

KNOW YOUR RIGHTS, OWN YOUR LIFE

Rights exist to protect and guide people. When we know how and when to use them, we gain the clarity to make decisions with confidence and the strength to act when it matters.

Knowing our rights can change our lives. It gives us the tools to make decisions that define our future.

HEALTH AND SOCIAL CARE ACT 2008

What You Need to Know and How It Can Help You

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OVERVIEW

The **Health and Social Care Act 2008** establishes and sets the statutory framework for the Care Quality Commission (CQC) as England's principal regulator of health and social care services. **The Act defines regulated activities; creates registration, inspection and enforcement powers; introduces national arrangements for information, review and public reporting; and amends multiple existing statutes to align regulation across health, social care and public health functions.** The Act also creates arrangements for **patient information governance, Healthwatch, review functions, and amendments to mental health and professional regulation.**

When an EHCP Must Be Issued

- **Part 1 (Chapters 1–6)** - Establishes the CQC: its constitution, functions, objectives, registration and inspection powers, enforcement, reporting and fees.
- **Registration regime** - Defines “regulated activities”, who must register to provide services and sets processes for grant, refusal, suspension and cancellation of registration.
- **Inspection and enforcement** - Grants inspection powers, entry and document requirements, warning notices, urgent procedures and criminal/penalty sanctions.
- **Public involvement & Healthwatch** - Establishes national and local arrangements (Healthwatch) for user involvement and local patient voice.
- **Reviews, investigations and performance assessments** - Powers to conduct systematic reviews of providers, local authorities and integrated systems and report findings publicly.

The Act creates a single, independent regulatory body to protect people who use health and social care services and to hold providers and public bodies to account through inspection, reporting and enforcement. It also strengthens transparency and public involvement so patients, carers and communities can access information about service quality and raise concerns.

GUIDANCE FOR FAMILIES AND SUPPORTED PEOPLE

The **Health and Social Care Act 2008** establishes clear legal protections and rights for people who receive health or social care support, including **children, young adults, and adults**. It strengthens how care is **regulated, monitored, and improved**, ensuring that people are treated with dignity, respect, and fairness, and that families and carers are involved in care decisions.

The Act gives a central role to the **Care Quality Commission (CQC)**, the independent regulator of health and social care in England. It ensures that providers meet **national standards of safety, quality, and compassion**, and that care users and their families can **voice concerns, participate in decisions, and expect accountability**.

Rights and Protections for Children, Young Adults, and Adults Receiving Care

Safety, Dignity, and Quality of Care

- Under **Part 1, Chapter 3**, the Act requires that all registered providers meet **fundamental standards of quality and safety**.
- The CQC sets and enforces standards to ensure that every person, child, young adult, or adult receives care that is **safe, effective, compassionate, and person-centred**.
- Families and carers have the right to expect that:
 - ↳ Health and social care providers are **registered and inspected** by the CQC.
 - ↳ Staff are **qualified, trained, and supported** to deliver high-quality care.
 - ↳ Services protect individuals from **abuse, neglect, and unsafe practices**.

Respect for Human Rights

- Section 145 clarifies that social care provision falls under **public function** for the purposes of the **Human Rights Act 1998**.
- Care providers must **uphold fundamental human rights**, such as privacy, dignity, and respect for every individual, whether living in their own home, supported housing, or residential care.

- Supported individuals and families can challenge any care decisions or treatment that violate these rights.

Equality and Inclusion

- The Act supports equality across age, gender, disability, ethnicity, and background.
- The CQC monitors whether providers make reasonable adjustments for people with disabilities and whether services are **inclusive and culturally responsive**.
- Families can use CQC reports to ensure services are accessible and fair.

Statement on User Involvement

- The CQC must publish a **Statement on User Involvement**, explaining how people who use services and their carers will be involved in shaping, evaluating, and improving care.
- This includes:
 - ↳ **Listening to feedback from supported people, children, and families.**
 - ↳ **Consulting families during inspections and reviews.**
 - ↳ **Making sure service providers actively seek and act upon the views of people they support.**

Participation in Decisions

- Families and supported individuals have the right to be **informed and involved** in decisions about their care and treatment.
- Providers must make sure people understand their options, and that information is given in **accessible formats** (for example, easy-read materials or interpreters).
- **Where individuals lack capacity, families and advocates must be involved in line with the Mental Capacity Act 2005.**

Complaints and Advocacy

Section 45 and Part 1, Chapter 6, require that the CQC and all registered providers have **clear systems for receiving and acting on complaints**. Families and individuals can:

- **Make formal complaints directly to the provider.**
- **Escalate concerns to the Care Quality Commission.**

- Use **Healthwatch England** or local **Healthwatch organisations** (Sections 45A–45D) to represent their voices and share feedback about care quality.

Safeguarding and Protection

1. Protection from Abuse and Neglect

- The Act gives the CQC powers to **investigate, inspect, and take enforcement action** if a provider fails to protect people from harm.

Inspections assess whether providers meet **safeguarding responsibilities**, including:

- ↳ **Protecting children and adults at risk.**
- ↳ **Having robust systems for whistleblowing and reporting abuse.**
- ↳ **Working with local authorities and safeguarding partners.**

2. Duty to Notify and Cooperate

- **Under Sections 38 and 39**, registered providers **must notify other authorities** (such as local authorities, NHS bodies, or police) of significant incidents or risks affecting people in their care.
- This ensures that concerns about safety, abuse, or poor standards are not hidden or ignored.

3. Health and Hygiene Protection

- Section 21 requires the Secretary of State to establish a **Code of Practice on Health Care Associated Infections**, ensuring providers prevent and control infections effectively.
- **Families and supported individuals can request to see a provider's infection control procedures and compliance evidence.**

Support for Young People in Transition to Adulthood

- In alignment with the **Children Act 2004** and **Care Act 2014**, the Act emphasises continuity of care as young people move from children's to adult services.
- Local authorities, NHS bodies, and providers must cooperate to ensure **smooth transitions**, particularly for young people with disabilities, learning differences, or long-term conditions.

- **Families should expect coordinated planning that involves:**
 - ↳ **Early transition assessments.**
 - ↳ **A designated care coordinator.**
 - ↳ **Support to maintain education, employment, and community participation.**

Involvement of Carers and Families

- Section 46A–46B extend the CQC’s powers to **review local authorities and integrated care systems, including how they work with carers and family members.**
- Families are recognised as partners in care, not just recipients of information.
- Carers can:
 - ↳ Participate in reviews or inspections as witnesses.
 - ↳ Provide feedback to the CQC and local Healthwatch.
 - ↳ Expect to be informed when changes to care arrangements are being made.

Access to Information and Transparency

- Sections 38 and 84 require the CQC and registered providers to **make information available to the public**, including inspection outcomes, compliance reports, and enforcement actions.
- **Families and supported people can:**
 - ↳ Access CQC inspection reports online.
 - ↳ Request details about a provider’s registration, staff qualifications, and safety record.
 - ↳ Review enforcement notices and quality ratings before choosing a care service.

Encouraging People to Make Informed Choices

- The Act supports **informed choice** by making service information transparent and by establishing **Healthwatch England** as an independent body representing the public voice.
- **Individuals and families can use this information to:**
 - ↳ Compare care services based on quality and safety ratings.
 - ↳ Participate in consultations and reviews.
 - ↳ Influence policy through feedback channels such as local Healthwatch networks.

This is how knowing our rights can change lives.

When families and young people understand what support they're entitled to, they can make informed choices, access the right services, and create new possibilities for their future. One inspiring example is Kelly experienced behaviours of concern that affected her ability to thrive in daily life. During the COVID-19 pandemic, she experienced a series of unsuccessful placements, making it challenging for her to feel safe and confident. Today, Kelly is thriving and continuing to make meaningful progress every day.

MORE



OBLIGATIONS AND DUTIES FOR COMMISSIONERS, PUBLIC BODIES AND LOCAL AUTHORITIES

This section highlights the Act's practical duties and how they affect commissioners, local authorities and other public bodies.

The Care Quality Commission (CQC) — Functions and Duties

- **Establishment and purpose:** The CQC is established to monitor, inspect and regulate services to ensure they meet fundamental standards of quality and safety; it must also publish information about the quality of those services.
- **Objectives and matters to regard:** The Commission's objectives include protecting and promoting the health, safety and welfare of people who use services. It must regard user involvement and specified national standards set by the Secretary of State.
- **Review and reporting duties:** The CQC must publish programmes of reviews and make annual reports on how it has discharged functions.

Registration and Regulated Activity: Duties of Commissioners and Providers

- **Registration requirement:** Anyone carrying on a "regulated activity" (as defined in the Act) must be registered with the CQC; registration is a precondition for lawful provision of those services. This affects providers commissioned by local authorities and ICBs: commissioners must ensure they purchase services from appropriately registered providers.

- **Registered manager requirement & conditions:** The Act provides for conditions on registration, registration of managers, and grounds for refusal, suspension or cancellation of registration, which are matters commissioners must check when contracting or monitoring services.

Quality Standards, Codes of Practice and Guidance

- The Secretary of State may set standards and the CQC may issue codes of practice (for example, on infection control and learning disability/autism training). Providers must follow these codes; commissioners should reference them in contracts and quality monitoring frameworks.

Inspections, Powers of Entry and Information-gathering

- **Inspection powers:** The Act gives the CQC statutory inspection powers and the ability to require documents, explanations and access to premises. Inspectors can carry out regular reviews and special investigations. Commissioners and local authorities may be required to cooperate with inspections and share information.
- **Avoiding unreasonable burdens:** The Act includes an explicit duty to avoid imposing unreasonable burdens when exercising regulatory powers and provides for coordination with other inspection bodies.

Enforcement and Sanctions

- **Warning notices, urgent procedures and appeals:** Where standards are not met, the CQC can issue warning notices, undertake urgent cancellations or suspensions, and take enforcement action, including prosecution for offences created by the Act. There are statutory appeals routes to the Tribunal for providers.
- **Penalty notices and publication of enforcement activity:** The Act provides for penalty notices and requires publication of enforcement action and related information so commissioners, local authorities and the public can see regulatory outcomes.

Interaction With Other Public Bodies and Duties on Commissioners/Local Authorities

- **Co-operation and delegation:** The CQC may delegate inspection functions or make arrangements with other public authorities; public bodies (including local authorities and NHS bodies) must cooperate and coordinate reviews or assessments. This formalises multi-agency working and places duties on commissioners to contribute to joint inspection programmes where required.
- **Healthwatch England & Local Healthwatch:** The Act creates statutory roles for Healthwatch England and local Healthwatch organisations to represent the people receiving care and the public, requiring public bodies to regard their findings and engage with them. Commissioners and local authorities should engage local Healthwatch in planning and service improvement.

Specific Duties Affecting Local Authorities

- **Public health protection and duties:** The Act amends existing public health legislation to clarify duties and inspection arrangements involving local authorities. Local authorities remain responsible for public health services and must cooperate with the CQC and other health bodies.
- **Safeguarding/children's services interaction:** The Act amends and interacts with the Children Act and other laws, requiring closer alignment between local authority children's services and CQC functions in areas such as children's homes and inspections. Commissioners must ensure services for children meet statutory safeguarding standards.

Governance, Transparency and Accountability

- **Publication of registers and information:** The CQC must make registers and inspection results available to the public; commissioners should use this published data for contract monitoring and public accountability.
- **Conflict of interest and governance reforms:** The Act amends various Acts (e.g., Health Act 1999, NHS Acts) to improve governance, public scrutiny, and reduce conflicts of interest in the system, which are relevant to commissioners and local authority oversight.

HOW INDIVIDUALS AND FAMILIES CAN TAKE PART AND BENEFIT FROM THE ACT

Know the regulator and use its published information

Check registration and inspection reports. The CQC's register and inspection reports are public. You should check whether a service provider is registered and read recent inspection findings before choosing care or raising concerns.

Use Healthwatch and local engagement routes

Contact the local Healthwatch. Healthwatch exists to gather people's experiences and represent them to commissioners and regulators. Individuals can raise concerns or feed into consultations through Healthwatch. Commissioners are required to engage with Healthwatch findings.

Participate in consultation and local planning

Respond to consultations and Joint Strategic Needs Assessments (JSNA). Local authorities and commissioners use JSNAs and joint strategies to plan services. By contributing to consultations and local Health and Wellbeing Boards, people can influence commissioning priorities that will be reflected in regulated provision.

Raise concerns and use statutory complaint/enforcement routes

Report poor standards. If users or families identify safety or quality issues, they can raise these with the provider, commissioners, Healthwatch, and the CQC. The Act gives the CQC powers to investigate, issue warnings, suspend or cancel registration, and publish enforcement actions, making raising concerns meaningful.

Understand rights in services for children and vulnerable adults

The Act strengthens the intersection with children's services and public health duties. **Families should expect providers to meet registered standards and to cooperate with local authorities on safeguarding.** Use inspection reports and local safeguarding boards to understand how providers perform.

Use published codes, guidance and standards to ask informed questions

Ask providers about compliance with codes. The Act requires codes (e.g., infection control, learning disability training). Individuals and families can ask providers and commissioners how they comply with relevant codes and request evidence or outcomes.

Where to escalate?

If local action fails and does not resolve serious concerns, the Act's enforcement/penalty regime and Tribunal appeal routes can be referenced by legal advisers, watchdogs, or advocacy organisations supporting people receiving care. The CQC's published enforcement outcomes also enable public scrutiny.

Original Sources:

<https://www.legislation.gov.uk/ukpga/2008/14/contents/data.pdf>

Introduced by:

Alan Johnson, Secretary of State for Health (House of Commons)

Commencement: 1 October 2008, through a series of Commencement Orders issued between 2008 and 2014.