



Department
of Health

Display of Performance Assessments

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

Title: Display of Performance Assessments

Author:

Strategy & External Relations Directorate
Workforce Division
CQC Sponsorship & Quality Regulation

Cost Centre: 17160

Document Purpose:

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

Publication date:

September 2014

Target audience:

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

Contact details:

giles.crompton-howe@dh.gsi.gov.uk

Display of Performance Assessment Regulations Consultation
c/o Giles Crompton-Howe
Room 2E11
Quarry House
Quarry Hill
Leeds
West Yorkshire
LS2 7UE

Display of Performance Assessments

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

Contents

Ministerial foreword	5
Introduction	6
Policy background	6
Proposed approach.....	7
Regulatory impact on business	10
Equality impact	11
Responding to the consultation.....	13
Consultation questions.....	14
Draft Regulations.....	15

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 provider's 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 the people when they use services.

Norman Lamb
Minister of State for Care Services

Introduction

1. In “*Patients First and Foremost*, the Government’s initial response to the Mid Staffordshire Public Inquiry¹”, a commitment was made to making “...hospital performance more transparent and easier to understand through a clear system of ratings.”
2. The Care Act 2014 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.
3. Ratings will provide people who use services, their families and carers, with a clear assessment of the quality of care provided. They will provide an incentive for poor providers to aspire to the standards of the best. It is important that these ratings are made as readily accessible as possible.
4. This consultation document sets out our proposal to address this issue by requiring providers to display the rating that is produced by CQC.

Policy background

5. Since introducing the duty on CQC to carry out performance assessments of providers in the Care Act 2014, the Government has been considering how ratings can be publicised so as to maximise their visibility to the public. Suggestions to raise public awareness about ratings were made both by the Government’s Red Tape Challenge and also by the Health Select Committee at its 2013 accountability hearing with CQC. The Committee suggested that CQC explore how it “*can more effectively communicate with residents of care homes and their relatives about the outcomes of inspections*”.
6. CQC will begin formally rating all registered, NHS Hospital Trusts, NHS Foundation Trusts, GPs, independent hospitals and adult social care services from October 2014. This year they have been testing their new approach. For social care this has included producing a separate summary of the inspection report and the provider is asked to provide copies of this to people who use services and their families. From October this summary will include the rating for the service.

¹

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/170701/Patients_First_and_Foremost.pdf

7. The Government stated in the committee stages 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.
8. At present, with no legal compulsion to display a rating, only providers with a “good” or “outstanding” rating will be likely to display their rating 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.
9. A requirement to publish ratings is consistent with one of the key purposes of ratings which is for people who use services and the public to have a straightforward means of assessing a provider’s performance. Ratings will help people to make more informed decisions about which services to use. For providers the transparency of the ratings should be a motivation to continue to improve the quality of care. Requiring all providers to prominently display their rating is a simple and effective manner to ensure that people who use services, are informed of the quality of the health and social care services.

Proposed approach

10. We propose to introduce regulations that will place a requirement on providers to prominently display at their premises the rating CQC has given to their services.

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

11. This requirement would be enacted through regulations made under Section 20 of the Health and Social Care Act 2008 and included as part of the CQC Registration Regulations 2009². While the Care Act 2014 is the enabling legislation for CQC to publish ratings and we could use this as the basis for creating these new regulations, we do not want to burden providers with keeping track of multiple sets of regulations. Therefore as the display of rating regulation places a requirement on providers, we consider that it sensible to include this as part of the existing registration requirement regulations.
12. We propose that the regulations would place the following requirements on providers:
 - Providers must display the results of a performance assessment undertaken by CQC under section 46 of the Health and Social Care Act 2008.
 - The provider is required to display the result of the assessment in a conspicuous place in every location where services are provided for

² <http://www.legislation.gov.uk/uksi/2009/3112/contents/made>

which the assessment applies e.g. at the main hospital entrance, in the GP waiting room, in the foyer of the care home.

- In so far as is reasonably practical, the result must be displayed in such a way as it is accessible to individuals with disabilities.
- Where a provider operates out of multiple locations and a performance assessment is provided for each location, then each location must display the assessment which applies to it.
- Where CQC provides an overall performance assessment to a provider in addition to any assessments provided for locations, then that assessment must be displayed at the provider's principal business address as per the details of their registration with CQC.
- Where the provider does not operate services out of a location (as in the case of domiciliary care agencies), then the result of the assessment must be displayed at the provider's principal business address as per the details of their registration with CQC.
- The provider is required to display the result of the performance assessment for each location which the provider operates services from on the provider's website (including a link to the relevant page on CQC's website where the full inspection report can be found), if the provider operates a website.
- A provider is required to display the results of a performance assessment once they receive the final report.
- The provider must display the most recent result provided by CQC.
- The regulation should be known as the "Display of Performance Assessment" as the Care Act 2014 refers only to performance assessments, rather than "ratings."

13. Beyond the requirement to display at the locations where services are provided and on the provider's website, we do not propose to prescribe how the performance assessment should be displayed. It will be a matter for the provider to decide how it goes about fulfilling this requirement and for CQC to determine whether the steps taken by the provider are sufficient.

14. We have intentionally made the regulations non-prescriptive for two reasons. The first being that we want providers to consider how best they can raise awareness of their rating with their services users rather than adopt a tick box approach to following prescription legislation. The second is that we want CQC to be able to use its new approach to inspection as intelligently and flexibly as possible in determine whether a provider has complied with the requirement and if not, what additional action is necessary. One of the key sources of evidence for CQC in making this determination will be the feedback it gets from people who use services.

15. We expect providers to consider where displaying the rating at a premises will be visible to the most people and if necessary, check with the people who use their services as to whether they were aware of the rating being displayed. For example: at a minimum at GP surgery should have the rating clearly displayed at reception or in the waiting room or at the main entrance of the surgery. However, there is no reason why a GP surgery could not display the rating at all of these locations to ensure maximum visibility, rather than rely on a single display.
16. This approach means that CQC is not required to issue providers with a certificate to display but it will be the responsibility of providers to decide on the format which offers the most clarity about service quality and most prominently displays the rating to people who use services, their families and carers. As an example: CQC already publishes a clear summary of a provider's rating at the front of each of its inspection reports which could readily be printed out by a provider for display at the premises.

Ratings	
Overall rating for this trust	Inadequate ●
Are services at this trust safe?	Inadequate ●
Are services at this trust effective?	Requires improvement ●
Are services at this trust caring?	Good ●
Are services at this trust responsive?	Requires improvement ●
Are services at this trust well-led?	Inadequate ●

Q2 – Do the proposed regulations requiring providers to display the rating of their services help to deliver the policy objective of giving people who use services, their families and carers a straightforward means of understanding 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?

17. We want to ensure that providers display their rating, and that there are appropriate penalties for not doing so. We propose that the penalty for not displaying the rating should be an offence with a maximum penalty of a level two fine on the standard scale (currently £500). In addition we propose that CQC should be able to issue a £100 penalty notice in lieu of prosecution.

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 or locations that would increase the transparency and impact of quality ratings?

18. Our aim is for this regulation to come into force by April 2015 alongside other CQC regulations putting in place new fundamental standards for regulated providers of health and adult social care, and making prosecution of providers easier when care is particularly poor.

Regulatory impact on business

19. Requiring a provider to display the results of their ratings is expected to produce minimal additional costs for providers. There are likely to be some one-off familiarisation costs associated with understanding the regulations, since providers will need to decide what form their ratings information should take, and where on their website and premises they should display it. We expect these costs to be low because, as previously discussed, CQC already provide a clear summary of a provider's rating at the front of each of its inspection reports, which gives providers a good example of the form that their ratings information can take. In addition, providers may already have a good understanding of where they should display their rating from their experience of meeting other similar requirements to display information to the public, such as the requirements to display energy certificates for public buildings with floor area of greater than 500 square metres.

20. Following this, providers will need to take the time to update their website and to put up their rating on their premises each time that they receive a new or revised

rating. We expect these costs to be low as the tasks of putting up a poster or making updates to a website are likely to be relatively straightforward and so are unlikely to require significant amounts of staff time to complete.

21. We would like to use this consultation as an opportunity to seek your views as to what the impact on businesses in complying with these regulations, is likely to be and, in particular, whether you agree with our assessment above.

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?**

Equality impact

22. This policy proposal impacts on providers of health and adult social care subject to performance assessment by CQC, as set out under section 46 and associated regulations of the Health and Social Care Act 2008. The costs will not impact people who use services, or any group of individuals who use services and the costs to providers of displaying a rating will be small.

23. The general equality duty that is set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

24. The general equality duty does not specify how public authorities should analyse the effect of their existing and new policies and practices on equality, but doing so is an important part of complying with the general equality duty.

25. Our intention with the regulations is to ensure that providers take all practical steps to ensure that their display of CQC's assessment is not inaccessible to people with disabilities. We accept that there are limits to the extent by which a

provider can make the display of assessment accessible or understandable to all people who use services, their families and carers.

26. We do not envisage that these regulations will have an impact on individuals sharing the other protected characteristics under the Equality Act 2010. An assessment of the impact of the voluntary display of Food Standards Ratings reported that there was no evidence to indicate a differential impact on race, gender or disability with the operation of the scheme. However, if you do have any concerns that the regulations may have an impact in people sharing protected characteristics, we would welcome your comments.

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.)

Responding to the consultation

27. This section outlines the areas where we are seeking a response to this consultation.
28. In this document we have set out our aims and intentions, shared our reasoning for the proposals we have made, and in Annex B have set out draft regulations to meet these aims.
29. The scope of this consultation is to establish whether the regulations we have drafted will meet the aims we have set out. The consultation questions are listed in the next section.
30. This consultation will run for four weeks, closing on 13th October 2014.

To respond to this consultation, you can:

Answer the questions online, at <http://consultations.dh.gov.uk/cqc-sponsorship/display-of-cqc-rating>

Email your responses to: giles.crompton-howe@dh.gsi.gov.uk

Post your responses to:

Display of Performance Assessment Regulations Consultation
c/o Giles Crompton-Howe
Room 2E11
Quarry House
Quarry Hill
Leeds
West Yorkshire
LS2 7UE

Consultation questions

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.)

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(3).

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

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

The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014(4) are amended as follows.

(3) 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).

(4) S.I. 2014/

Amendment of regulation 2

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

Amendment of regulation 8

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

Requirement as to display of performance assessments

After regulation 20 (duty of candour) insert—

“**20A.**—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)**(5)**, there must be stated on any website maintained by the service provider—

- (a) the address of the Commission’s website, and
- (b) the place on the Commission’s website where the most current assessment of the service provider may be accessed.

(2) Paragraphs (3) to (7) apply where such an assessment of performance by the Commission contains—

- (a) a general rating of the service provider’s overall performance, or
- (b) different general ratings in relation to the service provider’s performance at different premises.

(3) There must be displayed conspicuously, in a place which is accessible to service users, at least one legible sign showing the most current of any general rating referred to in paragraph (2)(a) in each building from which the service provider provides regulated activities.

(4) But paragraph (5) applies where the service provider receives different general ratings as referred to in paragraph (2)(b).

(5) There must be display conspicuously in each building from which the service provider provides regulated activities, in a place which is accessible to service users, at least one legible sign showing the most current general rating which relates to the service provider’s performance at the premises on which the building is situated.

(6) There must be displayed conspicuously all general ratings referred to in paragraph (2)(a) and (b), in a way that is legible and that makes it clear which premises or activities a particular rating relates to—

- (a) at the service provider’s principle place of business, and
- (b) on any website maintained by the service provider in relation to its provision of regulated activities.

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

Amendment of regulation 22

Regulation 22 (offences) is amended as follows—

after sub-paragraph (1)(b), omit “or”, and
at the end of sub-paragraph (1)(c) insert—

- “, or
- (d) regulation 20A”.

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

Amendment of regulation 23

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

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”
---	---	-------

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, general 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 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.