Care Quality Commission (CQC)

Basics	**Web site**	http://www.cqc.org.uk
	Geographical coverage	England
Constitutional Aspects	**Legal Framework/Basis**	The CQC began its work in April 2009 and replaced the Commission for Social Care Inspection, the Healthcare Commission and the Mental Health Act Commission. The Care Quality Commission was created by the Health and Social Care Act (HSC Act) 2008, and its statutory functions are also laid out in Health and Social Care Act 2012, which established Healthwatch England, and which provided for the CQC to take responsibility for National Information Governance for users of health and social care. The Care Act 2014 provided for market oversight by the CQC, a warning regime for NHS trusts and provision for reviews and assessment of providers. (http://www.opsi.gov.uk/acts/acts2008/ukpga_20080014_en_1) The powers and functions of the CQC are set out in general terms under the Health and Social Care Act 2008, although it retains specific powers and duties to monitor psychiatric detention under the Mental Health Act (MHA)1983. It is now bound by the MHA 2007 which laid out key changes to the 1983 Act, including changing the definition of Mental Disorder. Under the Mental Capacity Act 2005 the CQC has responsibility to monitor and report on activity under deprivation of liberty safeguards.
	Independence	The Care Quality Commission 'is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown', s.1(1) Schedule 1 of the Health and Social Care Act 2008. It is, however, an 'arm's length' body of the Department of Health.
	Financial Independence	Currently the CQC receives 'grant-in-aid' from the Department of Health as well as charging fees to service providers. Current Government Policy is for the CQC to become fully funded by 'full chargeable cost recovery' (FCCR) and over the last few years its fees have increased whilst funding from the Department of Health has decreased. As of April 2017, service providers have been charged for their regulation by the CQC. All registered providers pay a single annual fee.
Membership	**Composition of body**	A Chair appointed by the Secretary of State, and 'other members so appointed', s.3(1) Schedule 1 Health and Social Care Act 2008. 'The Secretary of State must exercise the powers in sub-paragraph (1) so as to secure that the knowledge and experience of the members of the Commission (taken together) includes knowledge and experience relating to health care, social care and the Mental Health Act 1983 (c. 20)', s.3(2) Schedule 1, of 2008 Act. The Chair and Chief Executive are members of the Board, which currently comprises thirteen members (it can comprise up to 15 members). Non-executive members comprise the majority of the board. Executive members include the Chief Executive, the Chief Inspector of Hospitals, the Chief Inspector of Adult Social Care, the Chief Inspector of General Practice and the Executive Director of Strategy and Intelligence. The board meets 11 times per year. The Executive Team is currently composed of five members, each of whom is in charge of a department/division.

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	Appointment	The Secretary of State appoints the chair of the Commission as well as the members, as set out in s.3 Schedule 1 of the Act. Non-executive board members are public appointees, appointed by the Secretary of State for Health. Non-executive members may be appointed for a period of up to 4 years, renewable up to a maximum tenure of 10 years. Persons undertaking visiting functions in relation to psychiatric detention (known as 'Mental Health Act Commissioners') are 'office holders', independent of CQC but remunerated on a part-time basis for their activity.
	Expertise	MHA Commissioners are appointed by CQC on the basis of interview, and are required to show sufficient experience and expertise to fulfil their monitoring function. CQC maintains a full-time administrative and policy staff with expertise in mental health law and practice.

Visiting Mandate	**Places of deprivation of liberty to be visited**	S. 120(3) of the MHA 1983 requires CQC to make arrangements for persons authorised by it to visit and interview patients who are detained under the Act in the places where they are detained, and in the case of other relevant patients, in hospitals and regulated establishments and, if access is granted, other places. S.60 of the HSC Act 2008 sets out general powers of inspection (relevant, for example, to persons subject to Deprivation of Liberty Safeguards (DoLS)). This provides: (1) The Commission may for the purposes of its regulatory functions carry out inspections of— (a) the carrying on of a regulated activity, (b) the provision of NHS care, (c) the provision of adult social services, or (d) the exercise of functions by an English NHS body.
	Frequency of visits	The MHA 1983 allows CQC full discretion over the frequency of its visits to places of detention. Current policy is to visit any psychiatric ward where patients are detained at no more than eighteen month intervals. Many wards are visited more frequently than this, according to perceived need. S.61 of the HSC Act 2008 allows that Regulations may prescribe the frequency with which inspections are to be carried out under s.60. No such regulations are currently in force.

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	Types of visits	Under its MHA remit, CQC undertakes announced, short-notice and unannounced visits to psychiatric wards. The MHA affords visiting Commissioners complete access to patients, premises and records, including medical records. Under its broader HSC Act remit, CQC is also enabled to visit hospitals and care homes unannounced, and does make such visits. Visits may also be announced in advance. S.63 (6) of the HSC Act (a) require any person to afford such facilities and assistance with respect to matters within the person's control as are necessary to enable to exercise powers under section 62 and 63, and (b) take such measurements and photographs, and make such recordings, as CQC considers necessary to enable it to exercise those powers. Under both Acts it is an offence to obstruct a CQC person in gaining such access, or carrying out their legitimate business.
	Private interviews	S.120 (3) of the MHA requires MHA Commissioners to visit and interview detained patients in private. There are no limitations on this power (i.e. in terms of whether the MHA Commissioner holds any medical qualification, in contrast to general powers under the HSC Act below) General powers, which are slightly more limited than those under the MHA, stem from the HSC Act. Under s.63(2)(f) of the HSC Act, 'a person ("A") who is authorised by virtue of section 62 to enter and inspect premises may interview in private (i) any person who carries on or manages a regulated activity, or who manages the provision of NHS care or adult social services, at the premises, (ii) any person working at the premises, and

		(iii) any person receiving care at the premises who consents to be interviewed, and (g) if the conditions in subsection (3) are met, examine in private any person receiving care at the premises. (3) The conditions are— (a) A is a registered medical practitioner or registered nurse, (b) A has reason to believe that the person to be examined is not receiving proper care at the premises, and (c) the person to be examined— (i) is capable of giving consent to the examination and does so, or (ii) is incapable of giving consent to the examination.'

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	Access to information	S.120(7) of the MHA allows MHA Commissioners to require, at any reasonable time, the production of records relating to the detention or treatment of any person who is or has been detained under the powers of the Act, and to inspect those records. S.120C of the MHA further requires managers to provide any information, including documents and records, to the CQC upon request. Under s.64 (1) of the HSC Act, the Commission may require any information, documents, records (including personal and medical records) or other items which the Commission considers it necessary or expedient to have for the purposes of any of its regulatory functions.
	Publication of findings after visits	The MHA (s.120A) allows CQC to publish reports on its reviews or investigations, but allows that regulations may make provision for the procedure to be followed. No such regulations are currently in force. CQC makes an annual report on MHA matters to every Trust and independent provider visited, and publishes these on its website. The MHA s.120C requires CQC to publish an annual report on its activities, which must be laid before Parliament by the Secretary of State.
	Coordination of visits	s.67 HSC Act: 'Co-ordination of reviews or assessments. The Commission must promote the effective co-ordination of reviews or assessments carried out by public bodies or other persons in relation to the carrying on of regulated activities'. ss.69-70 69 Co-operation between the Commission and Welsh Ministers (1) The Commission and the Welsh Ministers must co-operate with each other for the efficient and effective discharge of their corresponding functions. (2) Their corresponding functions are— (a) the Commission's functions, and (b) any functions of the Welsh Ministers exercisable in or in relation to Wales which correspond or are similar to any of the Commission's functions. (3) The Commission and the Welsh Ministers may share information with each other for the purposes of subsection (1). 70 Co-operation between the Commission and the Independent Regulator of NHS Foundation Trusts

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		(1) The Commission and the Independent Regulator of NHS Foundation Trusts must co-operate with each other in the exercise of their respective functions. (2) In particular— (a) the Commission must keep the Independent Regulator informed about the provision of health care by NHS foundation trusts, and (b) the Independent Regulator must give the Commission any information the Independent Regulator has about the provision of health care by an NHS foundation trust which the Independent Regulator or the Commission considers would assist the Commission in the exercise of the Commission's functions. (3) Without prejudice to subsection (2)(a) the Commission must, on request, provide the Independent Regulator with any material relevant to— (a) a review under section 46 or 49, (b) a review or investigation under section 48, or (c) a study promoted, or undertaken, by the Commission under section 54, so far as the material relates to the provision of health care by an NHS foundation trust.
Other Aspects of Mandate	**Recommendations and suggestions for amendments to legislation**	The predecessor body to CQC, the Mental Health Act Commission, was involved in consultation over statutory changes, and had a statutory role to advise the Secretary of State on the content of the MHA Code of Practice. CQC continues to be involved by Department of Health officials in proposals for changes, and although it has no specific statutory duty to advise on the content of the Code of Practice, it can do so under its general powers of keeping the operation of the Act under review.
	Preventive activities	CQC views its regular visiting as a preventative function. It also provides patient information leaflets, service-user involvement in its work, and administers the second opinion appointed doctor system.
Standards	**Legal standards applied**	CQC applies quasi-legal standards set out in the MHA Code of Practice, and in registration requirements under the HSC Act. It has powers to require action statements of bodies and, ultimately, can require changes in practice as a condition of continued registration for hospital premises. The CQC is also bound to observe fundamental standards found in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. The CQC is accountable through its reports, and through engagement with stakeholders and public consultation. The DH/CQC Framework Document sets out the CQCs reporting and accountability standards. The CQC is formally accountable to the Secretary of State for Health, who has power to make directions to the CQC in the event of a failure.
Reports	**Annual reports**	The MHA s.120C requires CQC to publish an annual report on its activities, which must be laid before Parliament by the Secretary of State. Annual reports as well as other reports are published on the CQC web site.