



advice and support for older age

**Independent
Age**

Response to the Care Quality Commission consultation on its next phase of regulation for health and social care

August 2017



About Independent Age

Whatever happens as we get older, we all want to remain independent and live life on our own terms. That's why, as well as offering regular friendly contact and a strong campaigning voice, Independent Age can provide you and your family with clear, free and impartial advice on the issues that matter: care and support, money and benefits, health and mobility. A charity founded over 150 years ago, we're independent so you can be.

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Helpline

We give free, confidential advice over the telephone for older people, their families and carers on issues such as getting help at home, adaptations, care assessments, paying for care, staying in touch with other people and welfare benefits.

Call our team of experts on 0800 319 6789, Monday to Friday, 8am-8pm, and Saturday to Sunday, 9am-5pm, or email your query to advice@independentage.org

Registered charity number 210729

Introductory comments

While we agree with a number of the Care Quality Commission (CQC's) proposed changes and would always encourage a regulator like the CQC to work in a targeted, proportionate and collaborative way, the ultimate test of its new regulatory approach is whether it drives improvements in safety and quality in a sector still viewed at real risk of reaching a "tipping point". We welcome a number of the proposed improvements to monitoring of adult social care services but, on balance, we do not agree with less frequent inspections for services rated by the Care Quality Commission as "good".

As the CQC itself notes, social care services can sometimes deteriorate very quickly, following changes to management and in response to other pressures. While the sector remains so fragile, with over 1 in 4 services failing on safety grounds, we believe the CQC should keep to its current inspection framework.

Regulating in a complex changed landscape

1. Clarifying providers and the process of registration

Q1a. 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?

- 1.1 We broadly agree with the proposed new approach, since ultimate accountability for care delivery will often sit at a higher level than the immediate service providing that care.
- 1.2 Related companies, such as parent companies, should bear at least some responsibility for failings in the organisations they direct, influence and run. However, to avoid any future confusion over where precise accountability sits, we recommend the Care Quality Commission sets out more detailed guidance on typical circumstances where it would first look to regulate a service before taking regulatory action against a parent company.

Q1b. What are your views on our proposed criteria for identifying organisations that have accountability for care?

- 1.3 The proposed criteria were sensible, drawing clear and close links between organisations that ultimately direct or influence a care provider and the provider themselves. However, we found the definition of "accountability" unnecessarily complicated and thought this could be simplified somewhat.
- 1.4 At its simplest, accountability is about taking responsibility for the standards of care and quality within an organisation you exert significant influence over and direct or run. The definition should reflect this point.

2. Monitoring and inspecting new and complex providers

Q3a. 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?

Agree

- 2.1 We are pleased the Care Quality Commission is responding to the many significant changes across health and social care, both in terms of how services are governed and the new models of care that are now being delivered.
- 2.2 However, the Care Quality Commission needs to be careful not to make its own approach to regulation unduly complex, even where the providers it is regulating are constituting themselves in new and complex ways.
- 2.3 We certainly agree that it first makes sense to test new proposals and phase in any new inspection arrangements for providers that deliver services across sectors.
- 2.4 Older patients and service users will still in many cases experience services as they always did, in terms of accessing a GP surgery, a hospital or a care home. Whilst we understand CQC needs to find new and improved ways of monitoring complex providers, this mustn't be at the expense of the information the public sees, where easy-to-access ratings and information provided for individual services will still remain key.

3. Provider-level assessments and ratings

Q4a. Do you agree that a provider-level assessment in all sectors will encourage improvement and accountability in the quality and safety of care?

Agree

Q4b. What factors should we consider when developing and testing an assessment at this level?

- 3.1 From a patient and public point of view, there is a risk the new arrangements could end up causing confusion when in fact the core information people are often looking for from the CQC is a clear rating for an individual service, provided in a particular location.
- 3.2 Whilst we agree with the overall aims and objectives, for example more accountability for parent companies, the CQC must continue to place a premium on easy-to-compare, easy-to-understand ratings for individual health and social care services.

4. Encouraging improvements in the quality of care in a place

Q5a. Do you think our proposals will help to encourage improvement in the quality of care across a local area?

Agree

Q5b. How could we regulate the quality of care services in a place more effectively?

- 4.1 We think the proposals the CQC has outlined generally sound positive but we would just add a couple of observations.
- 4.2 Local Healthwatch gather a very large number of useful insights about quality of care, through their Enter and View visits and other powers. We hope to see the Care Quality Commission making greater use of this information to strengthen the 'intelligence' it receives about how providers are performing.
- 4.3 In our own work with Healthwatch Camden, seven Enter and View visits took place in elderly care homes. These led to reports on how these homes were performing, from the perspective of the Managers, staff, but residents and relatives too. The Enter and View visits were based on a number of 'care home quality indicators' that we and Healthwatch Camden developed, rooted in what older people told us they wanted to see in a 'good' care home. We are pleased the local Care Quality Commission team engaged with this work so we hope to see other inspection teams using the information local Healthwatch gather to better target regulatory activity.
- 4.4 Where Healthwatch highlight new or emerging concerns about provider performance, we would hope to see that prompting increased monitoring work, and where appropriate, an accelerated timetable for new CQC inspections.
- 4.5 Our one other main observation is that commissioning activity plays a significant role in driving performance. Where a high concentration of providers are struggling in a particular geographical area this may be explained just as much by failures in commissioning. While many of the proposals in this consultation relate to providers' role, we want to see the CQC - as far as its powers allow - highlighting where systemic or repeat problems in commissioning also need to be addressed.

Regulating adult social care services

5. Monitoring quality

Q11a. 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?

Agree

Q11b. Please give reasons for your response.

- 5.1 While we strongly back new efforts to strengthen monitoring of adult social care services, the ultimate test of success will be whether service users and the public more widely have an enhanced understanding of how care providers are performing.
- 5.2 We have long argued that there needs to be a single, shared view of quality. While we hope a new facility for collecting provider information online will simplify and rationalize the information that gets requested of providers, in the end service users need to trust the information that is getting collected is grounded in the things that matter to them. Just improving the information providers' return to the Care Quality Commission, without also thinking through improved uses of that information for public viewing, would in our view be a missed opportunity.
- 5.3 We support initiatives such as CQC Insight, and strengthened relationship management. However, as noted in one of our earlier answers, commissioners can have a critical influence on care standards so it would be useful to see CQC clarify what specific recommendations, if any, it can make where commissioners are themselves thought to be at fault for standards dropping across a number of providers.
- 5.4 CQC data shows there are a number of areas where there is a far greater than average proportion of care services rated as 'Inadequate' or 'Requires Improvement'. In some local authority areas across the North West and Yorkshire and Humber as many as 50 per cent of care home services have been rated by CQC as "Inadequate" or "Requires Improvement". In circumstances such as these, CQC may need to consider what's driving such significant levels of under-performance and work with commissioners to determine whether factors within their control can help improve standards.

6. Inspections and ratings

Q12a. Do you agree with our proposed approach to inspecting and rating adult social care services?

Disagree

Q12b. Please give reasons for your response.

- 6.1 We agree with some of the CQC's ideas for improved monitoring, but on balance we disagree with the proposed approach to inspecting adult social care services.
- 6.2 As CQC itself notes in its own State of Care reports, adult social care services can change very rapidly. Care services can deteriorate in a short period of time, particularly when a registered manager leaves or a number of staffing changes occur. Given this, it won't always be wise to wait two-and-a-half years for comprehensive re-inspections of services rated by the Care Quality Commission as "good".

- 6.3 In the CQC's recent 'state of adult social care services' report covering 2014-2017, not all adult social care services that were originally rated as "good" maintained their quality. This suggests that for some services a decent performance at one inspection can mask a number of underlying weaknesses, which might then get exposed on re-inspection.
- 6.4 In fact, CQC explained that where they have re-inspected them, usually prompted by concerns, over a quarter (26%) of social care services rated as "Good" went on to receive a lower rating. By our estimate, that meant as of May 2017, of 1,830 social care services originally inspected as "Good", on re-inspection, 476 of them then experienced a decline in performance. This is concerning, and it doesn't give us confidence that moving to a more relaxed timetable of inspections is the wisest, or indeed the most well-evidenced of approaches.
- 6.5 While we accept monitoring and regulatory activity needs to be proportionate and targeted, we don't think services rated as "Good" can necessarily afford to wait 2.5 years for another inspection. As of July 2017, the social care sector was still facing the real risk of what CQC described as a "tipping point". The CQC said this in its focused report on the social care sector:

"These findings from our inspections of services originally rated as good mean that we are not as confident as we need to be that services can always sustain their good practice. As we move into a more responsive and targeted phase of our inspections we will keep this under close review".

- 6.6 As the CQC keeps the social care sector under review, we propose whilst it remains as fragile as it is, with over a fifth of all services under-performing, the inspection framework remain largely the same. Focusing just on safety, with over a quarter of all care services now deemed by CQC either inadequate or poor, we believe this work should continue to include unannounced inspections.
- 6.7 We do, however, support the proposals around removing the six-month time limit on when a provider's overall rating can change in response to a focused inspection, and indeed the idea that any focused inspection should at least prioritise in future whether a provider is well-led.

Q13a. 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?

Agree

Q13b. Please give reasons for your response.

6.8 Announced inspections for home care make sense, but so do too unannounced inspections, so it will be important to maintain a mix of inspections

to ensure domiciliary care services have to meet the same high standards required in residential and nursing care.

Q14a. Do you agree with our proposed approach for services which have been repeatedly rated as requires improvement?

Agree

Q14b. Please give reasons for your response.

- 6.8 We are pleased to see the CQC proposing a stronger regulatory approach where services continue to "bump along the bottom" and fail to improve.
- 6.9 As of May 2017, 43% of nearly 4,000 social care services originally rated as "requiring improvement" on re-inspection either failed to improve or got worse. That is a truly worrying picture for the many thousands more who will be relying on these services to lead their lives and stay independent, healthy and well.
- 6.10 Given that, we actually feel the CQC could go further. While we agree the Care Quality Commission could look to make greater use of its Enforcement Powers, there are a number of specific steps it should consider.
- 6.11 First, we don't necessarily agree it should take a second inspection and "Requires Improvement" rating for a provider to have to map out what steps it needs to take to actually then improve. We see it as quite normal that CQC would use its powers to ask for a written report on how a provider intends to monitor and improve the quality and safety of its service and don't see why so many problems with a service should occur before such a report is requested.
- 6.12 While we see the merits of the proposed new formal management review meeting (MRM), if a provider is inspected and rated as "Requires Improvement" twice - in succession - we feel that should be of sufficient concern to warrant a MRM. We don't see why three such inspections, all leading to the same worrying conclusion about under-performance, would need to take place before an MRM could occur.
- 6.13 Finally, we think the CQC would do well to be more specific about the sources of support it could point struggling providers towards. While we accept it's always useful to point providers to good practice examples, the reality for a number of providers is that some of the problems they face may be so deeply embedded they need intensive support, for example around improving leadership and staff retention.
- 6.14 CQC should consider what that support could look like. One possible approach might be to help informally "twin" a struggling social care service with a local service that has improved its performance, so they can act as a mentor and help the service rated as "requires improvement" to likewise improve.

For more information on this response please contact policy@independentage.org