Care Quality Commission: consultation on new inspection, regulation and rating regime

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Summary

The Care Quality Commission (CQC) has published a range of detailed handbooks on how services in health and care are to be inspected from October 2014.

- Adult social care handbooks include: residential, community and hospice services.
- NHS handbooks include: acute hospitals, specialist mental health hospitals, community health services, and GP practices and out of hours services.

The CQC is asking for views on the approaches in the handbooks, including specific measures such as the use of hidden cameras, in a consultation ending on 4th June. Some of the measures are aimed at addressing current areas of concern in adult social care such as short home care visits, and compliance with the Mental Capacity Act. These issues are the focus of this policy briefing.

The briefing is of interest to councillors and commissioners with responsibility for adult social care, integrated commissioning, and health scrutiny. It will also be relevant to all councillors who are interested in the quality of social care and health services in their areas.

Briefing in full

Overview of the new regime

The CQC has been developing its new regime for some time. Ideas were initially set out in a three-year strategy in April 2013 and subsequently developed in consultation with stakeholders, including local government, and through testing in health and care settings. The main elements of the regime as they apply in health and social care are as follows.
Chief inspectors of social care, hospitals and general practice are now in place to provide clear leadership and accountability. There will be a more robust assessment framework based on five questions: whether services are safe, effective, caring, responsive and well-led. The inspection process will involve greater specialist expertise rather than a generic approach. It will focus more on gathering the experiences of people who use services and carers. A new system of ‘intelligent monitoring’ will help the CQC decide where it needs to inspect.

By March 2016, services will be rated in a points system with four Ofsted-style bands: outstanding, good, requiring improvement and inadequate. There will be some limiters to the level that can be reached and the consultation asks questions on these – for instance, should achieving outstanding depend on many service users providing positive feedback.

A fit and proper persons test will require directors to meet standards of conduct – the CQC can issue a notice for them to be removed if they do not (consultation closed).

A duty of candour requiring providers to tell people whether failings have resulted in death, impairment or prolonged harm (consultation closed).

Draft regulations will replace the existing 16 essential standards with 11 fundamental standards (consultation closed).

Enforcement action against providers eg able to prosecute providers for serious care breaches without issuing a warning notice first (consultation later this year).

Guidance on providers for complying with the new regulations (consultation later this year).

Inspection of adult social care

The handbooks describe the inspection process in detail. They include Key Lines of Enquiry for each of the five questions, the characteristics of each rating level and what ‘good looks like’. Some of the main issues relating to adult social care are described below.

Inspections based on risk

In adult social care there will be a return to risk-based rather than annual inspection. The regularity of inspections will be linked to ratings, as follows:

- outstanding – within two years
- good – within 18 months
- requiring improvement – within a year
- inadequate – within 6 months.

Inspections will also be carried out in response to concerns, such as those identified by whistleblowers, and the CQC will inspect ten percent of good and outstanding services to ensure their ratings system remains valid.

Focus on the Mental Capacity Act
The CQC wants improvements in how all providers in adult social care and health implement the MCA and deprivation of liberty safeguards (see recent LGiU policy briefing). It is seeking views on whether failing to meet requirements should result in a service to be not rated higher than ‘requires improvement’.

Relationship with councils

The Association of Directors of Adult Social Services (Adass) has been working with the CQC on developing the new inspection regime as part of the advisory group.

Duplication between councils and the CQC, leading to confusion and an unnecessary administrative burden, was identified as a major problem by providers in the Focus on Enforcement Review of residential care regulation carried out by the Department for Business, Innovation and Skills. The CQC intends to liaise with councils on the inspection programme and on the best ways of sharing information and data. Inspection teams will be geographically located in relation to councils and inspection managers will be responsible for liaising with councils on commissioning and ‘to share information and work collaboratively on safeguarding’. The CQC intends that managers will meet regularly with council commissioners. They will also attend local safeguarding boards on an annual basis to provide a CQC update and will liaise regularly with health and wellbeing boards, to share and gather information on integrated commissioning; they will also meet regularly with and health overview and scrutiny committees. The consultation asks whether their approach to working with key people and organisations (as well as councils, clinical commissioning groups and local providers) is likely to be effective and whether there are other ways of including seldom heard groups.

The CQC is also examining how it can best assess well-led in corporate providers, including local authorities that are still large providers. Methodology will be developed and tested from October 2014.

From April 2015 the CQC will no longer have the duty to routinely inspect councils on the adult social care functions – a duty not enforced since 2010. However, it will still have the power to undertake a special review of councils where commissioning is seen as failing, on application to the Ministers of Health, and Communities and Local Government.

Short care visits

The appendices to the community adult social services handbook provide characteristics of the ratings levels under each of the five questions. To be rated as ‘good’ will require that:

‘Consideration is given for travelling time so that people receive the time that has been agreed in their care plans. Short calls (for example fifteen minutes) are avoided, unless the assessed care can be delivered in the time slot without being rushed.’
While ‘inadequate’ will mean:

‘Staff may regularly have insufficient time to give people the care they need. They may be expected to cover a wide geographical area with little or no consideration for travelling time. This may have an impact on the care they offer and mean people do not always receive the care they need. The service may arrange for short visits (for example fifteen minutes) to carry out care that requires more time than this. People do not get the care they need and staff are rushed.’

**Further developments**

The CQC intends to do further work on a number of areas in the coming months.

- Allowing providers to pay for additional inspections if they believe quality has improved – will be consulted on in the next fees consultation.
- Finding a better way of regulating and inspecting supported living schemes to ensure a balance between individual choice/independence and ensuring quality – will be tested over the summer.
- Potential use of mystery shoppers and hidden cameras – this is a sensitive and complex issue, and the CQC intends to progress the debate on this over the summer. The consultation asks whether it is the role of the CQC to undertake these interventions, and if so in what circumstances.
- Further testing the measures to be used in intelligent monitoring: initial indicators include ‘incidence of pressure sores/medication errors/falls’, ‘absence of registered manager’ and ‘whistleblower concerns’.

Inspection of adult social care will be tested over the summer; feedback from the inspections and from the consultation on the handbooks will inform the final handbooks to be published in September, and the new approach implemented from October.

**Comments**

Designing and implementing the new inspection and regulation regime has been a huge task at both the strategic level, such as including measures from the Care Bill and wide-scale consultation, and in the detailed work as reflected in the provider handbooks. The process is not yet complete, with further consultations planned, and further testing of methodology with providers. The overall regime itself seems well thought out, and the attempts to bring as much consistency as possible across health and social care is extremely helpful at a time when boundaries are becoming increasingly complex.

The focus on working closely with councils and health and wellbeing boards is welcome, but it is to be hoped that arrangements will bed-in more seamlessly than, say, relationships with local NHS England.

There is a wealth of detail in the handbook appendices which describe the characteristics of rating levels and what good looks like. Council commissioners will be able to use these to ensure synergy between inspection and service.
specifications. This applies not just to the adult social care handbooks, but to mental health and community health rating characteristics which will have implications for integrated commissioning and some council commissioned services. There will also be challenges – the emphasis on ensuring appropriate travel time and length of visit will have implications for councils as commissioners and funders of services.

Following a period of risk-based ‘proportionate’ inspection in which some adult social care services were not inspected for up to two years, annual inspections were only re-introduced in 2012. This was in response to serious concerns about the quality of social care provision and the capacity of the CQC to maintain inspection standards. Moving back to risk-based inspection is clearly problematic, however the CQC has stressed that reforms should be viewed within the context of the whole regime.

At the end of April came another care scandal – abuse of older people at The Old Deanery care home in Essex exposed by Panorama. Seven staff have been sacked and one arrested on suspicion of assault. BBC News reports that the CQC had previously put a warning notice on the home in 2012 following whistleblowing concerns; however, the notice was removed following improvements. In this, as in other cases, suspicions became actionable evidence only through the use of hidden cameras.

There is clearly a role for covert observation as one of the tools for ensuring quality and safeguarding. Equally important is the point made by Age UK Charity Director Caroline Abrahams, that residents and family should have more say in the running of care homes. Hopefully, this will be reflected in the new inspection approach; ‘an open culture’ is reflected in the CQC’s key lines of enquiry and ratings characteristics for a ‘well-led’ organisation.

The CQC indicates that it will be more specific about requirements on workforce induction in its forthcoming draft guidance for providers. The Care and Support Minister has also announced that new health and care assistants will have to gain a training certificate within 12 weeks of starting a job. This measure stemmed from the Cavendish review of workforce needs following the Stafford hospital scandal. Topics covered will include infection control, dementia care and promoting dignity. This is seen as a useful measure in improving quality and ensuring consistency across health and care, however, there are concerns about the standards of training which will be providers’ responsibility. The government is currently testing how to assure that the training would be of good standard.

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