

Regulation 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

Care Quality Commission (Registration) Regulations 2009: Regulation 17

The intention of this regulation is that CQC is notified of the death or unauthorised absence of a person in any location who is liable to be detained under the Mental Health Act 1983 so that CQC can take follow-up action where needed.

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 (NHS England) of the death.

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

17.—

1. The registered person must notify the Commission without delay of the death in any location or unauthorised absence from a relevant location of a service user who is liable to be detained by the registered person—
 - a. under the Mental Health Act 1983 ("the 1983 Act"); or
 - b. pursuant to an order or direction made under another enactment (which applies in relation to England), where that detention takes effect as if the order or direction were made pursuant to the provisions of the 1983 Act.
2. Notification of the death of a service user must include a description of the circumstances of the death.
 - 2a. The registered person must notify the Commission without delay of the return to a relevant location after a period of unauthorised absence of a service user whose absence is required to be notified under paragraph (1).

3. In this regulation—

- a. references to persons "liable to be detained" include a community patient who has been recalled to hospital in accordance with section 17E of the 1983 Act, but do not include a patient who has been conditionally discharged and not recalled to hospital in accordance with section 42, 73 or 74 of the 1983 Act;
- b. "community patient" has the same meaning as in section 17A of the 1983 Act;
- c. "hospital" means a hospital within the meaning of Part 2 of that Act; and
- ca. "relevant location" means a location used to provide secure psychiatric services under a contract with an English NHS body(1) or the Secretary of State.

Guidance

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

17(1) The registered person must notify the Commission without delay of the death in any location or unauthorised absence from a relevant location of a service user who is liable to be detained by the registered person—

(a) under the Mental Health Act 1983 ("the 1983 Act"); or

(b) pursuant to an order or direction made under another enactment (which applies in relation to England), where that detention takes effect as if the order or direction were made pursuant to the provisions of the 1983 Act.

Guidance on 17(1)

- Unauthorised absences of a person liable to be detained under the Mental Health Act 1983 become notifiable when the person is still absent after midnight on the day their absence began.

© Care Quality Commission