



Department
of Health

Display of Performance Assessments

Response to the Consultation - Placing a legal requirement on registered providers to display the rating published by the Care Quality Commission

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Consultation on proposed new legal requirement for registered providers to display the rating published by the Care Quality Commission.

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NHS Trusts, NHS Foundation Trusts, General Practices, Adult Social Care Providers, Independent Hospital Providers and related stakeholder organisations.

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Ministerial foreword

A core theme in the Government's response to the Francis Inquiry was the need for greater transparency about the quality and safety of health and social care services. This is why, through the Care Act 2014, the Government has placed a duty on the Care Quality Commission (CQC) to carry out and publish ratings of providers of health and adult social care. We want these ratings to be easy for people who use services, their families and carers, to see and understand, while also providing a reliable assessment of a provider's performance. CQC has been developing a more specialised and rigorous system of monitoring and inspection over the past year to ensure that ratings are based on the best available evidence.

However, these ratings will be of limited use if the people using services do not see them. Although the ratings will all be published on CQC's website, not everyone researches the performance of their hospital, care home or GP online.

The public should have ready access to how well a provider is doing and this means providers being upfront about the rating CQC has given them. So when a patient or member of the public looks online or walks through the door of their local hospital, GP surgery or a care home, they can see a clear rating of how safe and effective that service is.

I am sure that providers, who are awarded a "good" or "outstanding" rating by CQC, will want to highlight their achievement. Providers who receive a "requires improvement" or "inadequate" rating are less likely to wish to publicise this fact.

This is why we want to place a clear legal requirement on providers to display the rating awarded by CQC, to ensure that this clear assessment of provider quality is accessible to people when they use services.

In September and October we consulted on this proposal and the regulations which would help deliver it. This document summarises what we heard and the changes we're making to the regulations as a result.

Norman Lamb
Minister of State for Care Services

Policy background

1. The Health and Social Care Act 2008¹ (as amended by the Care Act 2014²) places a duty on CQC to carry out performance assessments of providers of health and adult social care services. These assessments of quality will be summarised in the form of a rating. The Government stated in the Committee stage of the Care Act that we would also consider whether to introduce a requirement through regulations that providers registered with CQC must display their rating.
2. The Care Act received Royal Assent in May 2014 and the ratings legislation commenced in October 2014. However, in order for the duty to take effect, the providers to whom CQC would be required to give a rating had to be set out in regulations. These regulations came into force on the 1st of October 2014 and brought NHS Hospital Trusts, NHS Foundation Trusts, GPs, Social Care providers and Independent Hospital providers into the scope of ratings. To date CQC has published over 80 ratings of NHS Trusts, 75 ratings of GP practices and over 60 ratings of social care providers. The first ratings of Independent Hospitals are expected to be published in the coming months. Providers are rated on a four point scale of “inadequate,” “requires improvement,” “good” and “outstanding.”
3. A requirement to publish ratings is consistent with one of the key purposes of ratings which is to provide the public with a straightforward means of assessing a provider’s performance. Ratings will help people to make more informed decisions about which services to use and also act as a starting point to engage with providers about the quality of services. Requiring all providers to prominently display their rating in a simple and effective manner to ensure that people who use services, are informed of the quality of the health and social care services in an easy to understand format.
4. At present, with no legal compulsion to display a rating, our view is that only providers with a “good” or “outstanding” rating will be likely to display their rating

¹ <http://www.legislation.gov.uk/ukpga/2008/14/section/46>

² <http://www.legislation.gov.uk/ukpga/2014/23/section/91/enacted>

whereas poorer performing providers might not. Guidance from CQC or the Department of Health would not provide sufficient compulsion to providers to display their rating.

What we heard

Summary

5. The consultation on the proposal to require providers to display their rating ran from the 15th September to the 14th October. We received 80 responses to the consultation from a mix of NHS providers, independent sector providers and stakeholder groups. The majority of responses welcomed the proposal that the display of ratings should be a legal requirement, subject to clarifications about the detail of the regulations. The majority of responses welcomed the proposal that there should be a fine for failing to comply with the display of rating regulations, although there were concerns about the level at which the fine was set.
6. Despite this broad acceptance of the policy, there were concerns about the consistency with which ratings would be delivered by CQC. Most of these comments were from sectors which have been subject to CQC's new approach to inspections.
7. As part of the development process of its new inspection and ratings methodologies, CQC commissioned an analysis and evaluation of its work to be undertaken. This work, which was led by Professor Kieran Walshe and researchers from Manchester Business School and The King's Fund, found that the new approach commands strong credibility, in particular through the use of specialists to inform assessments, and the granular detail of ratings within services rather than at provider level³. However, the report also recommended that "CQC should consider how it can best make the rating process consistent and reliable " whilst also recognising this posed considerable challenges for CQC "...since every part of each report needs to be justifiable on the evidence, consistent with the rest of that report, and consistent with other reports CQC has produced."
8. In response to the evaluation CQC has made changes to its processes and also stated that it is continuing to work on ensuring that ratings are delivered on a consistent basis. CQC and the Chief Inspectors of Hospitals, Social Care and Primary Care, are aware that the public, patients and commissioners must be

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<http://www.cqc.org.uk/sites/default/files/CM071406%20Item%206%20Acute%20regulatory%20model%20evaluation%20report.pdf>

able to draw meaningful comparisons from ratings. They are also aware that this cannot occur unless CQC's methodologies are consistently applied

The Overall Policy Proposal

9. The majority of the consultation responses welcomed the proposal to require providers to display their ratings. Many responses emphasised the importance in making such information transparent and available to the public.

10. While the overall tone of the comments were positive, concerns were raised about the relative newness of ratings and how useful they might be to the public.

"We strongly welcome the intention to require health and social care providers to prominently display their CQC ratings. Which? believes that consumers should have easy access to the best information available about health and social care services in order to make informed decisions when choosing a provider". – Which?

"Independent Age welcomes the proposed requirement as a sensible and proportionate measure, and hopes that public display of a provider's care rating will be one way of encouraging higher levels of engagement and understanding from individuals who use care, their carers and the general public about the current standards of care in their area." – Independent Age

"Yes, providers need to be transparent and accountable at all times" – HSN Care Ltd

"Yes. This will allow the public to make a more informed choice about their choice of service provider if they have a individual budget, and the local authority will also be able to use the providers who score highly instead of just using providers simply because they always have done." - Nottingham Community Housing Association

11. A minority of responses were opposed to the overall policy, citing concerns about the impact the display of ratings could have on staff morale, the inability of ratings to display detailed information about a provider and the potential for poor ratings to cause unnecessary anxiety to the public.

"Publication of the rating has reputational implications for the organisation as well as the motivational impact it could have on staff if they have to pass a sign on a daily basis highlighting that the service they deliver requires improvement." - Coventry and Warwickshire Partnership NHS Trust

Our response

12. One of the key issues we want to address through the display of ratings policy is to ensure that variation in information available to the public is kept to a minimum. As stated in the consultation document, without a legal compulsion to display the CQC rating it is likely that only providers rated as “Good” or “Outstanding” will make the public aware of their rating. We do not think that this is an acceptable position. We want patients and the public to be aware whether providers are good or need to improve. Our view is that where a rating for a provider exists, it should be made a widely available as possible.
13. We have considered the potential impact of ratings on staff morale and patient anxiety. On balance we feel that the display of ratings is preferable to an information vacuum. The Mid Staffordshire Public Inquiry presented stark evidence of patients and the public not being listened to when they raised concerns. Evidence was also presented of staff feeling frightened of raising concerns and felt that challenges to how things were being done were not welcomed. Our view is that the display of a rating of “inadequate” or “requires improvement” will reassure staff and patients that the leadership of an organisation cannot ignore problems. We also think that the rating will provide a starting point for staff and patients to enquire what action is being taken to address concerns.

The Policy Objective

14. While the majority of respondents were content with the overall proposal, the responses were more muted in favour of it meeting the policy objective. The general consensus was that putting up a rating would be worthwhile, in the spirit of openness and transparency, but there was uncertainty as to how effective ratings would be in driving choice. Others felt that a rating would be too limited in the information it displayed to give patients a proper understanding of the quality of services provided and were opposed to ratings on these grounds. They felt that more detailed information would be of greater help to patients.

“There is an issue around granularity. Will ratings go down to ward level? In a large acute hospital, a granularity for a ward would be lost in the noise of the other scores that contribute to the overall ratings.” - NEL Commissioning Support Unit

“Yes, to the extent that the service user, family member or carer receives an explanation of the rating system and its nuances. We would recommend that the rating should be coupled with a brief explanation of what the ratings mean and how the awarding inspector reached the published judgement.” – United Kingdom Homecare Association (UKHCA)

“Yes. It is vital that older people and their families are able to easily find out and understand how a provider they are using - or as in the case of finding a care home – considering using, is performing against the Care Quality Commission’s (CQC) fundamental standards and the results of their current overall performance assessment. Past research has determined that only a minority (15%) of care home residents were aware of the previous star rating system. We believe this new proposed legal requirement may improve overall awareness of how quality care is measured and help better inform people making difficult decisions – usually in stressful circumstances – about meeting their care and support needs”. – Age UK

“We think that rather than increasing awareness, the requirement to display the summary ratings within GP practices will be damaging for patient understanding, as they do not provide the requisite information to help patients to understand the level of care that is and should be provided within each surgery.” – Royal College of General Practitioners (RCGP)

15. It was also suggested that the value of a rating would depend on the level of the organisation it was set at i.e. hospital level or ward level? Awarding a rating at a high level can either mask poor performance at service level or detract from good service level performance. Another recurring theme in responses was about ensuring that providers had a clear mechanism in place for explaining their rating to patients.
16. A final concern was about how to make individuals who receive care in their home from a domiciliary care agency aware of the provider’s rating, whilst avoiding putting up intrusive signs in a person’s own home.

Our response

17. A small number of responses to the consultation focused on the policy of ratings as agreed by Parliament and enacted via the Care Act 2014, rather than the proposals in the regulations themselves. While such responses do not address the questions raised by the consultation, the concerns raised do warrant a brief summary of why the ratings policy exists.
18. The Government reached the view that while there is a significant amount of information available on organisations providing health and social care in England, there is currently no aggregate ‘rating’ to summarise and compare the performance of organisations or the services provided by them. Our view is that the absence of such a rating has been a barrier to patients and the public being able to realistically exercise choice in which provider is best for them. Ratings are not the entire solution to helping to drive greater choice in health and social care services, but part of a much wider package of transparency and openness

intended to empower service users.

19. The ratings, developed by CQC following extensive consultation, should be sufficient for patients, the public and commissioners to reach an informed viewpoint about service quality. The extent to which any individual or organisation considers the detail which underpins that rating (which is contained within CQC's inspection report), is their choice. We do not believe that presenting more complex information would provide a clearly understood rating of quality and safety.
20. In light of the responses about the level at which a rating is set, we have considered whether the ratings for display should cover the overall provider rating, the rating for the location and also ratings for specific services within the location. Our view is that an array of potentially different ratings, at this early phase of their introduction, could be confusing. Once ratings are better understood by the public, then the requirement to display a service level rating might be considered.
21. With this in mind, we will amend the regulations to make clear that the overall rating for a provider must only be displayed at their headquarters. The overall rating for a provider is the aggregate rating for all their services and does not apply to the services at any specific location. However, if a provider's headquarters is also a location at which services are provided, then only the rating which relates to those services should be displayed. This is intended to mitigate any confusion which might be caused by a provider displaying their overall rating alongside the location specific rating.
22. For all other individual locations a provider operates, then the rating for that location must be displayed in accordance with the regulations. Any further display of ratings of specific services within a location will have to be displayed at the discretion of the provider.

Detail of the Regulations and Further Detail Required.

"We welcome the Department's commitment to make the regulations non-prescriptive. We agree that providers themselves are best placed to determine how to raise awareness of their ratings among their service users."
– The Picker Institute

"We are pleased to see that the draft regulations are non-prescriptive in their approach." – Leonard Cheshire Disability

“To avoid too much information being displayed and so people therefore not reading it, it could be suggested that more information be available on request.” – District Council Network

“It needs to be a standalone regulation clearly defining how/where it should be displayed.”- Derbyshire County Council

“Minimum requirement of the information to be displayed. Minimum requirement of where this information should be displayed. Prescriptive information should be given as providers will be judged on this.” - Coventry and Warwickshire Partnership NHS Trust

“It needs to reflect accurately what the CQC report says so we have consistency in the terminology and definition of words for service users to understand”- Mid Yorkshire NHS Trust

23. While the majority of respondents welcomed the non-prescriptive nature of the regulations, a common theme emerging from the consultation responses was that the regulations could be more detailed. These comments tended to focus on ensuring that the displayed rating accurately reflected CQC’s judgement on the quality of care. It was also suggested that the date on which the rating was awarded would also be helpful to patients and the public in understanding how up to date the rating is. A few responses also called for the regulations to be much more prescriptive in setting out where a rating should be displayed.

Our response

24. We have changed the regulations so that they are clearer about the requirement that providers must display a rating that is consistent with the rating published by CQC for that provider. It will be for CQC to make clear, through guidance, what the current rating is.

25. CQC is responsible for the format of ratings and is able to change this over time. If regulations prescribed that a rating for display must have a particular format i.e. the overall rating and rating for each of the five key areas, this would constrain CQC’s to ability to develop its approach to ratings. Rather we believe that the regulations should be clear that providers must display the information in a way that is consistent with what CQC considers to be the best summary format for the rating.

26. The provider must also display the date on which the rating was awarded, as we agree this information would be helpful to patients and the public.

27. We do not propose changing the wording of the regulations to be more prescriptive in terms of where ratings should be displayed. There is huge variability in the layout of hospitals, care homes and GP surgeries and a

prescriptive set of regulations cannot accurately capture all these variations. Providers are best placed to determine where in their premises a rating can be displayed conspicuously. Guidance from CQC on how it will inspect against these regulations will provide greater clarity as to what constitutes “conspicuous” display.

28. A significant test of whether a provider has taken appropriate steps to make their rating conspicuous will be the views of patients and the public during the course of a CQC inspection.

Ratings on Websites

29. The majority of responses welcomed the proposal that providers with a website would be required to display their rating, and the ratings for any locations they operate, on their website.

30. A few responses expressed concerns about the variability of information which could be displayed without clearer guidance or more prescriptive regulations. Some respondents thought they would have to set up a website in order to display the rating.

Our response

31. We have changed the regulations so that the requirement of what providers have to display on their websites is consistent with requirement for premises. Providers must display a rating prominently in a way that is consistent with what CQC publishes on its own website. The means by which providers achieve this will not be prescribed in the regulations. One option available to providers is the use of the CQC “widget” which easily allows for a provider to link to the Commission’s website.

32. The display of ratings requirements do not mandate that providers must have a website; therefore a provider without a website does not have to set one up in order to display the CQC rating.

33. A few comments were made about making the requirement clearer, by stating the rating should always be displayed on a providers “homepage.” We do not agree with this proposal as it fails to recognise the variety of design in websites. Nor is such terminology likely to be sufficiently “future” proof in accommodating changes to website design.

Enforcing the policy - Fines

“If display of ratings is a legal requirement, there should be sanctions for non-compliance. However, care must be exercised in the level of the sanction – the more that sanctions result from a rating, the more likely it is that the care provided will be distorted in favour of the aspects of care to be assessed. Instead of a level 2 fine it might be more consistent to use the £300 fine (as set out in the new 2014 Regulations) for “failure to provide documents of information”. – The British Dental Association

“The RCGP strongly disagrees with the imposition of a penalty fine on GP surgeries that do not display the CQC ratings. GP surgeries are under increasing financial pressure, with many GP surgeries facing closure due to a decrease in funding in the face of increasing workload. Imposing fines for a failure to display these ratings would only worsen this situation with the associated impact on patient care, which should be the priority for all aspects of the healthcare system.”. – Royal College of General Practitioners

“Organisations should be given time to rectify the situation, before the application of punitive measures”. - Kingston Hospital NHS Foundation Trust

“No. Barchester Healthcare regards a level 2 fine as insufficient to ensure that all providers display ratings. We would suggest a fixed penalty of up to £1,000”. – Barchester Healthcare

34. The majority of respondents welcomed the proposal that there would be a fine for those providers who failed to display their rating. However, some positive comments were qualified by questions as to whether the fine was high enough in comparison with other fines CQC could levy.
35. Other respondents, whilst not opposed to the fine, were concerned as to how it would be imposed by CQC. Some felt that a clear timeframe would be needed either in guidance or in the regulations following the award of a rating, before a fine could be levied on a provider for not displaying that rating. A few of the responses raised the scenario of a provider displaying a rating in a fraudulent or misleading manner, such as a provider using their overall rating at a location because that overall rating is higher than the location’s rating.

Our response

36. The intent of the fine is to send a clear message to providers that this requirement cannot be ignored. At the same time we recognise the severity of this offence is much lower than that of the other breaches of the regulations for which CQC can issue a fine. Breaches of the other requirements of regulation, such as those set in the Fundamental Standards, carry much stiffer penalties. Allowing harm or abuse to occur to a patient carries a £4000 penalty notice fine and an unlimited fine on prosecution. Breaching the Duty of Candour requirement

can result in a £1250 penalty notice fine or £2500 fine on prosecution. In comparison with the penalty notice fines for the other offences, we think a higher fine would be disproportionate given the nature of the offence.

37. The penalty notice fine of £100 for failure to display a rating, is in lieu of prosecution and is a penalty CQC can levy instead of taking a provider to court for failure to comply with the regulations. Should a provider refuse to pay the fine, or CQC determines that the penalty notice fine is insufficient in a particular case, then the provider can be taken to court. The maximum possible fine that a court can issue for this offence is £500, increasing to £2000 following further changes to legislation.
38. In addition, a failure to comply with this requirement would be a breach of a registration requirement, and CQC could also use its other enforcement powers against providers that failed to meet this requirement. The concerns about providers having sufficient time to comply with the requirements and receiving a rating from CQC are not something that should be addressed through regulations. We do not feel that it would be appropriate to specify the time by which a provider must display the rating in regulations.
39. Any such timeframe would be arbitrary and could offer a perverse incentive to providers in delaying putting their rating on display. Instead it will be a matter for CQC to determine whether to levy a fine where it finds a rating is not being displayed or to require the provider to take action to rectify the breach first.

Are there any other mechanisms by which we could encourage or compel providers to display their rating?

“All referral letters and correspondence to patients should include the rating.”
–Age UK

“Care plans linked to continuing healthcare that include admission to a care or nursing home should also include the rating of the care home available to an individual. Patients and families should have the ability to refuse admission if the rating is not satisfactory, and be offered support to find an alternative.” – Age UK

“The CQC should also consider press releasing the ratings and the results of assessments of individual providers to local media to raise public awareness of performance.” – Independent Age

“The public should be given an awareness campaign and encouraged to report failure to display. If proven, automatic re-issue of last report updated with Inadequate rating under 'Are services well led?’” – member of the public

“If they do not display their ratings they are taken off the approved list for the local authorities.” - Nottingham Community Housing Association

“if the rating is poor- a statement about improvement and timescales would highlight what the Trust or organisation was doing to improve” - NHS Liverpool Clinical Commissioning Group

40. There were a limited number of responses to this section. Most of the comments followed the theme of raising awareness about ratings or what action other supervisory or commissioning bodies should be taking in light of a rating.

Our Response

41. The intent of this question was to see what additional actions could be taken to raise awareness of a provider’s rating and the importance of displaying it, without recourse to legislation. We will share these responses with CQC and other stakeholder organisations, for their consideration in the development of future guidance or advice.

42. Some of the suggestions, such as including the rating on all of a provider’s written and electronic correspondence are best left to the discretion of providers. There would be significant costs to providers if legislation mandated that they take such steps to publicise their rating. While we would encourage providers to take whatever action they consider appropriate to publicise their rating beyond what is required by these regulations, such judgements are best left to individual providers to determine what those actions should be.

Regulatory impact on business

“The provision of the rating on the website equally sounds simple and you state is equivalent in cost and effort to putting up a poster, but for some providers this would not be the case. Many providers still probably have outsourced website build and management and each and every change requires a minimum charge of perhaps one hour... at present an organisation may save up all required changes and take just a single hour of updates once per year, but for us we would now be required to take 13 updates per year, one after each and every service was inspected. If a link to the CQC website was all that was required, this would not require continual updating.” - White Horse Care Trust

“Management Continuing Professional Development time and staff familiarisation. All an expected part of the new changes coming in and if managed correctly minimal cost.” - Venus Training and Consultancy Ltd

43. The majority of responses to the questions about the impact of these regulations on business stated that they consider the impact was likely to be minimal.

44. The main concern was that the impact was likely to be greater for larger providers which provide services from multiple locations. The most significant cost identified was updating the provider's website, which would have to be done on a more frequent basis to accommodate new ratings for each location they operate. Other responses cited the potential cost to smaller providers of updating their websites, as they would have to contract someone to make the changes.

Our Response

45. We agree that the impact to businesses of these regulations is likely to be minimal. With guidance from CQC, we think the process of displaying a rating at a location should not be onerous. While the display of a rating for a provider with multiple locations is more of a burden than a provider with only one location, this burden is not likely to be greater on a site by site basis.

46. The cost to providers of updating their websites is also likely to be minimal. Larger providers running services out of multiple locations are likely to have an in-house web content manager. Therefore there is unlikely to be any additional cost arising from these regulations. The design of modern websites is built around ensuring that the user can update the content of the site with little or no support from a web designer. Therefore the costs to a smaller provider, who is unlikely to have their own web content manager, will again be minimal.

47. In addition, while not mandated by the regulations, CQC's widget is available to those providers who want a quick and simple way of linking to their ratings information.

48. The Department of Health has prepared a full impact assessment on these regulations, which can be found at: <http://www.legislation.gov.uk/ukxi/2015/64/impacts>

Equality impact

49. The majority of responses did not think that the proposed regulations would have an impact on individuals sharing the protected characteristics under the Equality Act 2010. However, there were a few comments about how a provider would go about bringing their rating to the attention of someone with a visual impairment or other disability that might limit their ability to benefit from the display of ratings.

Our Response

50. Public bodies that provide health and social care are required to abide by the duties set out in the Equality Act 2010 in respect of the needs of individuals with the protected characteristics. These duties apply where an individual asks to be made aware of a rating or where employees of a public body, such as an NHS

hospital, have the opportunity to explain their services performance to a patient or member of the public.

51. While the duties in the Equality Act 2010 do not extend to private providers, the fundamental standards place a duty on all providers of health and social care in respect of providing relevant information to persons receiving care. It will be a matter for CQC to determine whether any provider has been negligent in making patients and service users aware of their rating, particularly those who may have difficulties accessing this information.

Changes to the Regulations

In response to the comments received on the consultation, we have made the following changes to the draft regulations.

1 - Introduce a requirement that providers must display the rating for the relevant location at which services are awarded, that is consistent with the rating published by CQC for that location. It will be for CQC to make clear, through guidance, what the current rating is.

2 – The provider must also display the date on which the rating was awarded.

3- The overall rating for the provider is only required to be displayed at the providers headquarters. If the headquarters is also a location at which services are provided and that location has a separate location specific rating, then this must be displayed as well.

Questions in the consultation document

Q1 – Do you agree with the proposal to legally require providers to display the rating CQC has published about their services?

Q2 –Do the proposed regulations requiring providers to display the rating of their services help to deliver the policy objective of providing people who use services, their families and carers with a straightforward means of assessing a provider’s performance?

Q3 – Do the proposed regulations clearly prescribe what providers must do in order to clearly display their rating? Yes or No?

Q4 – If No – What further detail is needed in the regulations to make the requirement to display a rating clear to providers?

Q5 – Is there any further information which providers should be required to display with the rating?

Q6 – Do you agree with the proposal to require providers to display their rating on their website?

Q7 – Do you think any additional requirements for the display of ratings are needed and if so, what should they be?

Q8 –Do you agree that the failure to display a rating should be an offence with a maximum penalty of a level 2 fine?

Q9 - Are there any other mechanisms by which we could encourage or compel providers to display their rating?

Q10 – What are the likely costs to business of familiarisation with the regulations likely to be?

Q11 – What are the likely costs to business for displaying a rating
a) physically at their premises?
b) on their business website?

Q12 - Do you have any concerns about the impact of the proposed regulations on people sharing protected characteristics as listed in the Equality Act 2010?

(The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.)

Revised Draft Regulations

STATUTORY INSTRUMENTS

2014 No. 000

NATIONAL HEALTH SERVICE, ENGLAND

SOCIAL CARE, ENGLAND

PUBLIC HEALTH, ENGLAND

**Health and Social Care Act 2008 (Regulated Activities) (Amendment)
Regulations 2014**

Made - - - - - ***** 2014**

Laid before Parliament ***** 2014**

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 20 and 161(3) of the Health and Social Care Act 2008(4).

In accordance with section 20(8) of that Act, the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

Citation and commencement

1. These Regulations may be cited as the Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2014 and come into force immediately after the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 come fully into force.

Amendment of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

2. The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014(5) are amended as follows.

(4) 2008 c. 14. Section 20 of the Health and Social Care Act 2008 (“the 2008 Act”) was amended by sections 81 and 95 of the Care Act 2014 (c. 23). Section 161(3) of the 2008 Act was amended by section 294(4) of the Health and Social Care Act 2012 (c. 7).

(5) S.I. 2014/2936.

Amendment of regulation 2

3. In regulation 2(1) (interpretation), in the definition of “premises”, for “14 and 15” substitute “14, 15 and 20A”.

Amendment of regulation 8

4. In regulation 8 (fundamental standards: general), after “9 to 19”, in each place it occurs, insert “and 20A”.

Requirement as to display of performance assessments

5. After regulation 20 (duty of candour) insert—

“20A.—(1) This regulation applies—

- (a) where a service provider has received an assessment of its performance by the Commission under section 46(1) of the Act (reviews and performance assessments)(6), and
- (b) to the extent that such assessments have been carried out, and ratings of performance given, by the Commission.

(2) There must be shown legibly on the service provider’s website, where such a website exists—

- (a) the address of the Commission’s website,
- (b) the place on the Commission’s website where the most recent assessment of the service provider’s overall performance and of its performance in relation to particular premises or activities may be accessed,
- (c) the most recent rating by the Commission of the service provider’s overall performance and of its performance in relation to particular premises or activities, in a way which makes it clear which activities or premises a particular rating relates to, and
- (d) the date on which each such rating was given.

(3) There must be displayed on each premises from which the service provider provides regulated activities at least one sign showing the most recent rating by the Commission of the service provider’s performance that relates to those premises.

(4) For the purposes of paragraph (3), where the service provider has received both a rating from the Commission of its overall performance and ratings in relation to its performance at particular premises, the rating to be shown is the rating that relates to the particular premises.

(5) There must be displayed at the service provider’s principal place of business at least one sign showing the most recent rating of—

- (a) the service provider’s overall performance, and
- (b) its performance in relation to particular premises or activities, in a way which makes it clear which activities or premises a particular rating relates to.

(6) But paragraph (5) does not apply where the service provider’s principal place of business is itself subject to a performance rating given by the Commission (in which case paragraph (3) applies).

(7) Any sign displayed under this regulation must—

- (a) be legible,
- (b) be displayed conspicuously in a place which is accessible to service users, and
- (c) show the date on which the rating shown was given by the Commission.

(8) This regulation does not apply to any premises that are the service provider’s own home, except where service users have access to it for the purposes of receiving services provided in the carrying on of a regulated activity.”

(6) Section 46 of the 2008 Act was substituted by section 91(2) of the Care Act 2014.

Amendment of regulation 22

6. Regulation 22 (offences) is amended as follows—

- (a) after sub-paragraph (1)(b), omit “or”, and
- (b) at the end of sub-paragraph (1)(c) insert—
“, or
- (d) regulation 20A”.

Amendment of regulation 23

7. In regulation 23 (offences: penalties), after paragraph (5) insert—

“(5A) A person guilty of an offence under regulation 22(1) for breach of regulation 20A is liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.”

Amendment of Schedule 5

8. In the table in Schedule 5 (fixed penalty offences), after the row relating to regulation 22(1)(b) or (c) of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, insert—

“Regulation 22(1)(d) of these Regulations	Contravention of, or failure to comply with, requirements in regulation 20A	£100”
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Signed by the authority of the Secretary of State for Health

00th ***** 2014

Name
Minister of State
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (“the 2014 Regulations”), to make provision for the display by providers of health and social care services, who are registered with the Care Quality Commission (“CQC”), of assessments of their performance by the CQC.

Regulation 5 inserts a new regulation 20A into the 2014 Regulations. This new provision requires registered persons to display, at their premises and on their websites, ratings of the service provider’s performance given by the CQC. Service providers’ websites must also state the address of the CQC’s website and the place on CQC’s website where the assessment and ratings of the provider’s performance may be accessed. Regulations 3 and 4 make amendments to the 2014 Regulations which are consequential on the insertion of new regulation 20A.

Regulation 6 amends regulation 22 (offences) of the 2014 Regulations to make it an offence to breach the requirements imposed by new regulation 20A. Regulation 7 amends regulation 23 (offences: penalties) of the 2014 Regulations to provide for a penalty for those who commit such an offence.

Regulation 8 amends Schedule 5 of the 2014 Regulations, to provide for a breach of new regulation 20A to be a fixed penalty offence for the purposes of section 86 of the Act and for the amount of the penalty.

A full impact assessment of the costs and benefits of this instrument is available from the Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS (www.gov.uk/government/organisations/department-of-health) and is published alongside this instrument and its Explanatory Memorandum at www.legislation.gov.uk.

