

# Regulation 16: Receiving and acting on complaints

## Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 16

The intention of this regulation is to make sure that people can make a complaint about their care and treatment. To meet this regulation providers must have an effective and accessible system for identifying, receiving, handling and responding to complaints from people using the service, people acting on their behalf or other stakeholders. All complaints must be investigated thoroughly and any necessary action taken where failures have been identified.

When requested to do so, providers must provide CQC with a summary of complaints, responses and other related correspondence or information.

CQC can prosecute providers for a breach of the part of this regulation that relates to the provision of information to CQC about a complaint within 28 days when requested to do so. CQC can move directly to prosecution without first serving a Warning Notice. In addition, CQC may take any other regulatory action in response to breaches of this regulation. 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. 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.
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.
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—
  - a. complaints made under such complaints system,
  - b. responses made by the registered person to such complaints and any further correspondence with the complainants in relation to such complaints, and
  - c. any other relevant information in relation to such complaints as the Commission may request.

## Guidance

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

**16(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.

## Guidance on 16(1)

- People must be able to make a complaint to any member of staff, either verbally or in writing.
- All staff must know how to respond when they receive a complaint.
- Unless they are anonymous, all complaints should be acknowledged whether they are written or verbal.
- Complainants must not be discriminated against or victimised. In particular, people's care and treatment must not be affected if they make a complaint, or if somebody complains on their behalf.
- Appropriate action must be taken without delay to respond to any failures identified by a complaint or the investigation of a complaint.
- Information must be available to a complainant about how to take action if they are not satisfied with how the provider manages and/or responds to their complaint. Information should include the internal procedures that the provider must follow and should explain when complaints should/will be escalated to other appropriate bodies.
- Providers that do not have independent review stages should regularly review their complaints resolution processes to ensure they are not disadvantaging complainants as a consequence.
- Where complainants escalate their complaint externally because they are dissatisfied with the local outcome, the provider should cooperate with any independent review or process.

**16(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.

## Guidance on 16(2)

- Information and guidance about how to complain must be available and accessible to everyone who uses the service. It should be available in appropriate languages and formats to meet the needs of the people using the service.
- Providers must tell people how to complain, offer support and provide the level of support needed to help them make a complaint. This may be through advocates, interpreter services and any other support identified or requested.
- When complainants do not wish to identify themselves, the provider must still follow its complaints process as far as possible.
- Providers must have effective systems to make sure that all complaints are investigated without delay. This includes:
  - Undertaking a review to establish the level of investigation and immediate action required, including referral to appropriate authorities for investigation. This may include professional regulators or local authority safeguarding teams.
  - Making sure appropriate investigations are carried out to identify what might have caused the complaint and the actions required to prevent similar complaints.
  - When the complainant has identified themselves, investigating and responding to them and where relevant their family and carers without delay.
- Providers should monitor complaints over time, looking for trends and areas of risk that may be addressed. This includes considering whether the process needs to be revised, including adding an independent review stage if it is not part of the existing process.

- Staff and others who are involved in the assessment and investigation of complaints must have the right level of knowledge and skill. They should understand the provider's complaints process and be knowledgeable about current related guidance.
- Consent and confidentiality must not be compromised during the complaints process unless there are professional or statutory obligations that make this necessary, such as safeguarding.
- Complainants, and those about whom complaints are made, must be kept informed of the status of their complaint and its investigation, and be advised of any changes made as a result.
- Providers must maintain a record of all complaints, outcomes and actions taken in response to complaints. Where no action is taken, the reasons for this should be recorded.
- Providers must act in accordance with Regulation 20: Duty of Candour in respect of complaints about care and treatment that have resulted in a notifiable safety incident.

**16(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—

(a) complaints made under such complaints system,

(b) responses made by the registered person to such complaints and any further correspondence with the complainants in relation to such complaints, and

(c) any other relevant information in relation to such complaints as the Commission may request.

## Guidance on 16(3)

- CQC can ask providers for information about a complaint; if this is not provided within 28 days of our request, it may be seen as preventing CQC from taking appropriate action in relation to a complaint or putting people who use the service at risk of harm, or of receiving care and treatment that has, or is, causing harm. This can include requests for details on how the process is administered and reviewed, including whether it has an independent review stage.
- The 28-day period starts the day after the request is received.