

Offences

Some of the regulations have offences attached, and as part of our enforcement action, CQC will be able to bring prosecutions if these regulations are breached. For regulations that we cannot prosecute against, we can consider using other actions as set out in our [enforcement policy](#).

CQC will be able to bring prosecutions for breaches of the following regulations.

- The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
- The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2015

CQC may prosecute breaches of the following regulations without first issuing a Warning Notice.

A breach of the following offences may be prosecuted directly:

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| Regulation 11 | Need for consent: care and treatment may only be provided with consent. |
| Regulation 16(3) | Receiving and acting on complaints: a summary of complaints, responses, correspondence and other relevant information identified must be provided to CQC within 28 days of a request. |
| Regulation 17(3) | Good governance: a report into how the registered person is complying with the good governance requirements and their plans for improvement of services delivered must be provided to CQC within 28 days of a request. |
| Regulation 20 (2)(a) | Duty of candour: registered persons must as soon as reasonably practicable notify a service user (or person lawfully acting on their behalf) when an unintended or unexpected incident occurs. Notifiable safety incidents are explained further in Regulation 20(8) and 20(9). |
| Regulation 20(3) | Duty of candour: notifications given under Regulation 20(2)(a) must meet specific requirements. |

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| Regulation 20A | Requirement as to display of performance assessments: providers must display on their website details of CQC's website, the most recent CQC rating and the date it was given. They must also display the most recent rating at each location where regulated activities are provided from and at the provider's principal place of business. Signs must be legible, conspicuously displayed and show the date the rating was given. |
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A defence to all the above offences is available where the registered persons took all reasonable steps and acted with all due diligence. See Regulation 22(4).

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| To be able to prosecute for the following offences, they need a further qualification, which is that the breach results in people who use services being exposed to avoidable harm or significant risk of such harm occurring or suffering a loss of money or property as a result of theft, misuse or misappropriation | |
| Regulation 12 | Safe care and treatment: care and treatment must be provided safely. |
| Regulation 13 | Safeguarding service users from abuse and improper treatment: sections 13(1) to 13(4). |
| Regulation 14 | Meeting nutritional and hydration needs: service users' nutritional and hydration needs must be met. This applies where accommodation or an overnight stay on the premises is provided or where meeting a person's nutritional or hydration needs is part of the care and treatment arrangements. |

- Care Quality Commission (Registration) Regulations 2009

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| A breach of the following offences may be prosecuted directly: | |
| Regulation 12 | Statement of purpose |
| Regulation 14 | Notice of absence |
| Regulation 15 | Notice of changes |
| Regulation 16 | Notification of death of service user |
| Regulation 17 | Notification of death or unauthorised absence of a person who is detained or liable to be detained under the Mental Health Act 1983 |
| Regulation 18 | Notification of other incidents |
| Regulation 19 | Fees etc |
| Regulation 20 | Requirements relating to termination of pregnancies |
| <p>In relation to these offences, there is no requirement for anyone to have been exposed to harm or placed at risk of harm as there is in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. A breach of the regulation is an offence without this further qualification.</p> | |

For the remaining regulations included in this guidance: Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, Regulations 9; 10; 13(5); 13(6); 13(7); 15; 16(1); 16(2); 17(1); 17(2); 18; 19; 20(1), 20(2)(b); 20(4); 20(5); 20(6); 20(7) and the Care Quality Commission (Registration) Regulations 2009, Regulations 13 and 22a, CQC can take other regulatory action. If the evidence surrounding one of these regulations also demonstrates a breach of another regulation that is identified as an offence, then CQC may also decide to prosecute against the regulation for that other offence.

We have also published this information as a [quick reference chart](#).

The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Offences

This table shows the action we will take if we find a breach of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

| Reg no | Regulation | Action we take |
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| 4 | Requirements where the service provider is an individual or partnership | Regulatory action other than prosecution |
| 5 | Fit and proper persons: directors | Regulatory action other than prosecution |

| Reg no | Regulation | Action we take |
|---------------|---|--|
| 6 | Requirement where the service provider is a body other than a partnership | Regulatory action other than prosecution |
| 7 | Requirements relating to registered managers | Regulatory action other than prosecution |
| 8 | General | Regulatory action other than prosecution |
| 9 | Person-centre care | Regulatory action other than prosecution |
| 9A | Visiting and accompanying | Regulatory action other than prosecution |
| 10 | Dignity and respect | Regulatory action other than prosecution |
| 11 | Need for consent | Prosecuted directly |
| 12 | Safe care and treatment | Prosecution with qualifications* |
| 13 | Safeguarding service users from abuse and improper treatment | Prosecution with qualifications* |

| Reg no | Regulation | Action we take |
|-------------------|---|----------------------------------|
| 1 3(1) | 1. Service users must be protected from abuse and improper treatment in accordance with this regulation. | Prosecution with qualifications* |
| 1 3(2) | 2. Systems and processes must be established and operated effectively to prevent abuse of service users. | Prosecution with qualifications* |
| 1 3(3) | 3. Systems and processes must be established and operated effectively to investigate, immediately upon becoming aware of, any allegation or evidence of such abuse. | Prosecution with qualifications* |

| Reg no | Regulation | Action we take |
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| 1 3(4) | <p>4. Care or treatment for service users must not be provided in a way that-</p> <p>(a) includes discrimination against a service user on grounds of any protected characteristic (as defined in section 4 of the Equality Act 2010) of the service user,</p> <p>(b) includes acts intended to control or restrain a service user that are not necessary to prevent, or not a proportionate response to, a risk of harm posed to the service user or another individual if the service user was not subject to control or restraint,</p> <p>(c) is degrading for the service user, or</p> <p>(d) significantly disregards the needs of the service user for care or treatment.</p> | Prosecution with qualifications* |
| 1 3(5) | <p>5. A service user must not be deprived of their liberty for the purpose of receiving care or treatment without lawful authority.</p> | Regulatory action other than prosecution |
| 14 | Meeting nutritional and hydration needs | Prosecution with qualifications* |

| Reg no | Regulation | Action we take |
|-------------------|---|--|
| 15 | Premises and equipment | Regulatory action other than prosecution |
| 1 6(1) | <p>Receiving and acting on complaints</p> <p>1. Any complaint received must be investigated and necessary and proportionate action must be taken in response to any failure identified by the complaint or investigation.</p> | Regulatory action other than prosecution |
| 1 6(2) | <p>2. The registered person must establish and operate effectively an accessible system for identifying, receiving, recording, handling and responding to complaints by service users and other persons in relation to the carrying on of the regulated activity.</p> | Regulatory action other than prosecution |

| Reg no | Regulation | Action we take |
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| <p>1 6(3)</p> | <p>3. The registered person must provide to the Commission, when requested to do so and by no later than 28 days beginning on the day after receipt of the request, a summary of –</p> <p>(a) complaints made under such complaints system,</p> <p>(b) responses made by the registered person to such complaints and any further correspondence with the complainants in relation to such complaints, and</p> <p>(c) any other relevant information in relation to such complaints as the Commission may request.</p> | <p>Prosecuted directly</p> |
| <p>1 7(1)</p> | <p>Good governance</p> <p>1. Systems or processes must be established and operated effectively to ensure compliance with the requirements in this Part.</p> | <p>Regulatory action other than prosecution</p> |

| Reg no | Regulation | Action we take |
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| 1 7(2) | <p>2. Without limiting paragraph (1), such systems or processes must enable the registered person, in particular, to-</p> <p>(a) assess, monitor and improve the quality and safety of the services provided in the carrying on of the regulated activity (including the quality of the experience of service users in receiving those services);</p> <p>(b) assess, monitor and mitigate the risks relating to the health, safety and welfare of service users and others who may be at risk which arise from the carrying on of the regulated activity;</p> <p>(c) maintain securely an accurate, complete and contemporaneous record in respect of each service user, including a record of the care and treatment provided to the service user and of decisions taken in relation to the care and treatment provided;</p> <p>(d) maintain securely such other records as are necessary to be kept in relation to-</p> | Regulatory action other than prosecution |

| Reg no | Regulation | Action we take |
|--------|---|----------------|
| | <p>(i) persons employed in the carrying on of the regulated activity, and</p> <p>(ii) the management of the regulated activity;</p> <p>(e) seek and act on feedback from relevant persons and other persons on the services provided in the carrying on of the regulated activity, for the purposes of continually evaluating and improving such services;</p> <p>(f) evaluate and improve their practice in respect of the processing of the information referred to in sub-paragraphs (a) to (e).</p> | |

| Reg no | Regulation | Action we take |
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| 17(3) | <p>3. The registered person must send to the Commission, when requested to do so and by no later than 28 days beginning on the day after receipt of the request –</p> <p>(a) a written report setting out how, and the extent to which, in the opinion of the registered person, the requirements of paragraph (2)(a) and (b) are being complied with, and</p> <p>(b) any plans that the registered person has for improving the standard of the services provided to service users with a view to ensuring their health and welfare.</p> | Prosecuted directly |
| 18 | Staffing | Regulatory action other than prosecution |
| 19 | Fit and proper persons employed | Regulatory action other than prosecution |

| Reg no | Regulation | Action we take |
|--------|---|--|
| 20(1) | <p>Duty of candour</p> <p>1. Registered persons must act in an open and transparent way with relevant persons in relation to care and treatment provided to service users in carrying on a regulated activity</p> | Regulatory action other than prosecution |
| 20(2) | 2. As soon as reasonable practicable after becoming aware that a notifiable safety incident has occurred registered persons must- | Prosecuted directly |
| 20(2) | a. notify the relevant person that the incident has occurred in accordance with paragraph (3), and | Regulatory action other than prosecution |
| 20(2b) | b. provide reasonable support to the relevant person in relation to the incident, including when giving such notification. | Regulatory action other than prosecution |

| Reg no | Regulation | Action we take |
|--------|---|---------------------|
| 20(3) | <p>3. The notification to be given under paragraph (2)(a) must–</p> <p>(a) be given in person by one or more representatives of the registered persons,</p> <p>(b) provide an account, which to the best of the registered persons' knowledge is true, of all the facts the registered persons know about the incident as at the date of the notification,</p> <p>(c) advise the relevant person what further enquiries into the incident the registered persons believe are appropriate,</p> <p>(d) include an apology, and</p> <p>(e) be recorded in a written record which is kept securely by the registered persons.</p> | Prosecuted directly |

| Reg no | Regulation | Action we take |
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| <p>20(4)</p> | <p>4. The notification given under paragraph (2)(a) must be followed by a written notification given or sent to the relevant person containing—</p> <p>(a) the information provided under paragraph (3)(b),</p> <p>(b) details of any enquiries to be undertaken in accordance with paragraph (3)(c),</p> <p>(c) the results of any further enquiries into the incident, and</p> <p>(d) an apology.</p> | <p>Regulatory action other than prosecution</p> |
| <p>20(5)</p> | <p>5. But if the relevant person cannot be contacted in person or declines to speak to the representative of the health service body—</p> <p>(a) paragraphs (2) to (4) are not to apply, and</p> <p>(b) a written record is to be kept of attempts to contact or to speak to the relevant person.</p> | <p>Regulatory action other than prosecution</p> |

| Reg no | Regulation | Action we take |
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| 20(6) | 6. The registered provider must keep a copy of all correspondence with the relevant person under paragraph (4). | Regulatory action other than prosecution |
| 20A | Requirement as to display of performance assessments | Prosecuted directly |

*The column 'Prosecution with qualifications' shows the regulations that require qualification for prosecuting. These are Regulations 12, 13(1) to (4) and 14 of The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. This qualification is given in Regulation 22(2) of those Regulations – namely, that the breach of the regulation results in people who use services being exposed to avoidable harm (physical or psychological), being exposed to a significant risk of such harm occurring or suffering a loss of money or property as a result of theft, misuse or misappropriation.

Care Quality Commission (Registration) Regulations 2009: Offences

This table shows the action we will take if we find a breach of the Care Quality Commission (Registration) Regulations 2009.

| Reg no | Regulation | Action we take |
|---------------|---|--|
| 11 | <p>General</p> <p>A registered person must, insofar as they are applicable, comply with the requirements specified in regulations 12 to 20 in relation to any regulated activity in respect of which they are registered.</p> | Regulatory action other than prosecution |
| 12 | Statement of purpose | Prosecuted directly |
| 13 | Financial position | Regulatory action other than prosecution |
| 14 | Notice of absence | Prosecuted directly |
| 15 | Notice of changes | Prosecuted directly |
| 16 | Notification of death of service user | Prosecuted directly |
| 17 | Notification of death or unauthorised absence of a service user who is detained or liable to be detained under the Mental Health Act 1983 | Prosecuted directly |
| 18 | Notification of other incidents | Prosecuted directly |

| Reg no | Regulation | Action we take |
|---------------|---|-----------------------|
| 19 | Fees etc | Prosecuted directly |
| 20 | Requirements relating to termination of pregnancies | Prosecuted directly |

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