



RCN Policy and International Department
Policy briefing 06/14
February 2014

New Fundamental Standards in England

A Briefing on the Department of Health's 'Introducing
Fundamental Standards: Consultation on proposals to
change CQC registration regulations'

RCN Policy and International Department
020 7647 3723
policycontacts@rcn.org.uk
www.rcn.org.uk/policy

Introduction and context

The Department of Health (DH) are proposing to change some of the underpinning legislation that sets out the rules for registration of health and social care providers with the Care Quality Commission (CQC).¹ This only affects those organisations delivering health and social care in England. But it will affect all nurses working in health and social care across England as these standards should be met every day, in every care setting. If the CQC finds that they are not, they can take action, in extreme closing a ward or an organisation. If CQC are concerned about individual nurses practice, they will raise those concerns with the Nursing and Midwifery Council.

The Department is making changes as part of their response to the Mid Staffordshire NHS Foundation Trust Public Inquiry (the Francis Inquiry). The Francis Inquiry suggested that there be “a set of fundamental standards, easily understood and accepted by patients, the public and healthcare staff, the breach of which should not be tolerated.”²

Other reports and inquiries have also played a role in making the case for change, including The Winterbourne View Review, The Berwick Review into Patient Safety and The government’s Red Tape Challenge.

In the Royal College of Nursing’s (RCN) response to the Francis Inquiry, we said that we support the: “development of fundamental standards to underpin regulation: we want the RCN’s own principles of nursing practice to form part of these”.³

The aim of this briefing is to:

- raise awareness of these proposed changes as it will apply to organisations that deliver health and adult social care across England
- seek our members’ views on the changes

We want to know:

- 1) Do you agree with the fundamental standards?
- 2) Can the organisation you work for meet these standards?
- 3) What do you see as the barriers and enablers to meeting these standards in your day to day clinical practice?

You can share your views by contacting policycontacts@rcn.org.uk by **10 March 2014**.

Previous work relating to fundamental standards

Much work has already been done to identify what is ‘fundamental’ to good care. The DH recognise our own Principles of Nursing Practice, as well as work by others.

Initial proposals for the new fundamental standards were also set out in the CQC’s consultation, *A New Start*, in 2013. We responded to this consultation, said that the fundamental standards needed some refinement including making statements in relation to organisations and not just individuals.⁴

¹ Full details of the consultation are available [here](#)

² [The Francis Inquiry](#), 2013 p.4

³ [Mid Staffordshire NHS Foundation Trust Public Inquiry Report: Response of the Royal College of Nursing](#), 2013 p.62

⁴ [RCN Response to CQC Consultation: A New Start](#), 2013

The new fundamental standards

The new fundamental standards are set out in draft legislation but the DH summarise them, as seen below:

- (a) care and treatment must reflect service users' needs and preferences;
- (b) service users must be treated with dignity and respect;
- (c) care and treatment must only be provided with consent;
- (d) all care and treatment provided must be appropriate and safe;
- (e) service users must not be subject to abuse;
- (f) service users' nutritional needs must be met;
- (g) all premises and equipment used must be safe, clean, secure, suitable for the purpose for which they are being used, and properly used and maintained;
- (h) complaints must be appropriately investigated and appropriate action taken in response;
- (i) systems and processes must be established to ensure compliance with these Fundamental Standards;
- (j) sufficient numbers of suitably qualified, skilled and experienced staff must be deployed to meet these standards;
- (k) persons employed must be of good character, have the necessary qualifications, skills and experience, and be capable of performing the work for which they are employed.

The DH proposals also mean that there will no longer be 'expected standards', which were previously set out as being standards that sat above the fundamental standards.

The DH proposals should also make it easier for the CQC to prosecute, as there will no longer be a requirement for issuing a warning notice. This decision will rest with CQC, and DH suggest that a proportionate approach is taken: where the fundamental standards are not met and it causes harm, then CQC should prosecute, if it has not caused harm, CQC can take enforcement action. This is where CQC's enforcement policy will come into play.

Next steps

Once this consultation from the DH has closed there will still be a lot of ongoing work. The draft legislation will go through Parliament. The DH hopes that the new legislation will be passed into law by October 2014.

CQC will also be consulting on guidance on how the new rules will work in practice. They will also consult on their enforcement policy and their plans for ratings of providers. It could take months and years for all of these changes to bed down as the latest approach to system regulation of quality.

RCN view

The RCN supports fundamental standards, but we have made it clear that they need to be seen as the responsibility of organisations.⁵ The fundamental standards as drafted by DH do not yet make it clear that they are fundamental standards that can only be met through the interaction of practitioners and the wider workforce with those organisations that employ them.

⁵ See in particular p.53 of [Mid Staffordshire NHS Foundation Trust Public Inquiry Report: Response of the Royal College of Nursing](#), 2013

Tell us what you think

We want to know:

- 1) Do you agree with the fundamental standards?
- 2) Can the organisation you work for meet these standards?
- 3) What do you see as the barriers and enablers to meeting these standards in your day to day clinical practice?

You can share your views by contacting policycontacts@rcn.org.uk by **10 March 2014**.

Appendix 1: Full list of DH consultation questions

- i. Do the Fundamental Standards (regulations 4-14) make clear the kinds of outcomes we expect providers to meet/avoid?
- ii. Do you think the Fundamental Standards (regulations 4-14) reflect the policy aims we have set out for the Fundamental Standards in Chapter 4?
- iii. Are the Fundamental Standards clear enough that they could be used as a basis for enforcement action?
- iv. Regulation 17 sets out which of the regulations are offences for which CQC will still need to issue a pre-prosecution notice, alongside those that could be prosecuted immediately. Do you think this split reflects our intention (see chapter 4) that only breaches related to a harmful outcome can be prosecuted without a pre-prosecution notice being issued in advance?
- v. Do you agree that CQC's guidance about complying with these regulations should set out criteria for cases in which it would consider bringing a prosecution?
- vi. Do you agree that the health and adult social care system should always seek to meet the standards outlined in chapter 4?
- vii. Do you think any changes are needed to the draft regulations to ensure they reflect the policy aims we have set out in chapter 4?
- viii. Do you have any other comments about the draft regulations?
- ix. Do you have any concerns about the impact of the proposed regulations on people sharing protected characteristics as listed in the Equality Act 2010?
(The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.)
- x. Do you have any comments about the estimated costs and benefits of these regulations, as set out in the draft impact assessment (published alongside this consultation)?