

Regulation 16: Notification of death of service user

Care Quality Commission (Registration) Regulations 2009: Regulation 16

The intention of this regulation is to ensure that CQC is notified of the deaths of people who use services so that where needed, CQC can take follow-up action.

Notifications include those deaths that

- occurred while services were being provided in the carrying on of a regulated activity or
- have, or may have, resulted from the carrying on of a regulated activity.

Notifications about deaths must be sent to CQC without delay. All providers must send their notifications directly to CQC unless the provider is a health service body, local authority or provider of primary medical services and it has previously notified the NHS Commissioning Board Authority (now known as NHS England) of the death.

Providers must use forms provided by CQC to make notifications under this regulation. Further information about how to make any required notification to CQC can be found [here](#).

CQC can prosecute for a breach of this regulation or a breach of part of the regulation. This means that CQC can move directly to prosecution without first serving a warning notice. Additionally, CQC may also take any other regulatory action. See the [offences section](#) for more detail.

CQC must refuse registration if providers cannot satisfy us that they can and will continue to comply with this regulation.

The regulation in full

16.—

1. Except where paragraph (2) applies, the registered person must notify the Commission without delay of the death of a service user—
 - a. whilst services were being provided in the carrying on of a regulated activity; or
 - b. which has, or may have, resulted from the carrying on of a regulated activity.

2. Subject to paragraph (4), where the service provider is a health service body, a local authority exercising public health functions (within the meaning of the [National Health Service Act 2006](#)) or a provider of primary medical services, the registered person must notify the Commission without delay of the death of a service user where the death—
 - a. either—
 - i. occurred whilst services were being provided in the carrying on of a regulated activity,
 - ii. has, or may have, resulted from the provision of services by a health service body, or local authority exercising public health functions (within the meaning of the [National Health Service Act 2006](#)), in the course of carrying on a regulated activity, or
 - iii. has, or may have, resulted from the provision of primary medical services in the course of carrying on a regulated activity and those services were provided within the period of two weeks prior to the death of the service user; and
 - b. cannot, in the reasonable opinion of the registered person, be attributed to the course which that service user's illness or medical condition would naturally have taken if that service user was receiving appropriate care and treatment.
3. Notification of the death of a service user must include a description of the circumstances of the death.

4. Paragraph (2) does not apply if, and to the extent that, the registered person has reported the death to the National Health Service Commissioning Board (now known as NHS England).
 - a. for the purposes of paragraph (4), where a person has reported a death to the NHS Commissioning Board Authority (now known as NHS England), established under Article 2 of the NHS Commissioning Board Authority (Establishment and Constitution) Order 2011, before the establishing of the National Health Service Commissioning Board ("the Board"), that report is to be treated as having been made to the board.
5. This regulation does not apply where regulation 17 applies.
6. In paragraph (2), "provider of primary medical services" means a person who provides primary medical services pursuant to one of the following sections of the National Health Service Act 2006(b) -
 - a. section 3A (Secretary of State's duty as to provision of certain services),
 - b. section 83(2)(b) (primary medical services),
 - c. section 84 (general medical services contracts),
 - d. section 92 (arrangements for the provision of primary medical services), and provision of primary medical services shall be construed accordingly

Guidance

This sets out the guidance providers must have regard to against the relevant component of the regulation.

16(5) This regulation does not apply where regulation 17 applies.

Guidance on 16(5)

- A notification is not required under this regulation where the notification relates to the death or unauthorised absence of a service user who is detained or liable to be detained under the Mental Health Act 1983.

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