Royal College of Nursing

Response to Care Quality Commission's consultation

'Our Next Phase of Regulation'

General Comments

As noted in our response last year to the first part of this consultation exercise, we support the overall direction of travel being proposed for the regulation of the English health and social care system.

We were pleased to see that the Care Quality Commission's (CQC) response to that consultation addressed most of our concerns, and our responses to this consultation reflects and builds upon that submission.

We would still welcome further detail on how integrated services will be inspected, and specifically on our suggestion that the CQC explore the Ofsted approach, of having different components of a patient's journey inspected by an expert in each component. We would also like to see more weight given by the inspection regime to staff experience, not least because of its ability to provide additional data by which to gauge the quality of patient care and experience.

The future of the English health and care system is being shaped by both structural and funding pressures, including workforce recruitment and retention. While securing fit for purpose regulation must be a key aim, the CQC must also ensure that it uses its insight and findings to equip the system's commissioners and funders so that safety, quality and outcomes are maintained and improved.

Responses to questions

PART 1: REGULATING IN A COMPLEX CHANGING LANDSCAPE

1.1 Clarifying how we define providers and improving the structure of registration

1a What are your views on our proposal that the register should include all those with accountability for care as well as those that directly deliver services?

We agree with the proposals:

- to provide clearer information to the public about who owns a provider, what services they provide and to whom, and where they are located;
- to provide greater clarity about who needs to register;
- to change the way data on services is held.

We say this on the basis of agreement with the underlying principle, that anyone receiving care from a health and social care provider should be fully cognisant of who is ultimately responsible for the way those services are provided.

1b What are your views on our proposed criteria for identifying organisations that have accountability for care?

We agree with the criteria given, that registration should:

- include any entity that manages, delivers or processes systems that provide assurance, auditing or quality improvement for the quality and safety of delivered regulated activity;
- require providers of regulated activity to submit consolidated annual budgets in advance for approval;
- have the right of veto over financial plans such that any organisation providing regulated activities is unable to carry on its business until it has agreed them;
- develop and directly enforce policies such as staffing levels, clinical policy, governance, health and safety, pay levels, and procuring supplies that must be adhered to by an organisation providing regulated activity;
- have the right to make employment decisions about:
    - those working or seeking work for the organisation
    - those running or seeking to run the settings providing the regulated activities
    - board membership, where the board is responsible for holding to account either services or organisations delivering regulated activity.

We see these proposals as being the most practical method to achieve absolute clarity about who is ultimately accountable for an organisation providing services.

However, we contest the assertion that organisations such as 'Hedge Funds and other types of investors' do not as a matter of course exert influence over operational matters. We believe that as investors they may well seek to influence key decisions around expenditure, and on that basis want to see them included on the register, if only to ensure those people choosing services (for instance, independently owned residential care or domiciliary services) are made fully aware of the 'chains of command' for each and every potential provider.

2 We have suggested that our register show more detailed descriptions of services and the information we collect. What specific information about providers should be displayed on our register?

We agree with the additional information proposed in the consultation, so that the register will include:

- the type of service provided;
- who the service is provided for;
- what type of setting it is provided in;
- where it can be found;
- where relevant, how much care is provided.

We would also like to see this data set include the numbers and categories of staff at each establishment (e.g. registered nurses, healthcare support workers) and, where appropriate, their professional qualifications.

1.2 Monitoring and inspecting new and complex providers

3a Do you agree with our proposals to monitor and inspect complex providers that deliver services across traditional hospital, primary care and adult social care sectors?

We agree with the proposals to:

- identify a single CQC relationship-holder for each complex provider, working alongside a named lead for each service;
- align information collection and create a single regulatory plan;
- coordinate inspection activity within defined periods, excepting for focused inspections undertaken in response to concerns;
- assess leadership and governance across all services when assessing under 'well-led' questions, for NHS Trusts, and at provider-level in other sectors;
- trial this approach with some Accountable Care Organisations and Systems.

3b Please explain the reasons for your response.

We believe these proposals to be the most practicable way to ensure accurate and effective regulation of complex providers.

However, we would like more detail on how the approach will aim to address care structures which encompass a variety of differently funded organisations, i.e. direct public, indirect public and self-pay, that are increasingly likely to provide care across a patient's care pathway.

1.3 Provider-level assessment and rating

4a Do you agree that a provider-level assessment in all sectors will encourage improvement and accountability in the quality and safety of care?

We neither agree nor disagree with this proposition.

4b What factors should we consider when developing and testing an assessment at this level?

We believe that any assessment must be sufficiently nuanced to reflect the specificities of the organisation, while also being robust enough to prevent inspectors from interpreting in a way that could undermine its veracity. We support the inclusion of a well-led inspection framework, since this is one of the key methods for determining how well a service is providing safe, high-quality care.

1.4 Encouraging improvements in the quality of care in a place

5a Do you think our proposals will help to encourage improvement in the quality of care across a local area?

We agree with the proposals to:

- use monitoring and inspection of individual providers to assess how well services are working together and the impact on patient experience;
- use insight about quality at a place-level to understand individual providers' context;
- use this gathered insight to influence at the national, regional and local level, and highlight cross-system issues;
- undertake targeted reviews to identify improvements to the health and care system to improve services.

We believe this approach will provide an evidenced and coherent approach to improving the quality of care at all levels of the health and care system, as long as it is supported by robust monitoring and evaluation, and underpinned by sound quality improvement methodology.

5b How could we regulate the quality of care services in a place more effectively?

We note that there is no reference to staff experience in the consultation. There is a good body of evidence to support staff experience data as being a useful metric by which to gauge the quality of patient experience, and by extension the quality of care being delivered[1]. On that basis we would like to see the CQC include national staff survey data and local intelligence on staff experience as part of the inspection and regulatory process.

PART 2: NEXT PHASE OF REGULATION

2.1 Primary medical services

6a Do you agree with our proposed approach to monitoring quality in GP practices?

We strongly agree with the proposed approach to:

- have a more consistent approach to working with providers and other stakeholders;
- introduce an annual online provider information collection facility;
- introduce a new Insight model to alert inspectors to changes in the quality of care;
- explore information about the quality of care in local areas or within large-scale models of primary care;
- focus inspections on the issues highlighted via monitoring or cross-sector planning;
- increase the period between inspections for services rated as good or outstanding;
- maintain comprehensive inspections for new providers and practices that have been rated as requires improvement or inadequate;
- review quality of care where it is assessed and rated for different population groups.

6b Please give reasons for your response.

We welcome the structured approach being proposed for monitoring quality.

We especially welcome the triangulation of provider information, insight and data gathering, and the proposal to develop and maintain better relationships across the full range of bodies involved in and with the provision of care, including Royal Colleges. We believe that these proposals will improve both the system's governance and the resultant outcomes.

However, as with any new approach, we recommend that it be robustly monitored and evaluated, especially in relation to the ongoing information gathering, to ensure that it is sufficient and robust enough for purpose.

7a Do you agree with our proposed approach to inspection and reporting in GP practices?

We strongly agree with the proposals to:

[1] Boorman S (2009) NHS Health and Well-being: Final Report, London: Department of Health. Available from: http://webarchive.nationalarchives.gov.uk/20130103004910/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_108799 (accessed 02/08/17)

- have maximum inspection times set by rating and monitoring information;
- be more flexible in the use of announced, short notice and unannounced inspections;
- inspect complex care models with teams that include adult social care and hospital inspectors;
- undertake focused inspections for providers rated as good or outstanding, focusing on key questions, populations groups or care pathways.

7b Please give reasons for your response.

We feel this is a more proactive approach that will generate more detailed and meaningful inspection data.

8a Do you agree with our proposal to rate population groups using only the effective and responsive key questions? (Safe, caring, and well-led would only be rated at practice level.)

We strongly agree with this proposal.

8b Please give reasons for your response.

We believe this will provide much clearer and therefore more useable outputs for stakeholders.

We also want to see more reviews being undertaken generally of 'care pathways', to better reflect the way in which most patients and service users experience care.

9a Do you agree with our proposal that the majority of our inspections will be focused rather than comprehensive?

We agree with this proposal.

9b Please give reasons for your response.

We believe that this will ensure a better use of the resources currently available to the CQC.

However, as this will be based on the quantity and quality of information and intelligence available, it will be imperative that the CQC is able to assure the data upon which its inspection regimen is operated.

We are aware of the piloting that the CQC is currently undertaking with GPs and Urgent Care Centres across four regions, and expect to see any learning obtained from that work used to inform the development of these inspections.

10a Do you agree with our proposed approach for regulating the following services?

i. Independent sector primary care

We strongly agree with these proposals:

- to bring independent providers under the same categorisation as those in the NHS;
- to assess them using the same approach used for general practice.

We believe this will make for a more consistent approach and make it more understandable to the general public.

ii. NHS 111, GP out-of-hours and urgent care services

We strongly agree with these proposals to:

- strengthen relationships with the providers;
- align information requests with those of other agencies;
- align the CQC insight model with NHS England's Integrated Urgent Care Key Performance Indicators;
- continue with comprehensive inspections, but with increased focus on any issues that emerge through monitoring;
- inspect NHS111, GP out-of-hours and Urgent Care services across an area at the same time, where possible.

We believe this will make for a more consistent approach and make it more understandable to the general public.

iii. Primary care delivered online

We strongly agree with the proposals to make judgements about these services based on the five key questions and to take action where care is not considered to be safe. We believe this is the best way, under current regulatory arrangements, to provide the level of assurance that the general public would expect.

iv. Primary care at scale

We strongly agree with the proposal to take a flexible and responsive approach, basing it on the current GP inspection regime as and until there are firmer structures in place.

10b Please give reasons for your responses.

This is a developing area of care provision, and on that basis we welcome the CQC's proposals to align where possible with existing similar arrangements, on the basis that most users will expect, and deserve, equity of approach in their regulation.

2.2 Adult social care services

11a Do you agree with our proposed approach to monitoring quality in adult social care services, including our proposal to develop and share the new provider information collection as a single shared view of quality?

We agree with the proposals to:

- take a more consistent approach to working with providers and other stakeholders;
- introduce an online provider information collection and share information with key stakeholders;
- develop a new CQC Insight model to collate information about all the locations of a provider;
- increase the period between comprehensive inspections for services rated as good and outstanding;
- increase focused inspections, to include an assessment of the well-led key question;
- remove the 'six-month limit', which only allows a change to be made of an overall rating if a focused inspection is carried out within six months of the last comprehensive inspection;

- extend the time for gathering views about the quality of services providing domiciliary care;
- increase the focus given to services rated as requires improvement.

11b Please give reasons for your response.

We believe these changes will support the CQC's aim to increase the quality of care provided by the sector and enable it to better target its resources.

We especially welcome the proposal to introduce an online provider information collection and share information with key stakeholders. We believe this will be helpful in wider activity and planning across health and care economies; however, the format and access to new datasets need to be agreed with local authorities and any other key stakeholders.

12a Do you agree with our proposed approach to inspecting and rating adult social care services?

We neither agree nor disagree with the proposals to:

- use registration, risk and rating information to target inspection activity;
- carry out comprehensive inspections every 2.5 years for good services and every 3 for outstanding;
- undertake all focused inspections through the well-led key question;
- remove the 'six-month limit' rule to ratings;
- develop and use a 'toolkit of methods' to be used as part of a new flexible approach for the inspection of domiciliary care.

12b Please give reasons for your response.

We support the new scope of inspections in adult social care settings, but have some concerns about the proposed scheduling.

Inspection regimes need to be responsive to a changing situation in a home or business, such a change in the manager or key care staff; a period of three-yearly inspections for an 'outstanding' home may not enable this. Further to this point, we also feel that those rated as 'good' should not have to wait more than two years before they can be upgraded to 'outstanding'.

13a Do you agree with our proposed approach for gathering more information about the quality of care delivered to people in their own homes, including in certain circumstances announcing inspections and carrying out additional fieldwork?

We agree with the proposal to develop and use a 'toolkit of methods' as part of a new flexible approach for the inspection of domiciliary care.

13b Please give reasons for your response.

We welcome the CQC's focus on improving the inspection process in this setting. Alongside the methods outlined in the consultation document, any inspection taking place in a person's home must also be planned and take account of their significant others, including their families, where appropriate.

14a Do you agree with our proposed approach for services which have been repeatedly rated as requires improvement?

We agree with the approach, to:

- ask for a written report setting out how they will go about tackling the problems;

- ask for an action plan that is agreed with both the provider and its commissioner;
- hold a formal management review meeting to consider and plan next steps, including enforcement, in the event of a third occurrence.

14b Please give reasons for your response.

We are pleased to see greater focus given to provider-level accountability and governance for the quality of care. This is particularly important at group level, as operators need to support and invest in improvements and developments in care and service provision.

PART 3: FIT AND PROPER PERSONS REQUIREMENT

15a Do you agree with the proposal to share all information with providers?

We agree with this proposal.

15b Do you think this change is likely to incur further costs for providers?

It may incur further costs, but this may well be proportionate to the additional safety offered to those receiving services. On this basis we recommend a trial is undertaken of this new process, supported by a review and evaluation of its impact and benefits.

16 Do you agree with the proposed guidance for providers on interpreting what is meant by "serious mismanagement" and "serious misconduct"?

We agree with the proposed guidance (Annex A, at 61 of the consultation document), as it will offer greater clarity about the obligations and responsibilities of those holding such roles.

We note that nurses and midwives registered with the Nursing and Midwifery Council (NMC) must follow the professional standards of behaviour and practice as laid down in the Code.[2] We suggest that where an individual practitioner is accountable to a heath regulator, this should be acknowledged and considered to inform judgements and outcomes.

With a membership of around 435,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the Royal College of Nursing (RCN) is the voice of nursing across the UK and the largest professional union of nursing staff in the world. RCN members work in a variety of hospital and community settings in the NHS and the independent sector. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European political institutions, trade unions, professional bodies and voluntary organisations.

August 2017

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[2] Nursing & Midwifery Council (2015) The Code: Professional standards of practice and behaviour for nurses and midwives, London: NMC. Available from: https://www.nmc.org.uk/standards/code/ (accessed 02/08/17)