

CQCchanges.tellus@cqc.org.uk

2 June 2014

Dear Sirs

CQC Consultation: How we regulate, inspect and rate services

Introduction

Thank you for the opportunity to comment on your plans. We have limited our response to key themes and priority issues from our perspective, but would be more than happy to discuss these issues or any others you would like our feedback on in more detail. As you will be aware, Action against Medical Accidents (AvMA) is the specialist patients' charity working for better patient safety and justice. We provide advice and support to some 3,000 people a year who have suffered harm due to lapses in patient safety. Established for over 30 years, AvMA led the campaign for the creation of a national regulator like the CQC. We have taken a keen interest in regulation and have engaged with CQC, its predecessors, and the Department of Health regularly drawing on the vast amount of real patient experience and our own informed view of the system. We were core participants in the Francis Inquiry which has led to some of these changes.

We have chosen not to attempt to comment in detail in this response to all of the service areas covered by your consultation. The comments we make apply in most cases to all of the service areas.

Rating of Organisations

Whilst we agree with the logic of most of your proposals, we strongly believe that more weight should be applied to the subject of patient safety than any other consideration. We believe that whilst regulation should support the attainment of quality and excellence, its first and most important priority must be patient safety. We do not think that it should be possible for an organisation to be able to be rated "good" overall, if it requires improvement concerning patient safety. One argument against this is that there will always be room for improvement on patient safety. However, the use of your term "requires improvement" should be defined clearly when it comes to patient safety. It should mean that the identified improvement is needed if the organisation is to meet your expectation of an acceptable approach to patient safety in the area identified. Even if the organisation scores very well in other areas, this should be reflected in a grading of "requiring improvement" (at best) overall.

This would be a more appropriate reflection of the view of patients and indeed the Government, that patient safety is the top priority. It could lead to complacency if an organisation is rated “good” overall when needing to improve on safety issues, and this could bring the CQC and the regulatory system into disrepute.

“Fundamental Standards”

We were surprised not to see compliance with the new Fundamental Standards not built into your proposals as a key cornerstone of your approach. We would like to see this articulated much more clearly. Inspections and intelligent monitoring should seek assurance that all the fundamental standards are being met. If one or more fundamental standard is not being met this should necessitate a rating of “requires improvement” overall. If the improvement is not made within an acceptable timeframe, regulatory action should be taken.

We have commented below on assurance regarding compliance with the “Duty of Candour” fundamental standard could be sought in your monitoring and inspection work.

Duty of Candour

The “Duty of Candour” is one of the fundamental standards which comes into place in October 2014. We would recommend that the CQC tests for compliance with the Duty of Candour when it registers and inspects organisations as follows:

- Evidence of the number of and types of staff who have (a) been made aware of and (b) been provided with training in the Duty of Candour / Being Open.
- Evidence that support structures are in place for staff charged with helping the organisation comply with the Duty of Candour, including a designated lead director.
- Evidence that the organisation provides appropriate support to patients/families in the Being Open process and refers them to sources of independent specialist support.
- Evidence that the organisation audits its own incident investigations; complaints and claims to check that the Duty of Candour has been complied with, and takes appropriate action if it has not.
- CQC to audit random selection of complaints, claims and incident investigations itself.
- CQC to check for any reports it has received of a breach of the Duty of Candour and where appropriate to investigate further.

Patient Safety Alerts

We believe that the intelligent monitoring system and the publication of its results is potentially a powerful tool to support quality and safety. However, we are disappointed that as of yet compliance with patients safety alerts is not sufficiently taken into consideration. In February 2014 we found that Southend University Hospital NHS Foundation Trust was being given a clean bill of health on the CQC website in spite of the trust then being non-compliant with seven patient safety alerts, four of which were more than three years past the deadline for completion.

Failure to comply with a patient safety alert by the given deadline should immediately be flagged as a concern by the intelligent monitoring system and be accessible to the public. Failure to have complied with a patient safety alert which is past the deadline for completion should necessitate the organisation being rated at least as “requiring improvement” for patient safety and therefore no better than “requiring improvement” overall.

Failure to comply with multiple patient safety alerts or failure to comply with one or more patient safety alerts which is past the deadline by six months or more, without an acceptable explanation and action plan, should lead to a warning and further regulatory action if not rectified.

Patient & Public Involvement / “Experts Experience”

We welcome the efforts CQC is making to try to engage lay people and users of the services under inspection in the process. However, we think that a more systematic approach including tapping into the expertise of national patients’ organisations and the provision of training and support for lay people in the process is needed.

Whilst it is essential that the CQC listens to and involves users of the services themselves, we think it is important to involve other types of “experts by experience” who bring a wider lay perspective informed by monitoring services nationally. For example, staff, trustees or volunteers of AvMA may be able to ask questions or spot things that may not occur to a service user who is unaccustomed to seeing the kinds of issues that occur elsewhere, and is not as conversant with the systems.

We recommend you give consideration to working in partnership with a national organisation (or organisations) who can support your work in involving lay people. AvMA was the chosen partners of the National Patient Safety Agency in recruiting and supporting lay people who are interested in working with the NHS on patient safety. We are still in contact with this network of over 1,000 people, some of whom have experience of working on patient safety. We would welcome the opportunity to train and support a network of lay inspectors who I am sure would be a great asset to you.

We were sorry we did not have the opportunity to work with you on piloting how you assess complaints handling as part of your inspections. However, we do applaud the approach of inviting a fellow patients’ charity – The Patients Association – to help you with this. This is something we would also be

interested in working with you on, drawing on AvMA's vast and specialist experience. A similar approach to pilot, ideally with AvMA, would be assessing organisations with regard to compliance with the Duty of Candour.

We also recommend that consideration is given to involving AvMA and other national patients' organisations in an 'advisory board' to work with CQC on the overall strategy for monitoring and inspection. This approach was found to be very useful in the Keogh review, and would help you harness the expertise and insight of national patients' organisations.

I hope you find these comments useful, and look forward to discussing some of these issues with you further.

Yours sincerely

Peter Walsh

Peter Walsh
Chief Executive