

Registration of primary medical services providers with the Care Quality Commission

*A consultation on a proposed change
to the date of registration*

Registration of primary medical services by the Care Quality Commission

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Executive summary

This document sets out proposals for a change to the timing of the registration of NHS GP practices with the Care Quality Commission from 2012 to 2013. This will not change the timing of registration of dedicated NHS GP out of hours providers or providers of NHS walk-in centres. In accordance with the requirements of Section 20 of the Health and Social Care Act 2008, this document is being shared and discussed with key stakeholders and is also being made publicly available on the DH website. Those who have commented on previous consultations on the registration system for health and adult social care will also be informed that it has been issued and will be asked if they have any views. The consultation ends on 29 July.

Regulation of health care and adult social care by the Care Quality Commission

1. The public has a right to know that the health and social care services that they receive are safe and of an acceptable quality – regardless of whether they are provided in the public or the independent sector. Assurance that these services at the very least meet essential levels of safety and quality is provided through a registration system operated by the Care Quality Commission (CQC) under the terms of the Health and Social Care Act 2008.
2. Under this legislation, all providers of ‘regulated activities’ in the field of health care and adult social care are required to register with the CQC. Regulated activities cover most health and social care services. Providing a regulated activity without being registered with the CQC is an offence which can result in an unlimited fine and/or imprisonment for up to 12 months.
3. In order to be registered with the CQC and to remain registered, providers of regulated activities are required to comply with a set of registration requirements that establish the essential levels of safety and quality. These cover the outcomes that matter to patients and service users and include the care and welfare of service users, cleanliness and infection control, safeguarding service users and staffing.
4. Where a registered provider fails to meet the registration requirements the CQC has a range of enforcement powers that it can use to bring about improvements. These range from issuing a warning notice or placing a condition on a provider’s registration through to cancelling registration or bringing a prosecution.
5. The role of registration with the CQC is central to the Government’s plans for the future delivery of health care and adult social care in England. By providing assurance that providers of regulated activities meet essential levels of safety and quality, registration

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forms the foundation on which high quality services can be built. The Government is committed to strengthening the role of the CQC as an effective regulator and a number of measures in the Health and Social Care Bill are designed to give the CQC a sharper focus on its core task of assuring that essential levels of safety and quality are achieved.

6. The Department of Health consulted extensively during the development of the registration system in 2008 and 2009. Responses to a number of consultations in this period revealed strong support for the new regulatory framework and for the move to regulating specific activities rather than establishments and agencies. There was overwhelming support for the extension of registration to include providers of primary medical services, and for the proposal to introduce registration in a number of waves set out in regulations.
7. The Department put the new registration system in place in line with the proposals that received support in these consultations, and regulations set out a staged approach for the CQC to bring providers of health and adult social care services into the new system.
8. In April 2009, NHS providers of health care were registered against a single registration requirement relating to cleanliness and infection control, before, in April 2010, being registered against the full set of registration requirements.
9. In October 2010, providers of adult social care services and independent sector providers of health care became registered under the new system. In April 2011, primary dental service providers and independent ambulance services were registered by the CQC.
10. Since April 2010, the CQC has registered around 20,000 health and adult social care providers. This has been a major programme of work which the CQC has carried out well.

Registering providers of primary medical services for the NHS

11. There is one further wave of applications remaining. From April 2012, providers of NHS primary medical services are due to enter the new registration system. This wave includes all providers of primary medical services under sections 3, 83(2)(b), 84 or 92 of the NHS Act 2006, such as GP practices, out of hours primary medical services and some NHS walk-in centres. This final wave comprises registration of around 8,000 providers.
12. The Government is committed to bringing these providers into the registration system operated by the CQC. Registration of these providers will give valuable assurance to patients that services are meeting essential levels of safety and quality and will provide a mechanism to address poorly performing service providers.
13. However, we have taken the opportunity to reconsider the timing of the registration of primary medical services providers. We believe there are strong reasons to move the start

date for registration of most providers of primary medical services for the NHS to April 2013.

14. Postponing the registration of providers of primary medical services for the NHS would provide the opportunity to ensure that, when registration does go ahead, the CQC's systems, tools and processes would have been refined in the light of the experience of the earlier registration rounds and piloting with primary medical services providers themselves.
15. The experience of registering around 20,000 health and adult social care providers has been challenging for providers and for the CQC. The demands placed on the CQC by new registration rounds have led to a backlog of routine registration work, which has impacted on the service received by some providers. The focus on registering new providers has also impacted on the CQC's capacity to monitor compliance with essential levels of safety and quality of those providers that are already registered. Rates of assessment of compliance are steadily increasing but need to be consolidated. The CQC also wants to learn from its work to date to register providers and wants to make further changes to its regulatory systems and methodology. This would help to provide an improved service and greater assurance to patients and service users.
16. Going ahead with the registration of primary medical services providers for the NHS in April 2012 would constrain the CQC's ability to review and refine its approach. Moving back the bulk of this registration round would provide an opportunity for the CQC to review and modernise its systems sooner rather than later. This would result in more responsive regulation for those providers that are already registered. It would also lead to a more streamlined application process for primary medical services providers who would enter the system in April 2013, and future new providers from all sectors.
17. In addition, a pause would also allow for the further development of quality and accreditation schemes for primary medical services providers to be used as evidence of their compliance with the registration requirements, and for providers to participate in them. This could also reduce the burden of applying for registration. The change in timing would give CQC and providers more time to explore the evidence from available accreditation and quality improvement schemes – including from the Royal College of General Practitioners' Practice Accreditation scheme.
18. For these reasons we are proposing that the registration of most primary medical services providers for the NHS (due to take place in April 2012) should be deferred until April 2013.

Which providers will register in 2012 and which will register in 2013?

19. There are a number of different types of primary medical services providers that are due to register in April 2012. These include GP practices, dedicated out of hours primary care services and NHS walk-in centres.
20. It is our proposal that the majority of providers who are due to enter the registration system in April 2012 will not now be registered until April 2013. However, we have made commitments to bring out of hours providers into registration at the earliest opportunity. We believe that, given the smaller number of providers involved, the CQC will have the capacity to register dedicated out of hours primary medical services and NHS walk-in centres alongside modernising its regulatory system. We therefore propose that providers whose main or sole purpose is the provision of primary medical services in the out of hours period and providers of NHS walk-in centres should still be registered in April 2012. We will be working with key stakeholder groups during the consultation period to ensure we get the correct wording in regulations to achieve this aim.
21. Most NHS GP practices opted out of the responsibility to provide out of hours care as part of the introduction of the new GP contract in 2004. However, a substantial minority did not opt out and may still directly provide services in the out of hours period themselves. It could be argued that, for consistency, they should be registered with other out of hours providers in April 2012. Alternatively, as their 'main' activity is providing traditional general practice services during core hours, it could be argued they should not be registered until April 2013. Our preferred option is that such GP practices should be registered in April 2013. We would welcome your comments on this issue.
22. By 'out of hours care', we mean care provided after 6.30pm and before 8am during weekdays, at the weekend and on bank holidays. This does not include services provided in the out of hours period by the extended hours access scheme arrangements made in accordance with the Primary Medical Services (Directed Enhanced Services) (England) Directions 2010.
23. Our proposal is therefore that dedicated out of hours providers (whose main or sole purpose is the provision of primary medical services in the out of hours period) and providers whose sole or main purpose is to provide NHS walk-in centres will be registered by the CQC in April 2012, and that NHS GP practices will be registered in April 2013. We propose that those GP practices that mainly provide services in the core hours, but do so additionally in the out of hours period, would be registered alongside other GP practices in April 2013.

Impact of the proposals

24. When the Department consulted on the initial proposal to register providers of primary medical and primary dental care, we published an impact assessment, which included an equality impact assessment, to inform the proposal. This can be found at: http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_115559
25. Our initial review of the impact assessment and equality impact assessment leads us to believe that they are still valid and are not significantly changed by the proposal to defer the registration of most primary medical services providers. We intend to explore further the assumptions and calculations on which they are based during the consultation period to test whether these documents need to be revised in the light of any new evidence since they were published in 2009. If these documents are revised they will be published alongside any regulations affecting the change to the date of registration.
26. In addition to providing comments on the proposal to defer the registration of most providers of primary medical services for the NHS it would therefore be helpful if you could provide us with any new evidence, for either the impact assessment or the equality impact assessment, of which you are aware.

The consultation process

27. The proposal to change the date of registration of most primary medical services providers by a year is not a change of policy on the regulation of health care and adult social care itself. It is simply a change to the timetabling of the registration programme. We recognise the importance of gathering the views of key interest groups on this proposal and considering these views in reaching a decision on whether to delay the registration of these providers. Appropriate stakeholders have therefore been approached to contribute to this consultation.
28. The date for the registration of NHS primary medical services provision is set in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 and is made under powers, including section 20, of the Health and Social Care Act 2008. Section 20(8) states that the Secretary of State must consult such persons as the Secretary of State considers appropriate before making regulations under that section.
29. For the purpose of the proposed change to the registration date for primary medical services providers, we will consult with key stakeholders and have made this document publicly available so that anyone with an interest in this issue is able to comment. The consultation is being run in accordance with the Cabinet Office Code of Practice on Consultation (reproduced below). However, this is a limited six week consultation with

Ministerial approval. The consultation period will close on 29 July 2011.

Criteria for consultation

30. This consultation follows the 'Government Code of Practice', in particular we aim to:

- formally consult at a stage where there is scope to influence the policy outcome;
- consult for at least 12 weeks with consideration given to longer timescales where feasible and sensible;
- be clear about the consultations process in the consultation documents, what is being proposed, the scope to influence and the expected costs and benefits of the proposals;
- ensure the consultation exercise is designed to be accessible to, and clearly targeted at, those people it is intended to reach;
- keep the burden of consultation to a minimum to ensure consultations are effective and to obtain consultees' 'buy-in' to the process;
- analyse responses carefully and give clear feedback to participants following the consultation;
- ensure officials running consultations are guided in how to run an effective consultation exercise and share what they learn from the experience.

The full text of the code of practice is on the Better Regulation website at:

<http://www.bis.gov.uk/policies/better-regulation/consultation-guidance>

Comments on the consultation process itself

31. If you have concerns or comments which you would like to make relating specifically to the consultation process itself please contact:

contact Consultations Coordinator
Department of Health
3E48, Quarry House
Leeds
LS2 7UE

e-mail consultations.co-ordinator@dh.gsi.gov.uk

Please do not send consultation responses to this address.

Confidentiality of information

32. We manage the information you provide in response to this consultation in accordance with the Department of Health's **Information Charter**.

33. Information we receive, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

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34. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
35. The Department will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties.

Summary of the consultation

36. A summary of the response to this consultation will be made available before or alongside any further action, such as laying legislation before Parliament, and will be placed on the Consultations website at:
<http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/index.htm>

Responding to the consultation

37. It would be helpful if, in responding to this consultation, you could consider the following questions:
- **Should the registration by the CQC of most primary medical services providers be deferred by one year from April 2012 to April 2013?**
 - **Should this group also include GP practices that directly provide out of hours care?**
 - **Should the registration of dedicated out of hours primary medical services providers (those whose main or sole purpose is the provision of primary medical services in the out of hours period) go ahead in April 2012?**
 - **Should the registration of NHS walk-in centres go ahead in April 2012?**
 - **Can you provide any new evidence or data that we should take into account when considering whether to update the impact assessment that informed the decision to register primary medical services providers?**
 - **Can you provide any new evidence that we should take into account when considering whether to update the equality impact assessment that informed the decision to register primary medical services providers?**

You can return your response to this consultation to:

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Primary Medical Services Registration Consultation
Room 3E58
Quarry House
Quarry Hill
Leeds LS2 7UE

Alternatively, comments can be sent by e-mail to:
pmsregistration@dh.gsi.gov.uk