



Royal College
of Nursing

RCN Policy Unit

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The Care Quality Commission (CQC) in England

An introduction to the new regulator of health and social care in England

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The Care Quality Commission (CQC) in England

A new single regulator for health and adult social care in England

The Care Quality Commission (CQC) is a new regulator which will replace:

- The Commission for Healthcare, Audit and Inspection (known as the Healthcare Commission (HC));
- The Commission for Social Care Inspection (CSCI); and
- The Mental Health Act Commission.

Context

The CQC will be the regulator for health and adult social care in England.

- Commissioning, either undertaken by Primary Care Trusts (PCTs) or commissioning outsourced to independent sector providers deciding what to buy and from whom;
- Patient choice and voice allowing patients choice over their provider and more consultation and engagement with patients;
- Plurality of providers including Foundation Trusts¹ and the independent sector; and
- A renewed focus on quality.²

With more providers involved in the delivery of health and social care, the RCN calls for a truly effective regulatory regime. This includes sufficient levels of monitoring, investigation, and inspections, appropriate metrics and timely intervention by the regulator where quality is poor. This means a regulator with teeth.

¹ See also RCN Policy Briefing 01/2007 Mergers; Markets; and Monitor: An Update on NHS Foundation Trust Developments

http://www.rcn.org.uk/__data/assets/pdf_file/0012/24024/mergers_markets_and_monitor.pdf

² More detail is available in RCN Policy Briefing 12/2008 NHS Next Stage Review

http://www.rcn.org.uk/__data/assets/pdf_file/0004/174739/12-2008_Darzi_Policy_Brief_July_08.pdf

Aim

The new system is intended to create joined up regulation for health and social care (including primary care), helping to ensure better outcomes for the people who use services.

History and date of implementation

The Health and Social Care Act 2008 established the CQC and was granted Royal Assent on 21 July 2008.³ The CQC exists in shadow form and will begin operating from April 2009. The new registration system will come into force from April 2010 with the exception of regulations on healthcare associated infections (HCAI), which will come into force in April 2009.

Functions of the CQC

The CQC functions will cover:⁴

- safety and quality assurance;
- performance assessment of commissioners and providers;
- monitoring the operation of the Mental Health Act;
- co-ordinating and managing regulation and inspection activity across health and adult social care.

Approach of the CQC

The full details of the approach of the CQC to regulating health and adult social care are not yet known. The broad framework was set out in the Governments' response to the consultation 'the future regulation of health and adult social care in England: a consultation on the framework for the registration of health and adult social care providers'. It notes that:

- All health and social care providers (including NHS providers and primary care and general practice) must register with the CQC in order to deliver services;
- Registration requirements will be consistent across health and adult social care;

³Department of Health, Health and Social Care Act 2008

<http://www.dh.gov.uk/en/Publicationsandstatistics/Legislation/Actsandbills/HealthandSocialCareBill/index.htm>

⁴Department of Health, Care Quality Commission

http://www.dh.gov.uk/en/publicationsandstatistics/legislation/actsandbills/healthandsocialcarebill/dh_080438

- The CQC will adopt a risk based approach in order to target regulation activity where it is needed (which will inform, for example the use of inspections);
- The CQC will have a range of sanctions and enforcement powers ranging from:
 - Statutory warning notices (setting out a time limit for improvement);
 - Imposing a fine in lieu of prosecution;
 - Formal caution;
 - Suspension of services;
 - Prosecution of organisations and/or individuals
 - Cancellation of registration.

The CQC is currently consulting on its proposed use of enforcement powers (consultation closes on the 16th January 2009).⁵ It is also consulting on proposals for reviews in 209/10 (consultation closes on 12th March 2009).⁶ More detail on the metrics that the CQC will use, and its approach to involvement of users and their families and other advocates is awaited. It is essential to ensure nurses are central to the approach taken to regulation, given the importance of nursing in delivering high quality care.⁷ The RCN has been working on these issues⁸ and the RCN would therefore wish to see nursing metrics embedded in the CQC approach. These metrics could cover, for example:

- Trips/Falls
- Rescue/Mortality
- Pressure Areas/Tissue Viability
- Nutrition
- Pain and Medication
- HCAs
- Fluid Balance
- Dignity and Respect

⁵ See Care Quality Commission enforcement policy
http://www.cqc.org.uk/consultation/enforcement_policy-1.aspx

⁶ See Care Quality Commission consultation on reviews
http://www.cqc.org.uk/consultations/reviews_in_0910.aspx

⁷ See Healthcare Commission Investigation into outbreaks of Clostridium difficile at Maidstone and Tunbridge Wells NHS Trust (October 2007)
http://www.healthcarecommission.org.uk/db/documents/Maidstone_and_Tunbridge_Wells_investigation_report_Oct_2007.pdf See also Nurses in society: starting the debate (15th October 2008)
<https://clearingatkings.org/schools/nursing/nnru/reviews/nis.html> and State of the art metrics for nursing: a rapid appraisal (15th October 2008)
<https://clearingatkings.org/schools/nursing/nnru/reviews/metrics.html>

⁸ See RCN Policy Briefing 09/2007 Productivity and the nursing workforce
http://www.rcn.org.uk/data/assets/pdf_file/0016/61054/09-2007_Productivity_and_the_Nursing_Workforce.pdf

The RCN understands that the CQC is likely to use a 'light touch' regulatory approach. The full details of what this means in practice are not yet known. The RCN however feels that it's important to ensure that the regulator and its approach is sufficiently robust to ensure high quality care in any setting. This means careful consideration of both the probability of poor quality being investigated (via inspections and analysis of appropriate data on performance) and the penalties when poor quality is found (via sanctions and enforcement powers). **The RCN is calling for a strong regulator including the appropriate use of unannounced inspections.**

Key priorities

A key early priority will be healthcare associated infections (HCAs). Annual inspections will be introduced, and matrons will be able to report any concerns direct to CQC. Inspections will be based on adherence to a new Code of Practice which will set out the criteria to be used to monitor compliance.⁹ Media reports also suggest a priority will be to ensure NICE guidance is followed.¹⁰

Staff

The organisation is expected to have approximately 2,500 staff with offices in London and across the English regions.¹¹ Key staff appointed to date include¹²:

- Baroness Young of Old Scone – Chair (in post).
- Cynthia Bower – Chief Executive (in post).
- Professor Deirdre Kelly, Professor of Paediatric Hepatology, Birmingham Children's Hospital.
- Dame Josephine Williams, Chief Executive, Royal Mencap Society.
- Olu Olasode, Commissioner for the Commission for Social Care Inspection (CSCI) and Chair of the CSCI Audit and Risk Committee.
- Kay Sheldon, Trustee of Mind, the national mental health charity.
- Martin Marshall, Director of Clinical Quality at The Health Foundation.

⁹ Department of Health, The future regulation of health and adult social care in England - response to consultation http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH_078227 see in particular p. 23 para 3.25 and 3.26

¹⁰Health Survey Journal, 13th August 2008, Watchdog chair to get tough on obeying NICE rules http://www.hsj.co.uk/Intelligence/news/2008/08/new_regulator_pledges_nice_guidance_crackdown.html

¹¹Introducing the Care Quality Commission http://www.cqceniorecruitment.com/sections/about_the_org/introducing_the_care_quality_commission

¹²Based upon CQC website (as at 5th December 2008) see http://www.cqc.org.uk/about_us/sub_page_2.aspx

Impact upon patients and staff

The way in which the CQC operates will affect the impact on patients and staff across all providers and commissioners of care. This includes when and how inspections will take place and the information which will need to be gathered and provided to the CQC. The RCN will be working to assess the impact as soon as more is known about the approach that the CQC will take.

RCN activity

The RCN has:

- Responded to the consultation on ‘the future regulation of health and adult social care in England: a consultation on the framework for the registration of health and adult social care providers’. You can find this response on the RCN website here:
http://www.rcn.org.uk/aboutus/policy/consultations/consultation_responses
- Been pleased to be working closely with the CQC Transitions team, has had an informal meeting with Baroness Young and will continue to work closely with the CQC in the coming months.
- Has high level input into the CQC HR workstream and a lead steward seconded into CQC. The RCN and UNISON lead the Trade Union engagement.
- Has been in discussion with the Department of Health on regulation of primary care.

Tell us what you think

This briefing is intended as an introduction to role of the CQC and the Policy Unit would like to receive comments/feedback from as many members as possible on this important issue - policycontacts@rcn.org.uk.

If you have employment relations or HR queries can be sent to melanie.cullen@rcn.org.uk.

Further information will be issued as the work of the CQC develops.

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