

A new system of registration

How we use conditions of registration in compliance monitoring

Guidance for providers

March 2010

Introduction

This guidance gives an overview of:

- How and when we make conditions for providers when monitoring compliance with the relevant regulations.
- How changes can be made to conditions of registration.
- The process we will follow when we apply conditions.
- The wording we must use on letters, notices and certificates.

Other guidance you need to read alongside this:

- Judgement framework
- Setting the bar
- Guidance about locations
- Enforcement policy.

Main points

1. This guidance covers how and when we make conditions for providers when monitoring compliance with the relevant regulations, and how changes can be made to conditions of registration.
2. Conditions of registration that we make during the initial registration process are different to the conditions that we make when monitoring ongoing compliance. We have produced separate guidance on how we use conditions of registration for providers applying to the new registration system.
3. During the initial registration process under the Health and Social Care Act 2008, all providers will be registered with 'restrictive' conditions. These are routine and define the regulated activities that a provider is registered to carry on, the locations at which they may be carried on, and whether there are any further restrictions: for example they may say that you cannot carry out surgery on children under the age of three, or that you can only accommodate 40 people.
4. Some providers may also be registered with 'compliance' conditions, where we have concerns about non-compliance. 'Compliance' conditions require a provider to make improvements to their service in order to meet essential standards of quality and safety and will be used only during the initial registration of existing providers. This is because the law allows us to apply compliance conditions for existing providers at transition only.
5. During ongoing monitoring of compliance, **only** 'restrictive' conditions will be used. Some 'restrictive' conditions will be routine and define the regulated activities that a provider is registered to carry on. Others have the same purpose as 'compliance' conditions mentioned above, and will require a provider to make improvements to their services to ensure that people who use services experience essential standards of quality and safety.

6. It is the responsibility of the applicant to provide evidence that their service can meet the needs of the people using it, that it is compliant with relevant regulations, and that they are able to successfully carry on the regulated activity for which they are registered to provide.
7. So that we do not hold back the diverse and innovative health and social care providers, we will make sure that any conditions of registration we apply or agree are consistent and proportionate.
8. Following registration, there are two ways to make changes to these conditions:
 - The registered person (provider or registered manager) can apply to remove or vary conditions applied to their registration.
 - We can decide to add, vary or remove conditions applied to their registration during the course of their registration, and as an enforcement tool.
9. We will make decisions, manage and process applications to remove or vary conditions in a rigorous, consistent and lawful way.
10. When we apply a condition, we can do this:
 - With the written agreement of the provider (only at the time of their original application, and evidenced in writing).
 - Through issuing of a notice of proposal, and then a notice of decision.
 - Immediately, through issuing a notice of decision (in emergencies only).
11. Where we are applying a condition without the agreement of the registered provider, they have the right to make written representations if they do not agree with what we have proposed in the notice of proposal. They have the right to make an appeal to the First-tier Tribunal if they do not agree with what we have stated in a notice of decision.

Guidance

1

What is a condition of registration and when will CQC use it during ongoing monitoring of compliance?

A condition of registration places a limit or a restriction on what a provider can do.

It may be linked to a location, regulated activity, service type, or specific activity.

All providers will have routine 'restrictive' conditions applied when they register under the Health and Social Care Act 2008, for example:

- The location where a regulated activity can be provided.

- The need to have a registered manager.

Some providers may have other routine 'restrictive' conditions applied to their registration because of the type of service they provide, and who they provide it to. For example, a condition that surgery may not be carried out on children under the age of three, or a condition placing a limit of 40 people to be accommodated at a location.

We may also decide to apply other 'restrictive' conditions where there is evidence that an applicant is not compliant with a regulation or regulations, and that limiting their ability to carry on that activity will address that problem.

2

How can changes be made to conditions of registration?

There are two ways that conditions of registration can be altered:

- When we receive an application for variation from a registered person to remove or vary a condition(s).
- When we decide to add, remove or vary a condition(s).

In most cases, any decision we take to add, remove or vary a condition, that is not because of an application from the registered provider, will be because we have concerns about the provider's compliance with requirements in the way that they deliver a regulated activity. This could be at one location, some locations, or more generally.

3

If a provider wants to apply to vary their conditions, what do they do?

There are application forms on our website.

Choose the correct form for the change you want to make

- Add or remove locations.
- Change the address of a location.
- Remove compliance conditions.
- Vary or remove restrictive conditions.

4

When CQC decides to vary, remove or add conditions because it has concerns about compliance, what does it do?

Applying a restrictive condition to the registration of the provider is one of the actions we may take to force improvement. We will make our decision to take this action based on the information we have about the service, and information that we get from the provider. For example, where there are concerns about managing healthcare-associated infections, we may decide it is necessary to close a ward for a period of time so the provider can address those concerns.

Where we have decided that applying a restrictive condition is the most effective action, we will send the provider a Notice of Proposal.

The notice must tell the applicant that they have a right to make written representations to CQC about anything they wish to dispute.

If the provider does not want to make written representations, and notifies us of that, we will then serve a Notice of Decision

Where they do make written representations, we must wait for the decision of the person hearing those representations before proceeding. If the representations are not upheld, we will send the notice of decision. If they are upheld, we will review how we should proceed.

The certificate can be sent if the provider tells us they do not wish to appeal, or if we do not hear from them for 28 days after serving the Notice of Decision.

If the provider does make an appeal to the First-tier Tribunal, our decision cannot take effect until the outcome of the appeal is known.

5

How are the Notices of Decision different to those issued during the application process?

When we initially register a provider as part of the transitional process, we send out a Notice of Decision to let the provider know whether they are registered and what types of conditions are applied to their registration.

If a provider does not agree with our decision, they can then make representations to us. The law allows us to do this for transition, because of the tight timescales required in order to register all providers.

When we move into compliance monitoring, this process changes because the transitional laws no longer apply. If we want to apply a condition that has not been agreed with the provider in writing, we cannot send out a Notice of Decision straightaway.

The law requires us to send out two Notices when we apply conditions – a Notice of Proposal and a Notice of Decision – where conditions have not been agreed with the provider. Where conditions have been agreed with the provider, we will only send a Notice of Decision.

6

What wording does CQC use on the registration recommendation report, notices of proposal, notice of decision, certificates and letters to impose conditions?

All conditions must be:

- Appropriate
- Written in plain language
- Not unnecessarily restrictive
- Enforceable
- Lawful
- Consistent
- Concise
- Written in a way that makes it clear what is being said and what is being required.

The same wording must be repeated in:

- Registration recommendation reports
- Notice of proposal
- Notices of decision
- Certificates of registration.

In order to be legally enforceable, a condition needs to be unambiguous and specific so that there is no room for interpretation as to what it means, and so that the provider understands exactly what it must do to comply with the condition.

Appendix 1: Example wording for conditions

Standard wording for routine 'restrictive' conditions

Location	This Regulated Activity may only be carried on at the following locations: o location A <address> o location B <address>
Registered manager	< provider name> must have a registered manager in day to day charge of <regulated activity> at <location>
Number of people who can be accommodated (care home only)	<provider name> must only accommodate a maximum number of <number> service users at <location>
Nursing care can not be provided (care home only)	<provider name> must not provide nursing care under <regulated activity> at <location>

Standard wording for conditions for a registered manager:

Regulated activity and location	<name> is registered to carry on <regulated activity> <name> is registered to carry on <regulated activity> at <location>
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Standard wording for other ‘restrictive conditions’

<p>Conditions examples</p>	<p><provider name> must only accommodate a maximum number of 36 service users at location <name> (repeat for each location it is to be applied to)</p> <p><provider name> must not undertake cardiac surgery at <location></p> <p><provider name> must not admit service users under <regulated activity> at <location> without the prior written agreement of the Care Quality Commission</p> <p><provider name> must not treat children under three years of age at the location <name> (repeat for each location it is to be applied to)</p>
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Example where there are multiple regulated activities and locations

<p>Multiple regulated activity and location example</p>	<p>A provider is applying for three regulated activities: TDDI, Diagnostics and Surgery.</p> <p>They have five locations. All three regulated activities are carried on at the five locations.</p> <p>Condition:</p> <p><provider name> must not treat children under the age of three.</p> <ul style="list-style-type: none"> • If we want to stop the provider treating children under three for all regulated activities and all locations, then we place the above condition against the three regulated activities. • If we want to stop the provider treating children under three at four of the five locations, we would write the conditions as below, and place it at the regulated activity level, and repeat for each regulated activity to which that same condition applies. <p><provider name> must not treat children under the age of three. This condition does not apply to location 5 (address)</p> <ul style="list-style-type: none"> • If we want to stop the provider treating children under three for all regulated activities, but only at two locations, then we place the condition below against the relevant location and repeat for each regulated activity. <p>At location 1 (address) , <provider name> must not treat children under three years of age</p> <ul style="list-style-type: none"> • If we want to stop the provider treating children under three for two regulated activities (for example, surgery, TDDI), but only at three of
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	<p>the five locations, we would place the condition below, under the regulated activity 'surgery' and 'TDDI' only. It would not be repeated at third regulated activity of surgery.</p> <p><provider name> must not treat children under the age of three. This condition does not apply to location 3 (address) and location 5 (address)</p>
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