

Department of Health

**Scope of performance assessments of providers regulated by the
Care Quality Commission**



A response by the Association of Personal Injury Lawyers

October 2016

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation with a 20-year history of working to help injured people gain access to justice they need and deserve. We have around 3,500 members committed to supporting the association's aims and all of which sign up to APIL's code of conduct and consumer charter. Membership comprises mostly solicitors, along with barristers, legal executives and academics.

APIL has a long history of liaison with other stakeholders, consumer representatives, governments and devolved assemblies across the UK with a view to achieving the association's aims, which are:

- To promote full and just compensation for all types of personal injury;
- To promote and develop expertise in the practice of personal injury law;
- To promote wider redress for personal injury in the legal system;
- To campaign for improvements in personal injury law;
- To promote safety and alert the public to hazards wherever they arise;
- To provide a communication network for members.

Any enquiries in respect of this response should be addressed, in the first instance, to:

Alice Warren, Legal Policy Officer

APIL

Unit 3, Alder Court, Rennie Hogg Road, Nottingham, NG2 1RX

Tel: 0115 9435428; Fax: 0115 958 0885

e-mail: alice.warren@apil.org.uk

Introduction

As an association which aims to promote safety and alert the public to hazards, we welcome the CQC's proposals to extend assessment and publication of performance ratings to a wider range of health and adult social care providers.

We would particularly welcome proposals to introduce performance ratings for cosmetic surgery providers and refractive eye surgery providers. Our members have experience of the problems and devastating consequences that can arise from these procedures if they are carried out negligently. Performance ratings will go some way towards ensuring safety in this area, as a requirement to display ratings will drive up standards, and providing transparent access to information will allow the patient to make a fully informed choice as to which provider to use.

General comments

We would welcome the publication of performance ratings of a wider range of services as, in line with the duty of candour; this would increase transparency and should help to improve standards.

Cosmetic surgery

Cosmetic surgery is on the rise in the UK, with 51,000 people undergoing procedures in 2015. This was a 13 per cent increase on 2014 levels¹. We believe that this area in particular would benefit from performance ratings and publication of those ratings. Experience of our members suggests that some providers spend a lot of money attracting potential patients, but once the patient is signed up, the care and post-operative process leave much to be desired. In particular with cosmetic surgery, a lot of patients are in a vulnerable position. Without access to the right information to help them make an informed choice, they will be open to exploitation.

Those considering cosmetic surgery should be able to find a clinic and surgeon that they trust, and performance ratings will provide them with fuller information on the safety and quality of services provided. Our members come into contact with many people who have been injured through cosmetic procedures and as a result have had to endure further corrective surgery and in some cases lasting scars which will have had an impact on their mental health. For example, a claimant had breast augmentation surgery in October 2012. In March 2015, she discovered an issue with her left breast. Her surgeon told her there was not a problem, and in May 2016, the claimant sought a second opinion. Symmastia was diagnosed, in addition to a ruptured implant. The patient was advised that the symmastia had been caused by an over-dissection of the muscle. Three further operations are now required.

A further example is a patient who underwent breast augmentation surgery in April 2016. During the procedure, the patient suffered a third degree burn on her left thigh, measuring 3cm. This was caused by the diathermy machine being placed on her unprotected leg. The

¹ <http://baaps.org.uk/about-us/press-releases/2202-super-cuts-daddy-makeovers-and-celeb-confessions-cosmetic-surgery-procedures-soar-in-britain>

claimant has been left with substantial scar tissue and numbness. She is also suffering psychologically, and will no longer wear items of clothing which reveal the scar.

We hope that performance indicators will mean that providers focus on delivering the best quality and safest service they can, and not simply getting as many people through the door as possible. Ratings should also allow the patient to choose a provider they feel comfortable with.

A further issue, which we hope the CQC will be able to address when introducing ratings, is that a case brought by an injured claimant will invariably be against the surgeon themselves, as an independent contractor. If the CQC's ratings are to be of use to the potential patient, they must focus on the individual surgeons and not simply the whole provider. If the ratings relate only to the provider, it will be difficult to get a clear and accurate picture of the quality of the work carried out there because it is likely that a large number of surgeons operate out of the clinic as independent contractors, and there will be variations in quality of service and care provided by each of those surgeons.

We would also recommend that the CQC's ratings also provide an indication of whether the surgeon has the correct insurance in place so that if something does go wrong, the injured patient will have a route to redress.

Eye surgery providers

Another area in which we welcome the proposal to extend performance assessments is for providers of refractive eye surgery. Patients can be referred to these eye surgery providers by the NHS, so it is important that they are subject to scrutiny and CQC assessment.

As with cosmetic surgery, there is a growing trend for people to have this kind of surgery. Providers are in abundance, but if things go wrong, there can be devastating consequences. It is important that people have the right information to allow them to make an informed choice before selecting a provider. For example, one member has reported a case where a claimant underwent lens replacement surgery, to assist him in not requiring glasses to read. Following the procedure, he experienced blurriness in both eyes. The patient states that the risks and benefits, and the various options for refractive surgery, were not explained to him before he underwent the surgery, so he was not able to make an informed decision. He now has to wear corrective glasses and finds it impossible to drive at night. He has been advised that he will need to undergo corrective surgery.

Ratings assessments will look at the care and support given to patients in these circumstances, which should go some way towards improving the level of support and information given to the patient, to avoid situations such as the above.

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- ▶ 3 Alder Court, Rennie Hogg Road, Nottingham, NG2 1RX ● T: 0115 958 0585
- E: mail@apil.org.uk ● W: www.apil.org.uk