

National Care Standards Review Public Consultation

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

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Title Mr Ms Mrs Miss Dr Please tick as appropriate

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3. Permissions - I am responding as...

Individual / Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate

Yes No

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

CONSULTATION QUESTIONS

Introduction

The Royal College of Nursing (RCN) Scotland is a professional body and trade union for nurses and health care support workers, with around 39,000 members in Scotland.

We have repeatedly called for the National Care Standards to be reviewed and welcome that this review has finally been launched, especially as the integration of health and social care is now well under way.

Our main comments on the proposals are as follows:

- We support overarching quality standards, based on human rights, that set out a consistent standards of care and drive improvement in quality across all health and social care settings
- The National Care Standards must fully align with other existing standards, principles and policies to present an overarching framework for the quality of care. There needs to be clarity about what is to happen to standards that services are already inspected against, such as the Older People in Acute Care standards
- Services need support and adequate resources to provide quality care and implement the National Care Standards. There must be a focus on improvement, not just scrutiny and inspections

Question 1

Do you think that the new National Care Standards should be grounded in human rights?

We agree that human rights should be embedded throughout the National Care Standards.

The Royal College of Nursing (RCN) is committed to supporting and advocating human rights and we recognise the positive and practical difference they make to people, patients and nursing¹. Our *Principles of nursing practice*², which set out what patients, families and carer can expect from nursing, demonstrate how we have taken this approach in our own work. There is evidence of the value of a human rights based approach both in health care, for example at The State Hospital³, and in social care, for example the Care About Rights Project⁴. Advocating a human rights-based approach is fundamental across all of health and social care. It can form the basis for decision-making at all levels, from decisions around an individual person's treatment all the way to the strategic commissioning of services.

¹ Royal College of Nursing (2012) *Human Rights and Nursing – RCN position statement*, London: RCN. Available at: http://www.rcn.org.uk/_data/assets/pdf_file/0003/452352/004249.pdf (accessed 16/09/14) (Web).

² Royal College of Nursing (2010) *RCN principles of nursing practice*, London: RCN. Available at: www.rcn.org.uk/development/practice/principles/the_principles (accessed 19/09/14) (Web).

³ <http://www.scottishhumanrights.com/application/resources/documents/HRHCSFINALVERSION.pdf>

⁴ <http://www.scottishhumanrights.com/careaboutrights/evaluation>

While we support the National Care Standards being grounded in human rights, there should be clarity and a common understanding about what exactly is meant by a human-rights base approach. The underlying human rights legislation and alignment with Scotland's National Action Plan for Human Rights should be made clear in any approach taken.

Question 2

a. Do you agree that overarching quality standards should be developed for all health and social care in Scotland?

There needs to be assurance that the quality of care meets agreed standards, no matter where, or by whom, that care is delivered. It is not right that currently the quality of care - and the standards that this is measured against – may differ between settings, for example between a hospital and a care home.

We therefore welcome the proposal to have overarching quality standards for all health and social care in Scotland. This approach will provide consistency so that people using services, their families, carers and staff have a common understanding of the standards of care expected and the principles that underpin them.

The proposals in this consultation are not just a simple updating of the current National Care Standards. Introducing core quality standards across all settings, including the NHS for the first time, is a major revision. As such, it is vital that the National Care Standards are fully aligned with other policy initiatives that are also seeking to improve the quality of care delivered across Scotland. We note that the consultation document says that the National Care Standards “*should sit above all existing standards, principles and codes of practice for health and social care*”. While we are not clear how the Standards can necessarily sit above other principles that may be in legislation, we do believe that the National Care Standards should provide an overarching and consistent framework for what is quality care, which complements – not competes with – other legislation, policies and standards.

In particular, the National Care Standards will have a key role in setting the quality standards for services under the integration of health and social care, and should underpin the National Health and Wellbeing Outcomes in the Public Bodies (Joint Working) (Scotland) Act 2014. The National Care Standards should also align with and take into account the NHS Quality Strategy, the Patient Rights Act (Scotland) 2011, Self-Directed Support, and the various professional codes of conduct, such as the Nursing and Midwifery Code of Conduct.

b. Do you agree that the overarching quality standards should set out essential requirements based on human rights?

As outlined in previous questions, we support overarching quality standards based on human rights. There should be a human rights based approach embedded throughout all levels of the standards, not just the overarching quality standards.

c. Do you agree that the current National Care Standards should be streamlined and a set of general standards developed that would sit below the overarching standards and apply to all services?

We agree that the National Care Standards should be streamlined and should focus on the patient/service user journey.

It would be helpful to clarify the difference between the overarching quality standards and general quality standards. If these are both to apply to all services, is there duplication and are both levels necessary?

It would also be helpful to clarify whether these general or specific standards would replace or sit alongside any sets of standards already in place, such as Healthcare Improvement Scotland's Older People in Acute Care standards. Having different sets of standards, which do not clearly link together, could result in confusion and duplication of effort for staff having to comply with a range of additional standards. This is not the purpose or original intent of the review.

d. Do you think general standards should set out essential requirements and aspirational elements?

In principle we support having both essential requirements, which clearly set out the minimum standard below which quality is unacceptable, and aspirational elements to help drive improvement.

However we need to be aware of the benefits and risks of doing this, in order to try and mitigate unintended consequences. The advantage of having essential requirements is that services are very aware of the minimum standard they must not fall below. However there is a risk that some services would not strive to meet the highest standard, but would be content to sit at the minimum level. Services need to be encouraged and supported to demonstrate continual improvement. One practical suggestion is to have a sliding scale (similar to the Care Inspectorate's current quality themes) that services can be measured against.

Aspirational standards can be motivational and help drive improvement. However these will need to be framed carefully as service users may start to judge services against the aspirational standards and have unrealistically high expectations.

Whatever the format decided on, services need to be supported and resourced to meet the standards and continually improve the quality of care they deliver. There will need to be staff training on the standards, and dedicated improvement support for services that will go alongside any regulatory or scrutiny process. The focus on continuous improvement will also need to be matched by a clear review process for the National Care Standards to ensure they still represent what is 'essential' and 'aspirational'.

e. Do you agree that a suite of specific standards are developed for particular aspects of care, circumstances or need?

We agree that there should be specific standards for particular aspects of care. However these must be careful to complement and not duplicate existing standards.

The consultation document does not detail how the proposals fit in with existing standards, such as the Older People in Acute Care standards, the Healthcare Associated Infection standards and the Standards of Care for Dementia in Scotland. We assume that these would be incorporated into the suite of standards and not be duplicated, however clarity on this would be helpful. This is especially important as Healthcare Improvement Scotland is currently reviewing several sets of their standards, for example draft standards on food, fluid and nutritional care.

We appreciate that the specific standards given in the consultation document are just examples and that there will need to be a full consultation around what sets of standards should be developed. We are pleased to see that some key areas, such as palliative care, have already been highlighted. There will need to be full consultation with people using services, their families and carers, and health and social care professionals, over the areas these specific standards need to cover.

We note in England there has been the development of NICE Quality Standards. There may be aspects of these, or learning from the process, that could apply in Scotland.

Question 3

a. What are your views on how standards should be written?

The standards need to be clear to understand, both for people using services, their families and carers, and for staff delivering services. Providing information in a variety of formats, for example easy-read versions, and providing practical guidance on what standards means in practice, for example through case examples, would be helpful.

b. What are your views on the example of how the rights and entitlements of people using services and the responsibilities of service providers could be set out?

The example is helpful in providing a clear understanding of the rights of people using services (we note that carers should also be included) and the responsibilities of service providers.

However there is not necessarily such a simple distinction between rights and responsibilities. Staff delivering services have rights that should be reflected. People using services can also be seen to have responsibilities to be active participants in their care. This issue was debated during the development of the Patient Rights Act (Scotland) 2011, which it may be useful to learn from. Simply distinguishing between the rights of users and the responsibilities of service providers loses the essence of mutuality and coproduction that is evident in the NHS Quality Strategy⁵: *“There will be mutually beneficial partnerships between patients, their families and those delivering healthcare services which respect individual needs and values and which demonstrate compassion, continuity, clear communication and shared decision-making.”*

⁵ <http://www.scotland.gov.uk/Resource/Doc/311667/0098354.pdf>

There is a balance that needs to be struck between respecting someone's right to have greater participation and control of their care, with the responsibilities of staff – who are professionally accountable for the care they give – to safeguard patients from harm and ensure that services are safe, effective and person-centred. Staff need to feel empowered and supported to allow people to have more control in the decisions that affect their care.

Within the responsibilities of service providers, the issue of individual accountability versus organisational accountability needs to be considered. For example, what happens when there are not enough staff, or not enough staff with the right skills, to meet the standards expected of them? Setting out levels of roles and responsibilities may be helpful.

The rights and responsibilities given in the example are high level, and there would need to be further detail below this that indicates how the statements, for example, “*meaningfully involve people in decisions that affect them*” would be assessed.

Question 4

a. Do you think the Care Inspectorate and Healthcare Improvement Scotland should hold services they regulate to account for meeting the proposed overarching standards, the general standards and the suite of specific standards?

The issue of how the National Care Standards will be implemented is critical. This includes how they are communicated to people using services, carers and families, and services themselves; how staff are trained and supported to meet the standards; how they are embedded in organisational processes of clinical and care governance, assurance and improvement; and how they are monitored, assessed and scrutinised. Implementation must not just be about regulation and inspection, but also about supporting services to meet the standards and continually improve the quality of care they deliver. This requires appropriate resources, training and improvement support. Bodies such as Healthcare Improvement Scotland have an improvement, as well as scrutiny function, which must not be lost.

We agree that the Care Inspectorate and Healthcare Improvement Scotland should hold the services they regulate to account for meeting the National Care Standards.

There needs to be consistency and transparency in the inspection process. Feedback from RCN members currently working within services regulated by the Care Inspectorate has shown some concern with inconsistencies in the way the current standards and quality themes are assessed during inspections. Inspection methodology must be robust and be carried out by those with the expertise and understanding of the specific environment. With the Care Inspectorate and Healthcare Improvement Scotland working more closely together, there needs to be parity between the two organisations, in terms of training and approach, to support consistency.

b. How should we ensure that services not regulated by the Care Inspectorate and Health Improvement Scotland comply with the new standards?

The Care Inspectorate licenses and regulates care services. Healthcare Improvement Scotland currently regulates independent hospitals, voluntary hospices and private psychiatric hospitals. Though Healthcare Improvement Scotland scrutinises and inspects NHS services, it does not have a regulatory function within the NHS. This means there is a two-tier system. However all health and social care services, no matter which sector they are in, will need to meet the standards of quality set out by the National Care Standards. This includes all NHS services and third party providers commissioned to provide health and care services. The National Care Standards will therefore need to underpin all assurance, scrutiny and commissioning processes designed to ensure the quality of care being delivered across health and social care.

With respect to NHS services, the National Care Standards should be an integral part of NHS Board's own internal assurance and clinical and care governance activities. NHS performance management and annual review processes should take the National Care Standards into account. They should also be integral to Healthcare Improvement Scotland's current scrutiny and improvement activities within the NHS, and to their future planned activities, such as their new comprehensive quality reviews.

The new integration partnerships have a key role in ensuring that services meet the National Care Standards and that these drive forward the National Outcomes for Health and Wellbeing. Commissioning arrangements need to ensure that commissioned services meet the National Care Standards. The National Care Standards should also underpin clinical and care governance arrangements across all sectors. The scrutiny activities and joint inspections of partnerships by the Care Inspectorate and Healthcare Improvement Scotland will also need to look at outcomes against the National Care Standards.

Other bodies, such as the Mental Welfare Commission and the Scottish Public Services Ombudsman, will also need to take the National Care Standards into account.

c. We suggest that the Care Inspectorate and Healthcare Improvement Scotland, consulting with others, should develop the suite of specific standards. Do you agree with this?

We agree that the Care Inspectorate and Healthcare Improvement Scotland are best placed to develop the suite of specific standards. This provides an ideal opportunity to streamline and develop a core set of specific standards. As discussed earlier, there needs to be clarity about what is to happen to existing specific standards in order to avoid duplication and confusion. Any standards will need to be reviewed to ensure that they align to the National Care Standard's overarching quality standards, so that there is a unified, comprehensive approach to quality across all health and social care settings.

The process for prioritising and developing specific sets of standards should be transparent. They must be developed in full consultation with service users, their carers, families, and staff. It is particularly important to have mechanisms to engage with vulnerable groups, for example people with learning disabilities and those in the criminal justice system.

Question 5

a. Please tell us about any potential impacts, either positive or negative, you feel any of the proposals set out in this consultation paper may have on particular groups of people, with reference to the ‘protected characteristics’ listed above.

Grounding the National Care Standards in human rights should help protect people and support their rights. However there will need to be full consultation with all groups of people during the development of both the overarching and specific standards.

b. Please tell us about any potential costs or savings that may occur as a result of the proposals set out in this consultation paper and any increase or reduction in the burden of regulation for any sector. Please be as specific as possible.

This question is difficult to answer without more detail on the processes underpinning how the National Care Standards will be implemented and assessed. While external scrutiny is obviously important, there is a burden associated with inspections for the staff involved. We note, for example, that the new joint inspections of older people services have had a particular high impact on staff involved, in terms of the length of time for the inspection process and the detail of material required. Inspections and scrutiny must be proportional.

High quality care requires investment in resources, support and training. Some services will need support to meet the standards and to continually improve their standards of care. There may also need to be investment in Healthcare Improvement Scotland and the Care Inspectorate to support and scrutinise services implementing the National Care Standards.

Question 6

Please tell us if there is anything else you wish us to consider in the review of the National Care Standards that is not covered elsewhere in the consultation paper.

- **Timing** – the consultation document states that the National Care Standards will be in place by April 2015. This seems unrealistic. Though we have been continually pushing for the review of the National Care Standards to be aligned to the timetable for integration of health and social care, the delays to the start of the review means this has not happened. It is important to take time to get the development of the National Care Standards right, to support services to meet the standards and to give the Care Inspectorate and Healthcare Improvement Scotland time to develop their expertise and improvement/inspection methodology. We ask for further details on the timings for the National Care Standards review.

- **Consistency and methodology** – The National Care Standards offers an opportunity to draw together and create a consistent framework for scrutiny and improvement across all health and social care services. There needs to be consistent methodology across all inspection activities, with clear standards and measures forming the basis of scrutiny. We would like to see further detail on the development of the underlying methodology for implementing the National Care Standards.

How to respond

We are inviting responses to this consultation paper by 17th September 2014. Please send your response with the completed Respondent Information Form to nationalcarestandardsreview@scotland.gsi.gov.uk

or to:

Carly Nimmo
Mental Health and Protection of Rights Division
The Scottish Government
Area 3ER, St Andrews House
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We would be grateful if you would **use the consultation questionnaire provided in the consultation document or clearly indicate in your response which questions or parts of the consultation paper you are responding to** as this will aid analysis of the responses received.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the Respondent Information Form as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Alternative formats and languages

If you require a copy of this paper in an alternative format or different language please contact us at the address above.

Next steps in the process

If you tell us we can make your response public we will put it in the Scottish Government Library and on the Scottish Government consultation web pages. We will check all responses where agreement to publish has been given for any wording that might be harmful to others before putting them in the library or on the website. If you would like to see the responses please contact the Scottish Government Library on 0131 244 4565. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision about how to proceed with the review of National Care Standards. We will issue a report on this consultation process which will be published on the Scottish Government's website at:

<http://www.scotland.gov.uk/Publications/Recent>

Further consultation on the detailed content of the new standards will take place during 2014-15.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

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