Act);</p> <p>“adult” means an individual who has attained the age of 18;</p> <p>“adult social care” means social care within the meaning of Part 1 of the Health and Social Care Act 2008 which is provided to an adult;</p> <p>“adult social care provider” means a person or body who carries on an activity which—</p> <p>(a) involves, or is connected with, the provision of adult social care; and</p> <p>(b) is a regulated activity within the meaning of Part 1 of the Health and Social Care Act 2008;</p> <p>“child” means an individual who has not attained the age of 18;</p> <p>“complaints manager” means the person designated in accordance with regulation 4(1)(b);</p> <p>“local authority” means—</p> <p>(a) a county council in England;</p> <p>(b) a metropolitan district council;</p>
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<p>Substitute the definition of "independent provider"</p>	<p>(c) a non-metropolitan district council for an area for which there is no county council;</p> <p>(d) a London borough council;</p> <p>(e) the Common Council of the City of London; or</p> <p>(f) the Council of the Isles of Scilly;</p> <p>"general dental services contractor" means a person or body who has entered into a general dental services contract with the National Health Service Commissioning Board in accordance with section 100 of the 2006 Act;</p> <p>"general medical services contractor" means a person or body who has entered into a general medical services contract with the National Health Service Commissioning Board in accordance with section 84 of the 2006 Act;</p> <p>"general ophthalmic services contractor" means a person or body who has entered into a general ophthalmic services contract with the National Health Service Commissioning Board in accordance with section 117 of the 2006 Act;</p> <p>"Health Service Commissioner" means the person appointed Health Service Commissioner for England in accordance with section 1 of, and Schedule 1 to, the 1993 Act;</p> <p><del>"independent provider" means a person or body who—</del></p> <p><del>(a) provides health care in England under arrangements made with an NHS body; and</del></p> <p><del>(b) is not an NHS body or primary care provider;</del></p> <p><b>"independent provider" means a person or body who—</b></p> <p><b>(a) provides health services in England under arrangements made with an NHS body or an ACO; and</b></p> <p><b>(b) is not-</b></p> <p><b>(i) an NHS body or primary care provider, or</b></p> <p><b>(ii) an ACO, except if it is an ACO provider in respect of the provision of services by it as a provider of health services in England;</b></p> <p>"NHS body", except in regulation 6(1)(a)(ii), means—</p> <p>(a) . . .</p> <p>(b) a Special Health Authority which does not exercise functions only or mainly in Wales and to which section 2 of the 1993 Act applies;</p> <p>(ba) a clinical commissioning group;</p> <p>(bb) the National Health Service Commissioning Board;</p> <p>(c) . . .</p> <p>(d) an NHS trust managing a hospital, or other establishment or facility, in England;</p> <p>(e) NHS Direct National Health Service Trust; or</p>
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<p>In the definition of “responsible body” for the words “or independent</p>	<p>(f) an NHS foundation trust;</p> <p>“primary care provider” means a person or body who—</p> <p>(a) is a general medical services contractor;</p> <p>(b) provides primary medical services in accordance with arrangements made under section 83(2) or 92 of the 2006 Act;</p> <p>(c) is a general dental services contractor;</p> <p>(d) provides primary dental services in accordance with arrangements made under section 107 of the 2006 Act;</p> <p>(e) is a general ophthalmic services contractor;</p> <p>(f) provides pharmaceutical services in accordance with arrangements made under section 126 of the 2006 Act;</p> <p>(g) provides additional pharmaceutical services in accordance with arrangements made under section 127 of the 2006 Act; or</p> <p>(h) provides local pharmaceutical services in accordance with an LPS scheme established under paragraph 1 of Schedule 12 to the 2006 Act;</p> <p>“registered person” has the meaning given in regulation 10;</p> <p>“relevant complaints procedure” means—</p> <p>(a) any arrangements for the handling and consideration of complaints that may at any time be or have been required respectively by any of the following provisions—</p> <p>(i) paragraph 34 of Schedule 4 to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013;</p> <p>(ia) paragraph 24 of Schedule 5 to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013;</p> <p>(ii) paragraph 8 of Schedule 6 to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013; or</p> <p>(iii) paragraph 25 of Schedule 7 to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013; or</p> <p>(b) any complaints procedure that may at any time be or have been required respectively by any of the following provisions—</p> <p>(i) regulation 79 of the National Health Service (General Medical Services Contracts) Regulations 2015;</p> <p>(ii) regulation 76 of the National Health Service (Personal Medical Services Agreements) Regulations 2015;</p> <p>(iii) paragraph 47 of Schedule 3 to the National Health Service (General Dental Services Contracts) Regulations 2005;</p> <p>(iv) paragraph 47 of Schedule 3 to the National Health Service (Personal Dental Services Agreements) Regulations 2005; or</p> <p>(v) paragraph 22 of Schedule 1 to the General Ophthalmic Services Contracts Regulations 2008;</p> <p>“responsible body” means a local authority, NHS body, primary care provider <del>or independent provider</del>, <b>independent provider or ACO</b>;</p> <p>“responsible person” means the person designated in accordance with regulation 4(1)(a);</p> <p>“working day” means any day except a Saturday, a Sunday, Christmas</p>
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<p>provider” substitute “, independent provider or ACO”.</p> <p><u>Regulation 3</u></p> <p>In regulation 6 paragraph (1) -</p> <p>in sub-paragraph (c) for the words from “under arrangements” to the end substitute “under or pursuant to arrangements with an NHS body;”;</p> <p>for sub-paragraph (d) substitute -</p> <p>“(d) an independent provider about the provision of services by it under arrangements with an NHS body or an ACO; or</p> <p>(e) an ACO about arrangements made by it for</p>	<p>Day, Good Friday or a day which is a bank holiday in England under section 1 of the Banking and Financial Dealings Act 1971.</p> <p>(2) . . .</p> <p>(3) “Social care provider complaint” means a complaint which—</p> <p>(a) relates to action taken by an adult social care provider in connection with the provision of adult social care; and</p> <p>(b) does not relate to the exercise by a local authority of—</p> <p>(i) its social services functions; or</p> <p>(ii) any function discharged by it under arrangements made under section 75 of the 2006 Act.</p> <p><b>6 Duty to handle complaints</b></p> <p>(1) This regulation applies to a complaint made on or after 1st April 2009 in accordance with these Regulations to—</p> <p>(a) a local authority about the exercise by the local authority of the following functions—</p> <p>(i) its social services functions; or</p> <p>(ii) any function discharged or to be discharged by it under arrangements made between it and an NHS body under section 75 of the 2006 Act in relation to the functions of an NHS body;</p> <p>(b) an NHS body about—</p> <p>(i) the exercise of its functions; or</p> <p>(ii) the exercise of any function discharged or to be discharged by it under arrangements made between it and a local authority under section 75 of the 2006 Act in relation to the exercise of the health-related functions of a local authority;</p> <p>(ba) a clinical commissioning group or the National Health Service Commissioning Board about the exercise by it of any functions in pursuance of arrangements made under section 7A of the National Health Service Act 2006;</p> <p>(c) a primary care provider about the provision of services by it <del>under arrangements with an NHS body;</del> <b>under or pursuant to arrangements with an NHS body;</b> or</p> <p><del>(d) an independent provider about the provision of services by it under arrangements with an NHS body.</del></p> <p><b>(d) an independent provider about the provision of services by it under arrangements with an NHS body or an ACO; or</b></p> <p><b>(e) an ACO about arrangements made by it for the provision of services under the 2006 Act.</b></p>
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the provision of services under the 2006 Act”;

In paragraph (1A)(b) for the words “under those arrangements” substitute “under or pursuant to those arrangements”.

(1A) This regulation also applies to a complaint made on or after 1st September 2009 in accordance with these Regulations to a local authority where—

(a) the local authority has made arrangements with a person for the discharge of a relevant function; and

(b) the complaint relates to the discharge of, or the failure to discharge, a relevant function ~~under those arrangements~~ **under or pursuant to those arrangements**.

(1B) In paragraph (1A), “relevant function” means—

(a) any of the local authority's social services functions; or

(b) any function to be discharged by the local authority under arrangements specified in paragraph (1)(a)(ii).

(2) This regulation does not apply to a complaint specified in regulation 8(1).

(3) In paragraph (1)(a)(ii), “NHS body” has the meaning given in section 28 of the 2006 Act, but does not include a Special Health Authority.

(4) Where this regulation applies to a complaint, the responsible body to which the complaint is made must handle the complaint in accordance with these Regulations.

(5) This paragraph applies where—

(a) a responsible body (“the first body”) receives a complaint on or after 1st April 2009;

(b) it appears to the first body that the complaint, if it had been made to another responsible body (“the second body”), would be a complaint which would fall to be handled in accordance with these Regulations by the second body; and

(c) the first body sends the complaint to the second body.

(6) Where paragraph (5) applies, the complainant is deemed to have made the complaint to the second body under these Regulations.

#### **Regulation 4**

##### **18 Annual reports**

(1) Each responsible body must prepare an annual report for each year which must—

(a) specify the number of complaints which the responsible body received;

(b) specify the number of complaints which the responsible body decided were well-founded;

<p>In paragraph (4) -</p> <p>(a) for the words “under arrangements” substitute “under or pursuant to arrangements”;</p> <p>(b) for the words “or the National Health Service Commissioning Board” (in the second place where they appear) substitute “, the National Health Service Commissioning Board, an NHS body or an ACO.”.</p>	<p>(c) specify the number of complaints which the responsible body has been informed have been referred to—</p> <p>(i) the Health Service Commissioner to consider under the 1993 Act; or</p> <p>(ii) the Local Commissioner to consider under the Local Government Act 1974; and</p> <p>(d) summarise—</p> <p>(i) the subject matter of complaints that the responsible body received;</p> <p>(ii) any matters of general importance arising out of those complaints, or the way in which the complaints were handled;</p> <p>(iii) any matters where action has been or is to be taken to improve services as a consequence of those complaints.</p> <p>(2) In paragraph (1), “year” means a period of 12 months ending with 31st March.</p> <p>(3) Each responsible body must ensure that its annual report is available to any person on request.</p> <p>(4) This paragraph applies to a responsible body which is—</p> <p>(a) an NHS body other than a clinical commissioning group or the National Health Service Commissioning Board; or</p> <p>(b) a primary care provider or an independent provider,</p> <p>and which in any year provides, or agrees to provide, services <del>under arrangements</del> <b>under or pursuant to arrangements</b> with a clinical commissioning group, <b>the National Health Service Commissioning Board, an NHS body or an ACO.</b> <del>or the National Health Service Commissioning Board.</del></p> <p>(5) Where paragraph (4) applies to a responsible body, the responsible body must send a copy of its annual report to the clinical commissioning group or National Health Service Commissioning Board which arranged for the provision of the services by the responsible body.</p> <p>(6) . . .</p> <p>(7) The copy of the annual report required to be sent in accordance with paragraph (5) . . . must be sent as soon as reasonably practicable after the end of the year to which the report relates.</p>
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