

Regulation 18: Notification of other incidents

Care Quality Commission (Registration) Regulations 2009: Regulation 18

The intention of this regulation is to specify a range of events or occurrences that must be notified to CQC so that, where needed, CQC can take follow-up action.

Providers must notify CQC of all incidents that affect the health, safety and welfare of people who use services. The full list of incidents is in the text of the regulation.

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).

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

1. Subject to paragraphs (3) and (4), the registered person must notify the Commission without delay of the incidents specified in paragraph (2) which occur whilst services are being provided in the carrying on of a regulated activity, or as a consequence of the carrying on of a regulated activity.

2. The incidents referred to in paragraph (1) are—
 - a. any injury to a service user which, in the reasonable opinion of a health care professional, has resulted in—
 - i. an impairment of the sensory, motor or intellectual functions of the service user which is not likely to be temporary,
 - ii. changes to the structure of a service user's body,
 - iii. the service user experiencing prolonged pain or prolonged psychological harm, or
 - iv. the shortening of the life expectancy of the service user;
 - b. any injury to a service user which, in the reasonable opinion of a health care professional, requires treatment by that, or another, health care professional in order to prevent—
 - i. the death of the service user, or
 - ii. an injury to the service user which, if left untreated, would lead to one or more of the outcomes mentioned in sub-paragraph (a);
 - c. [omitted]
 - d. [omitted]
 - e. any abuse or allegation of abuse in relation to a service user;
 - f. any incident which is reported to, or investigated by, the police;

g. any event which prevents, or appears to the service provider to be likely to threaten to prevent, the service provider's ability to continue to carry on the regulated activity safely, or in accordance with the registration requirements, including—

- i. an insufficient number of suitably qualified, skilled and experienced persons being employed for the purposes of carrying on the regulated activity,
- ii. an interruption in the supply to premises owned or used by the service provider for the purposes of carrying on the regulated activity of electricity, gas, water or sewerage where that interruption has lasted for longer than a continuous period of 24 hours,
- iii. physical damage to premises owned or used by the service provider for the purposes of carrying on the regulated activity which has, or is likely to have, a detrimental effect on the treatment or care provided to service users, and
- iv. the failure, or malfunctioning, of fire alarms or other safety devices in premises owned or used by the service provider for the purposes of carrying on the regulated activity where that failure or malfunctioning has lasted for longer than a continuous period of 24 hours;

h. any placement of a service-user under the age of eighteen in a psychiatric unit whose services are intended for persons over that age where that placement has lasted for longer than a continuous period of 48 hours.

3. Paragraph (2)(f) does not apply where the service provider is an English NHS body.

4. Where the service provider is a health service body, paragraph (1) does not apply if, and to the extent that, the registered person has reported the incident to [the National Health Service Commissioning Board].

[(4ZA) For the purposes of paragraph (4), where a person has reported an incident to the NHS Commissioning Board Authority, established under Article 2 of the NHS Commissioning Board Authority (Establishment and Constitution) Order 2011, before the establishment of the National Health Service Commissioning Board ("the Board"), that report is to be treated as having been made to the Board.]

[(4A) The registered person must notify the Commission of the following events, which occur whilst services are being provided in the carrying on of a regulated activity, or as a consequence of the carrying on of a regulated activity—

- a. any request to a supervisory body made pursuant to Part 4 of Schedule A1 to the 2005 Act by the registered person for a standard authorisation:
- b. any application made to a court in relation to depriving a service user of their liberty pursuant to section 16(2)(a) of the 2005 Act.
 - 4b. Any notification required to be given in respect of an event in paragraph (4A) shall be given once the outcome of the request or application is known or, if the request or application is withdrawn, at the point of withdrawal and shall include a statement as to—
- c. the date and nature of the request or application;
- d. whether the request or application was preceded by the use of an urgent authorisation, within the meaning of paragraph 9 of Schedule A1 to the 2005 Act;
- e. the outcome of the request or application or reason for its withdrawal; and
- f. the date of the outcome or withdrawal.

5. In this regulation—
- a. "the 2005 Act" means the Mental Capacity Act 2005;
 - b. "abuse", in relation to a service user, means—
 - i. sexual abuse,
 - ii. physical or psychological ill-treatment,
 - iii. theft, misuse or misappropriation of money or property, or
 - iv. neglect and acts of omission which cause harm or place at risk of harm;
 - c. "health care professional" means a person who is registered as a member of any profession to which section 60(2) of the Health Act 1999 applies;
 - d. "registration requirements" means any requirements or conditions imposed on the registered person by or under Chapter 2 of Part 1 of the Act;
 - e. "standard authorisation" has the meaning given under Part 4 of Schedule A1 to the 2005 Act;
 - f. "supervisory body" has the meaning given in paragraph 180 (in relation to a hospital in England) or paragraph 182 (in relation to a care home) of Schedule A1 to the 2005 Act;
 - g. for the purposes of paragraph (2)(a)—
 - i. "prolonged pain" and "prolonged psychological harm" means pain or harm which a service user has experienced, or is likely to experience, for a continuous period of at least 28 days, and
 - ii. a sensory, motor or intellectual impairment is not temporary if such an impairment has lasted, or is likely to last, for a continuous period of at least 28 days.

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

18(2) The incidents referred to in paragraph (1) are—

(a) any injury to a service user which, in the reasonable opinion of a health care professional, has resulted in—

(i) an impairment of the sensory, motor or intellectual functions of the service user which is not likely to be temporary,

(ii) changes to the structure of a service user's body,

(iii) the service user experiencing prolonged pain or prolonged psychological harm, or

(iv) the shortening of the life expectancy of the service user;

(b) any injury to a service user which, in the reasonable opinion of a health care professional, requires treatment by that, or another, health care professional in order to prevent—

(i) the death of the service user, or

(ii) an injury to the service user which, if left untreated, would lead to one or more of the outcomes mentioned in sub-paragraph (a);

Guidance on 18(2)

- Injuries include those that lead to, or that if untreated are likely to lead to, permanent damage – or damage that lasts or is likely to last more than 28 days – to:
 - a person's sight, hearing, touch, smell or taste
 - any major organ of the body (including the brain and skin)
 - bones
 - muscles, tendons, joints or vessels
 - the development after admission of a pressure sore of grade 3 or above that develops after the person has started to use the service
 - any injury or other event that causes a person pain lasting, or likely to last, for more than 28 days
 - intellectual functions, such as
 - intelligence
 - speech
 - thinking
 - remembering
 - making judgments
 - solving problems.

- Injuries or events leading to psychological harm, including:
 - post traumatic stress disorder
 - other stress that requires clinical treatment or support
 - psychosis
 - clinical depression
 - clinical anxiety

These lists are not exhaustive.