

Regulation 17: Notification of death or unauthorised absence of a service user who is detained or liable to be detained under the Mental Health Act 1983

Care Quality Commission (Registration) Regulations 2009: Regulation 17

The intention of this regulation is that CQC is notified of certain events in relation to patients detained under the Mental Health Act 1983, so that we can take follow-up action where needed.

These events are:

- (a) the death of any person liable to be detained under the Mental Health Act 1983, wherever that death takes place;

- (b) the unauthorised absence of any person liable to be detained under the Mental Health Act 1983 from an inpatient psychiatric unit classed as low, medium or high security, when that absence occurs past midnight on any given day; and
- (c) The return from unauthorised leave of any person reported under (b) above.

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

17.—

1. The registered person must notify the Commission without delay of the death in any location or unauthorised absence from a relevant location of a service user who is liable to be detained by the registered person—
 - a. under the Mental Health Act 1983 ("the 1983 Act"); or
 - b. pursuant to an order or direction made under another enactment (which applies in relation to England), where that detention takes effect as if the order or direction were made pursuant to the provisions of the 1983 Act.
2. Notification of the death of a service user must include a description of the circumstances of the death.
 - 2a. The registered person must notify the Commission without delay of the return to a relevant location after a period of unauthorised absence of a service user whose absence is required to be notified under paragraph (1).

3. In this regulation—

- a. references to persons "liable to be detained" include a community patient who has been recalled to hospital in accordance with section 17E of the 1983 Act, but do not include a patient who has been conditionally discharged and not recalled to hospital in accordance with section 42, 73 or 74 of the 1983 Act;
- b. "community patient" has the same meaning as in section 17A of the 1983 Act;
- c. "hospital" means a hospital within the meaning of Part 2 of that Act; and
- ca. "relevant location" means a location used to provide secure psychiatric services under a contract with an English NHS body(1) or the Secretary of State.

Guidance

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

Guidance on 17

Unauthorised absences of a person liable to be detained under the Mental Health Act 1983 (also known as absence without leave or AWOL) are notifiable ONLY when:

- (a) the absence is from an inpatient unit designed as low, medium or high security (Reg 17(3)(ca)); AND
- (b) the person is still absent after midnight on the day their absence began.

Services should remember to report the return to hospital of a patient previously reported as on unauthorised absence (Reg 17(2a)).

The death of any patient liable to be detained must be notified to CQC under this regulation. This is not dependent on the security level of the inpatient unit which was the detaining authority for the patient, nor where nor how that death occurred.

Regulations require notifications to be made 'without delay'. Services may note that CQC operates office hours in respect of such notifications.

© Care Quality Commission